

# REQUEST FOR PROPOSALS CITY OF SCOTTS VALLEY



## HOUSING ELEMENT UPDATE 6<sup>th</sup> Cycle (2024-2031) Planning Period

City of Scotts Valley  
1 Civic Center Drive  
Scotts Valley, CA 95066

**ISSUE DATE:**

July 11, 2022

**DEADLINE FOR SUBMISSION:**

August 12, 2022

**CONTACT:**

Taylor Bateman, Community Development Director  
(831) 440-5633

[tbateman@scottsvalley.gov](mailto:tbateman@scottsvalley.gov)

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## **I. NOTICE OF INVITATION**

The City of Scotts Valley (City) invites proposals from qualified planning consultants to prepare an update of the City's General Plan Housing Element for the Regional Housing Needs Assessment (RHNA) projection period of December 31, 2023 – December 31, 2031. The selected consultant will review and revise the existing Housing Element to reflect current housing conditions, City policies and objectives, and to develop strategies to meet the City's required housing allocation under the RHNA. The City wishes to take advantage of the California Department of Housing and Community Development's (HCD) "Streamlined Update" submittal and review process, if warranted, for the 2023-2031 housing planning period. The City intends to have an adopted Housing Element prior to December, 2023. Request for proposals may be obtained at City Hall or may be downloaded from the City's website at <http://www.scottsvalley.org/212/Planning-Department>

Interested consulting firms shall submit one electronic copy in pdf format.

Proposals will be accepted via email. Proposals **must be received by August 12, 2022, at 5:00 P.M.** No proposal will be accepted by oral communication, telephone, or facsimile transmission. Proposals may be withdrawn prior to the time set for closing. Postmarks will not be accepted. Any proposal received after the time set for closing will be rejected.

In order to ensure that all interested firms have access to the same information, all questions must be submitted by e-mail prior to August 5, 2022 at 5:00 to: Taylor Bateman at [tbateman@scottsvalley.gov](mailto:tbateman@scottsvalley.gov). City staff will strive to provide responses to all interested firms by August 8, 2022.

Please email your Proposal to Community Development Director, Taylor Bateman, at [tbateman@scottsvalley.gov](mailto:tbateman@scottsvalley.gov).

**Taylor Bateman**  
**Community Development Director**  
**City of Scotts Valley**  
**1 Civic Center Drive**  
**Scotts Valley, CA 95066**  
**(831) 440-5633**  
**[tbateman@scottsvalley.gov](mailto:tbateman@scottsvalley.gov)**

All proposals must include information about project costs which will be valid for a minimum through December 2023.

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## **II. INTRODUCTION**

The City of Scotts Valley invites proposals from qualified firms to prepare a legally adequate General Plan Housing Element for the 2024-2031 planning period. In case of a joint venture proposal, a primary lead consultant shall be identified. The City will not accept a proposal as responsive if it covers only a portion of the requested Scope of Work.

Interested consultants shall prepare a cost estimate based upon the services requested in this RFP. The Housing Element (including all associated research, communications, graphics, supporting documentation, etc.) shall be bid at a firm, fixed price. Community meetings and public hearing attendance shall be bid on a per-meeting cost.

**The deadline for submitting proposals is August 12, 2022, at 5:00 P.M.**

## **III. BACKGROUND**

The City of Scotts Valley is located in Northern Santa Cruz County in the redwoods of the Santa Cruz Mountains. Located south of Silicon Valley, Scotts Valley is approximately 6 miles north of Santa Cruz, 30 miles southwest of San Jose, and 68 miles south of San Francisco. Scotts Valley is known throughout the Santa Cruz County for its natural beauty, proximity to the Silicon Valley, and small-town character – making it an excellent place to live.

Since its incorporation in 1966, Scotts Valley has witnessed considerable changes, as local and regional employment opportunities have attracted many new residents to the community. Between 1970 and 2020, Scotts Valley has grown from a small town of 3,621 persons to a community of 11,693 persons in 2020. The Association of Monterey County Governments (AMBAG) Final Draft 2022 Regional Growth Forecast estimates Scotts Valley's population will grow from 11,693 in 2020 to a population of 12,00 in 2045.

Scotts Valley is faced with important issues: balancing employment and housing opportunities; matching the supply of and demand for housing; enhancing the affordability of housing for all segments of the population; preserving the quality of the housing stock; and preserving the environmental amenities that distinguish Scotts Valley.

