

**REQUEST FOR PROPOSALS
FOR
SWIM LESSON INSTRUCTION**



**CITY OF SAN RAMON
PARKS AND COMMUNITY SERVICES DEPARTMENT**

Issued: September 16, 2022

Proposal Deadline: October 13, 2022 at 3:00 p.m.

to

**City Clerk
San Ramon City Hall
7000 Bollinger Canyon Road
San Ramon, CA 94583**

Attn: City Clerk

**CITY OF SAN RAMON
REQUEST FOR PROPOSALS**

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CITY OF SAN RAMON REQUEST FOR PROPOSALS

The City of San Ramon (“**City**”) requests proposals (“**Proposals**”) from qualified individuals or firms (individually, a “**Respondent**” and collectively, “**Respondents**”) for Swim Lesson Instruction services.

1. ABOUT THE CITY

The City of San Ramon was incorporated in 1983 and is located in the San Ramon Valley of Contra Costa County, approximately 35 miles east of the City of San Francisco in the San Francisco Bay Area. The San Ramon Valley has long been considered one of the most desirable living areas in the Bay Area because of its scenic beauty, suburban charms, excellent school systems, and proximity to major employment centers. The City occupies a land area of 18.56 square miles and is surrounded by the communities of Danville and Dublin, as well as the unincorporated lands in both the Alameda and Contra Costa Counties.

The City operates under a Council-Manager form of government with over 250 employees, serving a population of approximately 81,344. Additional information about the City is available online at <http://www.sanramon.ca.gov/>.

2. THE SERVICES

A. Summary. The City requires swim lesson instruction services (“**Services**”) for the City’s San Ramon Olympic Pool (“**SROP**”) and Dougherty Valley Aquatic Center (“**DVAC**”). The current program offers a variety of lessons ranging from group lessons for infants to adults and private lessons (see table below for group and private lesson registrations).

Swim Lesson Session	San Ramon Olympic Pool		Dougherty Valley Aquatic Center		Total per Session
	Group	Private	Group	Private	
Fall 2021	1,737	132	-	-	1,869
Spring 2022	1,551	140	-	-	1,691
Summer 2022	3,719	359	1,547	262	5,887
Total Swim Lesson Registrations					9,447

Levels of the Learn to Swim program include parent/tot, five group lessons of various skill levels for ages 3-13, adult (ages 14+), private and family small group lessons. The goal of the program is to introduce participants to basic fundamental swimming skills that will keep them safe in and around the water,

while also promoting proper technique for life-long swimming. After mastering these skills in lower levels, participants learn and refine their strokes, including freestyle, backstroke, butterfly and breaststroke. At the highest level, basic interval training sets, dives and competitive turns are introduced. Upon completion of the typical four levels, a participant is able to continuously swim over 300 yards.

In addition, the City of San Ramon offers an introductory water safety program for those aged 3-7 that have trouble entering the water without parent assistance. Beyond promoting water safety, this program also works to prepare participants for swim lessons in a group setting. The program is offered at a subsidized cost to ensure greater access.

The proposed 2023 Learn to Swim schedule is as follows:

1. Spring: April 1 – June 4 – at San Ramon Olympic Pool*
 - a. Weekday Afternoon / Evening Lessons: 3:30 – 7:00 PM
 - b. Weekend Lessons: 9:00 AM – 12:30 PM

**The San Ramon Olympic Pool facility is scheduled for renovation during the winter of 2022/2023. Start date and location of Spring swim lessons will be determined based on timeline of facility reopening.*
2. Summer: June 5 – August 6 – San Ramon Olympic Pool & Dougherty Valley Aquatic Center
 - a. Weekday Morning: 9:30 AM – 12:00 PM
 - b. Weekday Afternoon / Evening: 3:30 – 7:00 PM
 - c. Weekend Lessons: 9:00 AM – 12:30 PM
3. Fall: August 7 – October 1 – at San Ramon Olympic Pool
 - a. Weekday Afternoon / Evening Lessons: 3:30 – 7:00 PM
 - b. Weekend Lessons: 9:00 AM – 12:30 PM

This RFP is seeking proposals from interested Respondent(s) to begin service for the Learn to Swim program beginning in the Spring of 2023. The City is seeking proposals for an initial 3-year term from January 2, 2023 – December 31, 2025 with an option for the City to renew for one additional 2-year term.