## **IV. STATUS OF CURRENT HOUSING ELEMENT**

The City's existing Housing Element for the 2015-2023 planning period was adopted by the Scotts Valley City Council on March 23, 2016, and certified by the State of California Department of Housing and Community Development (HCD). The City has substantially completed all existing Housing Element programs and action items within the 2015-2023 Housing Element Update. The City's existing Housing Element is available on the City's website at: [Chapter-3-Housing-Element-Adopted-2015-2023-PDF \(scottsvalley.org\)](https://www.scottsvalley.org/Chapter-3-Housing-Element-Adopted-2015-2023-PDF)

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The City's RHNA obligation during the 2015 - 2023 housing cycle was 140 total units. The Association of Monterey Bay Area Governments (AMBAG) Board of Directors approved the draft of the 2024-2031 RHNA methodology in April 2022. The draft methodology is currently under review by HCD. Within the draft methodology, the City's RHNA obligation for the 6<sup>th</sup> housing cycle is 1,220 units. The previous sites inventory will have to be updated to account for the large increase in units within the 6<sup>th</sup> Cycle RHNA.

## **V. SCHEDULE**

The updated Housing Element must be adopted by the City Council prior to November 30, 2023. The City desires to complete the update in an expeditious manner and prior to the November 30 deadline. Accordingly, the consultant's proposed schedule will be an important consideration when evaluating proposals. The City's tentative schedule is as follows:

- RFP Released: July 11, 2022
- Deadline for RFP Questions August 5, 2022
- Proposals Due: August 12, 2022
- Consultant Selection: August 2022
- Contract Negotiation & Approval: August 2022
- Notice to Proceed: August 2022

## **VI. SCOPE OF SERVICES**

Proposals must address the following tasks to be completed by the consultant:

The City's current Housing Element was previously certified by HCD and shall serve as a foundation for updating this Housing Element. The Consultant (or firm) selected shall evaluate: (1) the effectiveness of the housing programs, goals, and policies; (2) the production of housing units at all income categories and identify any potential barriers to housing production; (3) identification of housing characteristics; (4) update of the Regional Housing Needs Assessment; (5) analysis of special housing needs; (6) identification of new State Housing Law and programs; (7) compliance with recently adopted legislation related to housing elements; and (8) the potential review of current General Plan policies to determine internal consistency and compliance with newly adopted legislation.

The Consultant shall assist staff with the Regional Housing Needs Assessment (RHNA) and Housing Element Update, pursuant to the State of California Government Code Sections 65580 through 65589.8, and shall accomplish the following tasks:

### **A. Project Schedule**

1. Develop a timeline schedule with milestones for the review and the certification of the Housing Element by the HCD by December 1, 2023. The project schedule shall include a detailed explanation of all stages of the project, including, at a minimum:

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- a) Kickoff meeting with staff to refine the scope of services;
- b) Identification of major milestones, public outreach, meetings, and work products;
- c) Planning Commission and City Council Study Sessions;
- d) Delivery of analysis, findings and recommendations for the sites inventory;
- e) Delivery of analysis, findings, and recommendations for the Housing Element Update;
- f) Response to HCD review and City staff review times;
- g) Delivery of draft and final draft Housing Element, including any required updates to other General Plan elements as required by State law; and
- h) Public hearings (Planning Commission and City Council).

B. Existing Conditions and Needs

1. Review the City's current Housing Element, General Plan, and other supporting materials as needed to gain insight and understanding of Scotts Valley's housing progress and priorities;
2. Evaluate results from previous housing programs and policies implemented, and their effectiveness;
3. Research and analyze Affirmatively Furthering Fair Housing (AFFH) regarding current housing policies and programs; and
4. Assess the feasibility of the City to use HCD's streamlined update process, according to HCD's Housing Element Update Guidance document.

C. Public Outreach

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:

- Planning Commission and City Council Meetings
- Two community meetings
- One stakeholder focus group
- Online/virtual participation opportunities

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D. Regional Housing Needs Assessment

The Consultant shall update Scotts Valley's housing assessment and needs analysis pursuant to Government Code Section 65583(a) and SB 375. The consultant shall obtain and analyze demographic, economic, and housing data for the City and develop a housing needs assessment using State-approved criteria. The assessment shall include, but is not limited to:

- Population, demographic, and employment trends with the accompanying analysis of the existing and projected share of regional housing needs for all income levels;
- Housing cost, affordability, housing characteristics, housing stock, and market conditions (including overcrowding and overpayment);
- Housing stock characteristics, including at-risk units and vacant and underutilized land;
- Potential for increased residential development under existing zoning requirements and General Plan policies;
- Special housing needs (e.g. large families, female-headed households, seniors, homeless, people with disabilities, etc.);
- Verify with the California Housing Partnership Commission (CHPC) the number of units at risk of conversion to market rate.

E. Assessment of Housing Needs

1. Prepare an updated assessment of housing needs in Scotts Valley and an inventory of resources and constraints relative to meeting those needs, including those affecting traditionally underrepresented groups; and
2. Incorporate the RHNA figures as provided by the Association of Monterey Bay Area Governments (AMBAG) and current demographic Census data.

F. Housing Sites Inventory

Prepare the sites inventory section of the Housing Element, demonstrating how Scotts Valley 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.

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G. Rezoning Plan

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.

H. 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.

I. Preparation of Draft Housing Element

A draft Housing Element shall be prepared in compliance with all applicable State and Federal laws, including all tables, maps, etc.

J. General Plan Amendment

Identify elements of the City's existing General Plan (or new elements) that may need to be amended or added to comply with State law, including text, tables, maps, etc. K. Environmental Documents

Prepare, post, and file all the appropriate environmental documents for compliance with the California Environmental Quality Act (CEQA), including the Initial Study, Notices, EIR, or other CEQA determinations as applicable, Response to Comments, Mitigation Measures, Mitigation Monitoring Program, and Notice of Completion to be filed with the Santa Cruz County Clerk. In addition, the Consultant will be responsible for preparing all notices and mailings for SB 18 and AB 52.

L. Deliverables:

1. Housing Element Drafts. The consultant shall prepare a Screencheck Draft, a Public Review Draft, and a Final Housing Element. The consultant shall prepare the HCD transmittal letter and streamline checklist for the Public Review Draft.

a. Screencheck Draft:

- i. The consultant shall prepare and submit a Screencheck Draft Housing Element to the City for review. The Screencheck Draft shall be a complete draft and include all required components of a Housing Element, and will include all tables, maps, and graphics.
- ii. One electronic copy (in native file format and .pdf format) of the Screencheck Draft Housing Element for City review and comment.
- iii. Three hard copies of the Screencheck Draft Housing Element.

b. Public Review Draft:

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- i. The consultant shall prepare a Public Review Draft Housing Element based on City staff's comments on the Screencheck Draft. City staff will provide the consultant with comments on the Screencheck Draft within 14 calendar days for preparation of the Public Review Draft. The consultant shall resolve any issues and make requested revisions to the Screencheck Draft to the satisfaction of the City.
        - ii. One electronic copy (in native file format and .pdf format) of the Public Review Draft Housing Element. 12 hard copies of the Public Review Draft Housing Element
        - iii. HCD Submittal: The consultant shall prepare the HCD Streamline Review Checklist and a transmittal letter to HCD detailing how the Housing Element meets State requirements. The consultant shall submit the checklist, transmittal letter, and Public Review Draft Housing Element to HCD for review and comment.
          1. One electronic copy (in native file format and .pdf format) of the transmittal letter and checklist to HCD.
      - c. Final Draft Housing Element
        - i. The consultant shall revise the Public Review Draft Housing Element based on public, responsible agencies, Planning Commission, City Council, and HCD comments as directed by City staff. The Final Draft Housing Element shall be presented at public hearings before the Planning Commission and City Council. Upon determination of compliance by HCD, the consultant will submit one electronic copy (in native file format and .pdf format) of the Final Draft Housing Element and twelve bound hard copies of the Final Draft Housing Element for final adoption.
3. Prepare, post, and file all the appropriate environmental documents for compliance with the California Environmental Quality Act (CEQA), including the Initial Study, Notices, EIR, or other CEQA determinations as applicable, Response to Comments, Mitigation Measures, Mitigation Monitoring Program, and Notice of Completion to be filed with the Santa Cruz County Clerk;
4. Prepare any updates to the City's General Plan as required by State law;
5. Attend, present, and participate in Planning Commission meetings, City Council meetings, informational workshops or Study Session meetings, City staff meetings, and public hearings as required by the City. The consultant shall prepare public meeting presentation materials, memos, letters, and other documents as required by City staff. The consultant shall assist in the preparation of staff reports and exhibits for Planning Commission and City Council. The consultant shall be responsible for preparing and delivering a PowerPoint presentation and responding to questions at the public hearings. Staff anticipates a minimum of two Planning Commission meeting and two City Council meeting. Please include a per-meeting cost item in the Cost Proposal.
6. Provide regular e-mail progress reports to the Project Manager;
7. Provide and maintain an Internet-based folder for all project materials accessible to City staff and consultants;
8. Coordinate with City staff and HCD staff as necessary; and