B. Form of Agreement. A copy of the City’s standard Professional Services Agreement (“**Agreement**”), is attached hereto as **Attachment A** and incorporated herein. By submitting a Proposal, the Respondent agrees to enter into the Agreement using the attached form with no exceptions to the form of the Agreement.

C. Scope of Services. The required Scope of Services is attached hereto as **Attachment B** and incorporated herein. By submitting a Proposal, the Respondent represents that it is fully qualified and available to provide the

Services set forth in the Scope of Services at the price set forth in its Proposal, and that it agrees to provide those Services if it is awarded the Agreement, which will attach and incorporate the Scope of Services.

3. REQUEST FOR PROPOSAL PROCEDURES

A. Requests for Information. Questions or objections relating to the RFP, the attachments hereto, the RFP procedures, or the required Services may only be submitted via email to Mae Mlyniec, Administrative Analyst, at mmlyniec@sanramon.ca.gov by 12:00 p.m., October 7, 2022 (the “**Request for Information Deadline**”). Any questions or objections that are not submitted in the manner specified and by the Request for Information Deadline will be deemed waived. City will not be bound by the oral representations of any City officials, employees, or representatives.

B. Pre-Submittal Meeting. A Pre-Submittal Meeting will not be held.

C. Submittal Instructions. Proposals must be **received** by the City on or before October 13, 2022 at 3:00 p.m. (“**Proposal Deadline**”). Respondent must submit one (1) original and three (3) identical copies of the Proposal in a sealed envelope labeled with Respondent’s name and return address, marked “Proposal for Swim Lesson Instruction,” and addressed as follows:

City Clerk
 City of San Ramon
 7000 Bollinger Canyon Road
 San Ramon, CA 94583

The Proposal may be hand-delivered, sent via overnight delivery, or by regular mail, provided that it is received by the City no later than the Proposal Deadline. Late submissions will be disregarded.

D. Planned RFP Schedule. The following schedule is provided for planning purposes based on current information. However, all dates are subject to revision, including the Proposal Deadline, and may be amended by addenda to this RFP:

ACTIVITY	PLANNED DATES/TIME
RFP Issued	September 16, 2022
Request for Information Deadline	October 7, 2022 12:00 p.m.
Proposal Deadline	October 13, 2022 3:00 p.m.
Interviews (if requested by City)	October 14, 2022
Notice of Selection	October 17, 2022
Council Approval and Award	October 25, 2022

E. Addenda. City reserves the right to issue addenda to modify the terms and conditions of this RFP, including modifications to the Proposal Deadline or to the Attachments to this RFP. Addenda will be posted on the City’s website at http://www.sanramon.ca.gov/our_city/bids_rfp. Each Respondent is **solely** responsible for checking the City’s website for addenda, and for reviewing any and all addenda before submitting its Proposal.

4. PROPOSAL REQUIREMENTS

Each Proposal must be submitted in compliance with the requirements of this RFP. Each Proposal must respond to the items listed below. *Clarity and brevity are preferable to volume.* Do not attach brochures or promotional materials to the Proposal. Proposals should not exceed 15 one-sided pages, excluding any tabs or dividers. However, resumes may be included in an appendix and not counted in the total page count. By submitting a Proposal, the Respondent agrees that their pricing and proposed approach to providing the Services, including staffing, constitute a firm offer to enter into the Agreement with the City, and that the offer will remain open for 60 days following the Proposal Deadline.