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## **VII. DELIVERABLES**

The format for all text documents, tables, charts, and illustrations shall be 8-1/2 x 11" vertical. If oversized documents are necessary, they will be 11" x 17". Document covers for all related documents shall be coordinated so they appear as a "set". All hard copy administrative drafts, drafts, and final documents shall be two-sided, black ink, on white or light recycled stock paper.

## **VIII. PROPOSAL REQUIREMENTS**

The proposal shall be based on and incorporate all of the provisions identified in this Request for Proposals (RFP). The proposal should be submitted in a format that can readily be incorporated into the City's standard form Professional Services Agreement (Appendix A) including Project Description, Scope of Services, Duties of Consultant, Duties of the City, Fees and Payment, Timing and Schedule for Completion. Generally, the proposal should include the information specified below. The consultant is encouraged to include any additional items deemed desirable or necessary.

*Approach and Work Program.* The consultant shall describe an overall approach to the project work program for accomplishing the project objectives, specific techniques to be used, and specific administrative and operational management expertise which would be employed.

*Assumptions.* Proposals should include a list of the consultant's assumptions made in preparation of the proposal on a separate page entitled, "Assumptions Upon Which This Proposal is Based". This section should also specifically set forth those documents, maps, and studies which the consultant expects to be provided by the City.

*Exceptions.* Any exceptions to the scope of work or Professional Services agreements shall be detailed in the proposal.

*Schedule.* Proposals should provide a detailed schedule for the completion of services. Timeframes should be stated in terms of the number of calendar days or weeks required to complete the specified tasks using the City's notice to proceed as the start date. The schedule should identify the periods as the total elapsed time from the start date. The schedule should track the independent timing for each of the different documents to be developed, reviewed and adopted. The schedule should include a rough outline of the community meetings and public hearings to be included in the process.

*Costs.* Proposals should include costs for the completion of each major task in the work program. Each task should clearly identify the consultant team member who will be primarily responsible for completing the task. This section should include billing and expense reimbursement rates. Costs shall be submitted in a not-to-exceed maximum amount for all work. Indicate hourly rates of individuals involved, number of hours for each component, task or product and the fee structure for additional work outside of the contract and optional items. A time and materials rate schedule should also be provided for use in negotiating any Changes in Work required during the course of the contract. **Cost information shall be submitted in a separate sealed envelope.**

*Staffing.* The project manager and key personnel, including those of any subcontractor, shall be designated. The person(s) who will attend and facilitate public meetings and presentations should be

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identified and should be the same persons making any presentations to the Selection Committee. The geographic location of the firm and key personnel shall also be identified. Any proposed sub-consultants shall be listed. Their responsibilities should be included in the proposal, if necessary. There shall be no changes in the project manager, subconsultants or key staff without approval of the City.

*Qualifications.* Proposals should include consultant's qualifications to perform the work required, and should document previous, similar work by the consultant. Brief resumes of the project manager, key personnel, and subcontractors should be included, as should three references for recent (i.e. last 3 years), comparable work.

*Work Sample.* One sample of a recently adopted housing element prepared by the consultant and/or staff assigned to the project shall be provided in an electronic format or as a link to an online document.

*Proposal Terms and Conditions.* The proposal should include a statement to the effect that the proposal is a firm offer for a minimum 90-day period beginning on the application deadline. The proposal should also include a statement that all work will be performed at a not-to-exceed price.

*Proposal as Sole Representation.* Firms responding to the RFP must represent themselves solely by the written proposal. The proposal should also contain the name, title, address, and telephone number of the individual with authority to bind the company and also who may be contacted during the period of proposal evaluation. The proposal shall be signed by an official authorized to bind the consultant.

## **IX. GENERAL INFORMATION**

### *Minimum Qualifications.*

In order to qualify as responsible, a prospective consultant must, in the opinion of City staff, meet the following standards as they relate to the RFP:

1. Have adequate staff, equipment, technical, and financial resources for performance, or have the ability to obtain such resources that are required for performance, including a demonstrated ability to meet work schedule time frames and deliverables.
2. Have a satisfactory record of performance.
3. Be an Equal Opportunity Employer.

### *Compliance with Terms and Conditions of the Professional Service Agreement.*

The consultant and sub-consultants will be required to comply with all terms and conditions set forth in the City of Scotts Valley Standard Form Professional Services Agreement including all insurance requirements (See Appendix A). Any exceptions from these terms and conditions must be specified in the proposal, and any exception may be a basis for rejection of the proposal from further consideration.

*Proposal Revision and Modification.* Staff may request that the consultant alter a submitted proposal when deemed necessary and appropriate to clarify that the proposal fully addresses the City's needs. In

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the event that a consultant agrees to modify the proposal, a change in the cost of the services as set forth in the proposal may be made. Otherwise, the cost stated in the original proposal shall remain effective. Any additional work required beyond the scope of the contract shall be, with prior notification and contract amendments, mutually agreed to by the City and the consultant, and shall be billed on a not-to-exceed estimated time and materials basis to the City. Contract amendments will be made only in unusual circumstances, where clearly justified by the consultant and as determined necessary by the City.

*Limitations.* All reports and pertinent data or materials will become the property of the City of Scotts Valley.

The consultant will have normal access to the public records and files or local government agencies in preparations of the proposal or documents. No compilation, tabulation, or analysis of data, definition or opinion, etc. shall be anticipated by the consultant from the agencies, unless volunteered by a responsible official of these agencies.

Firms submitting a proposal for this RFP must provide a statement that nothing contained in the submitted proposal will be proprietary. All proposals shall become the property of the City of Scotts Valley once submitted

A request for proposals does not commit the City to award a contract, to pay any costs incurred in the preparation of the proposal, or to procure or contract for services and supplies. The City reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified source, or to cancel in part or in its entirety this request for proposals, if it is in the best interest of the City to do so. The City may require the consultant to participate in negotiations and to submit such price, technical or other revisions of the proposal as may result from negotiations.

*Contract with Consultant.* The consultant selected will be asked to agree to and enter into the City's Standard Form Professional Services Agreement (See Appendix A). It is unlikely that the City will consent to modifications of the agreement.

*Contract Payment.* The City will release payment to the consultant in increments based on itemized invoices submitted no more frequently than monthly as the work progresses. Contract payment shall be made on the basis of satisfactory performance by the consultant as determined by the City.

*Contract Termination.* The City shall have the right to terminate The Professional Services Agreement at any time upon giving ten (10) days written notice to Consultant. Consultant may terminate the Professional Services Agreement upon written notice to City should the City fail to fulfill its duties as set forth in the Agreement. In the event of termination, City shall pay the Consultant for all services performed and accepted under the Professional Services Agreement up to the date of termination.

*Conflict of Interest.* In the Professional Services Agreement the Consultant shall stipulate that corporately or individually, its firm, its employees and subcontractors have no financial interest in either the success or failure of any project which is, or may be, dependent on the results of the Consultant's work product prepared pursuant to the Agreement.

## **VIII. SELECTION PROCESS**

Selection Criteria (in random order)

- Completeness and responsiveness to this RFP;
- Qualifications and previous successful performance of the consultants on similar projects;
- Review of references;
- Local familiarity;
- Public participation experience working with the public in formulating goals and consensus;
- Time frame and availability of consultants;
- Contract fee as negotiated and ultimately agreed upon. Price is not the sole basis for selection, but may be considered in the criteria for evaluating proposals

The schedule for the selection process is:

- |                                    |                 |
|------------------------------------|-----------------|
| • RFP Released:                    | July 11, 2022   |
| • Deadline for RFP Questions       | August 5, 2022  |
| • Proposals Due:                   | August 12, 2022 |
| • Consultant Selection:            | August 2022     |
| • Contract Negotiation & Approval: | August 2022     |
| • Notice to Proceed:               | August 2022     |

The top ranked firms will be selected by the Community Development Director to provide individual presentations and be interviewed by the Selection Committee for final selection recommendations.

The City will negotiate a contract with the most qualified firm with compensation the City determines is fair and reasonable based upon the scope of work. Fee proposal from competing consultants may be used to assist City staff in determining a fair and reasonable compensation.

## **IX. CONTRACTUAL REQUIREMENTS**

Final contract approval requires City Council approval for execution by the City Manager. Following the final Selection Committee's recommendation and contract negotiations the contract shall be agendized with the Council and must be approved and executed prior to any work being performed by the consultant. See Appendix A for Draft Standard Form Professional Services Agreement.