A. Cover Letter. Provide a brief cover letter that includes all of the following information:

- (1) Respondent’s name, address, phone number, and website address;
- (2) type of organization (e.g. corporation, partnership, etc.);
- (3) a summary of general information about Respondent and the types of services it provides in relation to the Services required by the City;
- (4) contact information, including name, title, address, phone number, and email, of Respondent’s primary representative for purposes of this RFP;

INCLUDE THE STATEMENTS BELOW:

(5) Respondent agrees that it has confirmed receipt of or access to, and reviewed, all addenda issued for this RFQ. Respondent waives any claims it might have against the City based on its failure to receive, access, or review any addenda for any reason. Respondent specifically acknowledges receipt of the following addenda:

Addendum:	Date Received:
# 01	_____
# 02	_____
; and	

(6) Respondent has read and understood the insurance requirements outlined in Attachment A, Section 18 and hereby affirms (1) the cost of providing such insurance has been incorporated in the Respondent's Proposal, and (2) Respondent will be able to obtain the required insurance coverage if awarded the contract.

The cover letter must be signed by a representative that is authorized to bind Respondent by contract and must state his or her name, title, and email address.

B. General Qualifications. Provide a brief description of the Respondent's business, including the number of years in business under the current name. Describe the size of the business, including total number of employees and offices, and identify and briefly describe each local office that will be involved in providing the Services if awarded the Agreement. Describe how and why Respondent is qualified to provide the Services.

The Proposer, as identified in the Proposal, must have met the following minimum qualifications at the time the contract is awarded: (1) Proposer has operated their aquatics business for at least five (5) years; and (2) Proposer has provided swim lessons for at least 3 seasons/18 months.

Proposer and its employees should have experience and knowledge teaching swim lessons. Instructors must be knowledgeable and experienced in appropriate subject matter relative to the age groups taught by the Instructor. Swim Instructors must receive training from the contracting organization and be CPR and First Aid certified.

C. Experience. Identify services Respondent has provided in the last five years that are similar in scope and nature to the Services required by this RFP, particularly with respect to services provided to other cities or public agencies. For each example, provide (1) a brief description of the services provided, (2) an explanation of why this experience is relevant to the required Services, and (3) the name and address of the contracting agency, including contact information for a reference check (name, title, phone number, and email address).

Include experience contracting with a government/municipal agency for services of similar size and scope of work.

D. Staffing. Identify by name and title Respondent's key personnel that will be assigned to provide the Services and for each, include a resume with his or her education, training, and experience. Identify by name, address, and website, each subconsultant or subcontractor, if any, that will be involved with providing the Services, including the proposed role for each such subconsultant or subcontractor. Include all applicable license numbers for any license required to perform the Services.

Any personnel working with children who are minors in City programs or at City facilities shall be examined for communicable tuberculosis and Proposer will provide the City with a certificate showing that within the last two years each personnel have been examined and have been found to be free of communicable tuberculosis.

Proposer and its employees are required to complete background checks and screening. Proposer and its employees must also meet all Mandated Reporter responsibilities as defined by the California Penal Code.

E. Price. Provide a lump sum price for the Services that is fully inclusive of all costs to provide the Services, including hourly billing rates, all labor, materials, equipment, supplies, the insurance required under the terms of the Agreement, travel fees, etc. Attach a copy of billing rates that would apply to any authorized additional Services. Classes that include entry level swimming skills must be priced at an affordable rate. Scholarships for those with financial need must be accepted through the City's scholarship fund.

F. Proposed Approach. Briefly describe Respondent's proposed approach to providing the Services and how that approach will offer value to the City. Identify any proposed innovations that may be used to achieve more cost-effective delivery of the Services. Provide a work plan and proposed schedule for the tasks described in the Scope of Services.

The work plan should include:

1. Management structure, including but not limited to, team organization, roles and responsibilities, program monitoring procedures, and communication mechanisms;
2. How contractor will recruit and hire sufficient number of staff. Please describe how you will train employees, ensure that Swim Instructors are experienced in the subject and age of the group being taught, and how the swim program is consistently staffed;
3. A detailed description of how you will conduct the program in a safe manner;
4. How you will manage the day-to-day and on-deck operation of swim lessons. Please include how you handle make up lessons if missed by the participant or missed by the contractor, along with refund or transfer requests. Specify how participants check-in to the lesson, how attendance is managed, how you ensure only authorized participants are in the water for each lesson, and how you track participants' progress;
5. Proposed swim classes/levels offered;
6. Proposed swim lesson curriculum:

- i. Describe fundamental aquatic safety and swimming skills for each level
 - ii. Describe the swimming strokes to be included for each level; and
7. Proposed Fee Structure (Complete chart in Attachment B)
- i. What are the fees the public will pay?
 - ii. What is the proposed revenue split between the Contractor and the City?

5. EVALUATION

The factors that the City will consider in evaluating Proposals are as follows:

- General qualifications 1-10 points
- Relevant experience 1-15 points
- Government/Municipal experience 1-10 points
- Proposed staffing 1-5 points
- Pricing/Revenue Split 1-15 points
- Proposed approach 1-10 points
- Responsiveness 1-10 points
- San Ramon business 1-5 points
- References 1-10 points
- Interview (if requested) 1-10 points

6. SELECTION AND AWARD

A. Review. Proposals will be reviewed for responsiveness and evaluated and ranked based on the factors listed in Section 5, above. When the evaluation is complete, the Proposals will be ranked based on total scores to identify the Proposal that is the most advantageous to the City. Acting in its sole discretion, the City may elect to conduct interviews with shortlisted Respondents.

B. Award. The City will award the Agreement, if at all, to the Respondent that is determined by the City, acting in its sole discretion, to offer the most advantageous Proposal to the City based on the City's review, as outlined above. City staff will submit its recommendation to the City Council or the awarding officer, as applicable, for award of the Agreement to the Respondent that it determines to offer the most advantageous Proposal. The Respondents will be notified of staff's intended recommendation by a Notice of Selection which will be posted on the City's website at http://www.sanramon.ca.gov/our_city/bids_rfp, and which may also be emailed to each Respondent that submits a Proposal.

C. Protest Procedures. Any protest challenging the City’s intended selection or the selection process must be submitted no later than 5:00 p.m., on the fifth business day following the date of the Notice of Selection. The protest must be submitted in writing via email to City Clerk, at cityclerk@sanramon.ca.gov, please copy mmlyniec@sanramon.ca.gov, and must clearly specify the basis for the protest. The protest will be reviewed by the department director in consultation with the City Attorney’s Office, and their determination on the protest is final. No public hearing will be held on the protest. Time being of the essence, the City reserves the right to proceed with award of the Agreement and commencement of the Services notwithstanding any pending protest or legal challenge.

7. MISCELLANEOUS

A. Disclaimers and Reservation of Rights. Upon receipt, each Proposal becomes the sole property of City and will not be returned to the Respondent. Each Respondent is solely responsible for the costs it incurs to prepare and submit its Proposal. The City reserves, in its sole discretion, the right to reject any and all Proposals, including the right to cancel or postpone the RFP or the Services at any time, or to decline to award the Agreement to any of the Respondents. The City reserves the right to waive any immaterial irregularities in a Proposal or submission of a Proposal. The City reserves the right to reject any Proposal that is determined to contain false or misleading information, or material omissions.

B. Conflict of Interest. Respondents must disclose to the City any actual, apparent, direct or indirect, or potential conflicts of interest that may exist with respect to Respondent, any employees of Respondent, or any other person relative to the Services to be provided pursuant to this RFP. This RFP process will be conducted in compliance with all laws regarding political contributions, conflicts of interest, or unlawful activities. City employees are prohibited from participating in the selection process for this RFP if they have any financial or business relationship with any Respondent.

C. Public Records. The City is subject to the provisions of the California Public Records Act (Govt. Code § 6250 et seq.) (the “**Act**”), and each Proposal submitted to the City is subject to disclosure as a public record, unless the Proposal or any portion thereof is exempt under the Act. If a Respondent believes that any portion of its Proposal is exempt from disclosure under the Act, it must clearly identify the portion(s) it believes to be exempt and identify the basis for the exemption. Each Respondent bears the burden of proving any claimed exemption under the Act, and by submitting a Proposal, a Respondent agrees to indemnify, defend, and hold harmless the City against any third party claim seeking disclosure of the Proposal or any portions thereof.

Attachments:

Attachment A – Form of Agreement
Attachment B – Scope of Services
Attachment C – Independent Contract Instructor Handbook

Attachment A – Form of Agreement

PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF SAN RAMON AND **CONTRACTOR** FOR SWIM LESSON INSTRUCTION

This is an Agreement between the City of San Ramon, a municipal corporation, (“CITY”) and **Contractor**, (“CONTRACTOR”) together referred to as the “Parties.”

RECITALS

WHEREAS, CITY solicited Proposals by Request for Proposals (“RFP”) for Swim Lesson Instruction; and

WHEREAS, after review of all Proposals submitted pursuant to said RFP, CONTRACTOR’s Proposal for swim lesson instruction services was accepted by the CITY and identified as most advantageous to the CITY; and

WHEREAS, CONTRACTOR by reason of qualifications, experience, and facilities for performing the type of services contemplated herein, is willing to provide the requested services; and

WHEREAS, the City Council has authorized the Mayor to enter into an agreement for Swim Lesson Instruction by adopting Resolution No. ~~2022-XX~~ on October 25, 2022.

NOW, THEREFORE, in consideration of the mutual promises set forth, CITY and CONTRACTOR agree as follows:

1. **Award of Agreement.** In response to the Request for Proposals, Contractor has submitted a Proposal to perform the Services as set forth in the Request for Proposal, Attachment B – Scope of Services, attached hereto as Exhibit B. On October 25, 2022, City authorized award of this Agreement to Contractor for the amount set forth in Section 6, below.
2. **RFP Documents.** The RFP Documents incorporated into this Agreement include and are comprised of all of the documents listed below.

Sections

- 2 The Services
- 3 Request for Proposal Procedures
- 4 Proposal Requirements
- 5 Evaluation
- 6 Selection and Award
- 7 Miscellaneous

Contractor:

Agreement Amount: Not-to-Exceed \$

Project: Swim Lesson Instruction

Project Manager: Keith Haase, Program Manager

- 3. Scope of Service.** The scope of service covered by this Agreement including mandatory time frames for performance, deadlines for providing deliverables to CITY, and the maximum fee for each item under this Agreement is attached hereto as Exhibit A and incorporated herein by reference.

CONTRACTOR shall comply with specific standards or governmental requirements applicable to specific tasks hereunder or as may be necessary to enable CONTRACTOR to provide the services required hereunder.

- 4. Modification of Agreement.** CITY may request changes to this Agreement including the Scope of Services to be performed by CONTRACTOR. Such requests shall be made in writing exclusively by CITY'S designated Project Manager, and shall describe in detail the proposed additions, deletions, or modifications. Such requests will include tabulation of costs, expenses, and time required to complete the requested work. CONTRACTOR shall have the length of time specified in the request to reply in writing to the request. Neither CITY'S request nor CONTRACTOR'S reply shall constitute a modification of this Agreement. Any modification shall be contained in a written amendment to the Agreement and will be effective only if signed by both parties. Execution of the amendment by CITY shall constitute authorization to proceed with the work identified therein.

- 5. Time of Performance.** CONTRACTOR'S performance shall be completed by December 31, 2025. CONTRACTOR may commence work as of the date authorized by CITY'S Project Manager which date may be prior to execution of this Agreement.

However, CONTRACTOR is under no obligation to commence work hereunder prior to execution of this Agreement.

CITY shall have the option to renew this Agreement for not more than ONE (1) successive two (2) year term, upon the same terms and conditions as provided in this Agreement. Any contract extension or amendment must be in writing and fully executed by both parties to take effect.

- 6. Compensation.** CITY agrees to pay CONTRACTOR at the rates set forth in Exhibit A, and incorporated herein, in a sum not-to-exceed **SPELL OUT DOLLAR AMOUNT HERE (\$XX,XXX.XX)**. No compensation shall be made in excess of this amount. This amount includes any and all costs and reimbursable expenses as specified in Exhibit A.

The cost of the initial three-year contract is a sum not to exceed \$XXXX.00 and may be amended upon contract renewal as specified in CONTRACTOR'S Proposal. The cumulative total contract amount over the five (5) year period shall not exceed \$xxx,xxx.00.

Upon completion and acceptance of the deliverables CONTRACTOR shall submit an itemized invoice for the completed work showing applicable rates and charges as agreed to hereunder and the total amount due.

Contractor:

Agreement Amount: Not-to-Exceed \$

Project: Swim Lesson Instruction

Project Manager: Keith Haase, Program Manager

The City has the right to charge additional fees such as a Registration Processing Fee or Facility Fees. The types of additional fees charged by the City will not be included when calculating the shared revenue percentage split.

7. Designated Representatives.

- a. CITY designates Program Manager, Keith Haase or his designee as its representative in all matters under this Agreement.
- b. CONTRACTOR designates **Contact Title**, **Contact Name** as its Project Manager for this Agreement. CONTRACTOR may designate a different Project Manager only with prior written authorization from CITY.

8. Cooperation of the City. CITY shall make available to CONTRACTOR all financial records and related information necessary for performance of CONTRACTOR'S work under this Agreement.

9. Independent Contractor. CONTRACTOR is an independent contractor, controlling the means and manner of work, and shall not for any purpose be deemed to be an employee, agent, or other representative of CITY. Services called for herein shall be deemed to be unique. CONTRACTOR shall not assign, sublet, transfer, or otherwise substitute its interest in this Agreement, or any of its obligations hereunder, without the prior written consent of CITY.

- a. CONTRACTOR agrees and promises that pursuant to Public Resources Code section 5163, the Independent Contractor working with children who are minors in CITY programs or at CITY facilities, shall be examined for communicable tuberculosis.

_____ By initialing this line, CONTRACTOR agrees and promises that he/she must obtain or have on file with CITY a certificate showing that within the last two years they have been examined and have been found to be free of communicable tuberculosis.

- b. If, under this Agreement, the services to be provided to CITY by CONTRACTOR define CONTRACTOR as a "mandated reporter" under California Penal Code § 11165.7, CONTRACTOR shall initial in the spaces provided below, indicating CONTRACTOR's Agreement to the following:

_____ By initialing this line, I agree and acknowledge that I am an independent contractor status with City of San Ramon.

_____ I have reviewed and have knowledge of the provisions of the Mandated Reporter Laws covering child and elder/dependent adult abuse, that I understand my reporting responsibilities, and that I am willing and able to comply as defined by California Penal Code sections 11164 - 11174.3 and Welfare and Institutions Code section 15630 if my job duties include contact with children, elder (65 and older) or dependent adults (18-64 with mental or physical disabilities).

Contractor:

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Project: Swim Lesson Instruction

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<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=11001-12000&file=11164-11174.3>

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=15001-16000&file=15630-15632>

_____ By initialing this line, I agree and promise that any employees hired by me and therefore providing contract services to the City of San Ramon who are providing direct services to children, elder (65 and older) or dependent adults (18-64 with mental or physical disabilities) under California Penal Code sections 11164 - 11174.3 and Welfare and Institutions Code section 15630 have reviewed and understand the reporting responsibilities under the Mandated Reporter laws of this state and are willing and able to comply to include the training of my employees as defined by California Penal Code sections 11164-11174.3 and Welfare and Institutions Code section 15630.

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=11001-12000&file=11164-11174.3>

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=15001-16000&file=15630-15632>

10. Background Checks and Screening. CONTRACTOR agrees and promises to complete background checks and screenings, pursuant to Penal Code Section 11105, of all of its employees who will have supervisory or disciplinary authority over minors in City programs or at City Facilities; to provide sufficient proof to CITY that their employees have completed the background checks and screening; and notify City if any of these employees have been convicted of any criminal offenses and the nature of the offense. Pursuant to Public Resources Code Section 5164, CITY reserves the right to prohibit the employment or hiring of any individual by CONTRACTOR if that individual has been convicted of any offense specified in Penal Code Section 11105 or