**APPENDIX A**  
**AGREEMENT FOR PROFESSIONAL SERVICES**

This Agreement for Professional Services (“Agreement”) is made and entered into as of \_\_\_\_\_, 2022, by and between the City of Scotts Valley, a municipal corporation, hereinafter referred to as "CITY", and \_\_\_\_\_, hereinafter referred to as “CONSULTANT”.

**RECITALS**

- A. CITY desires to retain Consultant for certain professional services as set forth in this Agreement.
- B. CONSULTANT is specially trained, experienced and competent to perform the special services which will be required by this Agreement.
- C. CONSULTANT possesses the skill, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.

NOW, THEREFORE, in consideration of the recitals and the mutual promises contained herein, CITY and CONSULTANT agree as follows:

**AGREEMENT**

- 1. **Employment of CONSULTANT:** CITY agrees to, and hereby does, retain and employ CONSULTANT to perform the professional services as outlined in the Scope of Work attached hereto and incorporated herein as Exhibit “A”. CONSULTANT’S work product shall be performed pursuant to generally accepted standards of practice in effect at the time of performance.
- 2. **Responsible Personnel:** CITY has relied upon the professional training and ability of CONSULTANT to perform the services hereunder as a material inducement to enter into this Agreement. Primary personnel responsible for the completion of the work described in this Agreement shall be: \_\_\_\_\_ (name, title, company) whose address is \_\_\_\_\_; telephone: \_\_\_\_\_; Email: \_\_\_\_\_.
- 3. **Scope of Work:** CONSULTANT shall perform the services as specified in Exhibit A in a professional manner.

4. **Time of Performance:** The services of CONSULTANT are to commence upon execution of this Agreement and shall continue until all authorized work is approved by the CITY. All such work shall be completed no later than \_\_\_\_\_. Time is of the essence in the performance of this Agreement. No waiver by either party hereto of the nonperformance or any breach of any term, provision, or condition of this Agreement, or any default hereunder shall be considered to be or operate as a waiver of any subsequent nonperformance, breach or default.

5. **Compensation:** CONSULTANT shall accept compensation for services performed as set forth in Section 3 in an amount not to exceed \$ \_\_\_\_\_. Periodic payments to CONSULTANT shall be made upon submittal of invoices by CONSULTANT to CITY for review and approval by the City Manager. Invoices will be paid by CITY within a reasonable time after the invoices are received and approved.

6. **Insurance:** CONSULTANT agrees to have and maintain, for the duration of the contract, the following:

i. General Liability insurance policies insuring him/her and his/her firm to an amount not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.

ii. Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than One Million Dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

iii. CONSULTANT agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure CONSULTANT for professional errors or omissions in the performance of the particular scope of work under this agreement.

iv. CONSULTANT shall provide to the CITY all certificates of insurance, with original endorsements effecting coverage. CONSULTANT agrees that all certificates and endorsements are to be received and approved by the CITY before work commences.

v. The CONSULTANT'S insurance coverage shall be primary insurance as respects the CITY, its officers, officials, employees and volunteers. Any insurance or self -insurances maintained by the CITY, its officers, officials, employees or volunteers shall be excess of the CONSULTANT'S insurance and shall not contribute with it.

7. **Indemnity:** CONSULTANT shall hold harmless, indemnify and defend CITY, its elective and appointive boards, commissions, officers, agents, servants, volunteers, and employees from and against any and all claims, costs, damages, liability, losses, or suits (including court costs and attorney fees) for personal injury (including death), property damage and any other damages of any sort whatsoever, arising out of, or alleged to have arisen out of, the willful or negligent acts, errors, or omissions of CONSULTANT or CONSULTANT'S contractors, subcontractors, agents, or employees in the performance of this Agreement. This indemnity

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shall not apply to any claims brought by CONSULTANT for default of this Agreement, or for claims brought by CITY or any third party where the underlying injury or damage is finally determined by a court of competent jurisdiction to arise solely from the negligent or willful misconduct of CITY.

8. **Termination:** This Agreement may be terminated by the CITY immediately for cause or by either party without cause upon fifteen days' written notice of termination. Upon termination, CONSULTANT shall be entitled to compensation for services performed up to the effective date of termination.

CONSULTANT shall accept, for itself, as full payment for services rendered and all work to be done and performed hereunder and in complete satisfaction of all claims against CITY by reason of voluntary abandonment or suspension of work or termination of the Agreement, the sum determined on an hourly basis in accordance with the provisions of this Agreement, or any modification of amendment thereto, plus all direct expenses incurred, including those expenses incurred which are directly attributable to the incomplete portion of the work which could not be canceled.

In the event of termination, CONSULTANT shall deliver as a condition to the payment of the compensation provided for above, or otherwise make available to CITY, all research data, reports, estimates, summaries, and other such information and materials as may have been accumulated by CONSULTANT in performing this Agreement, whether completed or in process in accordance with Section 9 of this Agreement.

9. **Documents:** Notes, studies, chain, computations, electronic files, and other data and information obtained by CONSULTANT for this project shall, upon receipt of payment for services rendered, be made available to CITY by CONSULTANT at CITY'S request and shall become the property of CITY. In the event CITY alters the document, CITY agrees CONSULTANT shall have no responsibility whatsoever for any claim arising out of, or alleged to have risen out of, use of the altered document.

All plans, studies, documents, charts, computations, and electronic files prepared by and for CONSULTANT, its officers, employees and agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the CITY upon payment to CONSULTANT for such work, and the CITY shall have the sole right to use such materials in its discretion without further compensation to CONSULTANT or to any other party. CONSULTANT shall, at CONSULTANT'S expense, provide such reports, plans, studies, documents and other writings to CITY upon written request.

10. **Independent Contractor:** CONTRACTOR is an independent contractor retained by CITY to perform the work described herein. ALL personnel employed by CONSULTANT are not and

shall not be deemed to be employees of CITY. CONSULTANT shall obtain no rights to retirement benefits or other benefits that accrue to CITY'S employees, and CONSULTANT hereby expressly waives any claim it may have to such rights. CONSULTANT shall comply with all state and federal laws pertaining to employment and compensation of its employees and its agents, including the provision of Workers' Compensation.

11. **Licenses:** CONSULTANT represents and warrants to CITY that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of CONSULTANT to practice its profession. CONSULTANT represents and warrants to CITY that CONSULTANT shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of CONSULTANT to practice its profession. Consultant shall maintain a City of Scotts Valley business license.

12. **Assignment:** The parties recognize that a substantial inducement to CITY for entering into this Agreement is the professional reputation, experience and competence of CONSULTANT. Assignments of any or all rights, duties or obligations of the CONSULTANT under this Agreement will be permitted only with the express consent of the CITY. CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the CITY. If the CITY consents to such subcontract, CONSULTANT shall be fully responsible to CITY for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between CITY and subcontractor nor shall it create any obligation on the part of the CITY to pay or to see to the payment of any monies due to any such contractor other than as otherwise required by law.

13. **Binding on Successors:** This Agreement is binding on the heirs, successors and assigns of the parties hereto.

14. **Amendment:** This Agreement may be amended, modified or changed by the parties, provided that said Agreement, modification or change is in writing and approved by the authorized representative of the parties.

15. **Applicable Law and Attorney's Fees:** This Agreement shall be construed and enforced in accordance with the laws of the State of California, and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Santa Cruz. Should any legal action be brought by a party for breach of this Agreement or to enforce any provision of the Agreement, the prevailing party of such action shall be entitled to recover its reasonable litigation expenses, including attorney fees.

16. **Entire Agreement:** This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements or



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understandings. Whether oral or written, between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein. The drafting and negotiation of this Agreement have been participated in by each of the parties and/or their counsel, and for all purposes this Agreement shall be deemed to have been drafted jointly by all parties.

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 under this agreement.

18. **Severability:** If any term or portion of this Agreement shall be held by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

WITNESS WHEREOF this Agreement is executed by CITY and by CONSULTANT on this \_\_\_\_ day of \_\_\_\_\_, 2022, at Scotts Valley, California.

CONSULTANT:  
NAME OF COMPANY

CITY:  
CITY OF SCOTTS VALLEY

\_\_\_\_\_  
By: Name and Title of Person Signing

\_\_\_\_\_  
Mali LaGoe, City Manager

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Kirsten M. Powell, City Attorney

\_\_\_\_\_  
Cathie Simonovich, City Clerk

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**EXHIBIT "A"**

**SCOPE OF WORK**

**APPENDIX B**  
**CITY OF SCOTTS VALLEY REGIONAL LOCATION**

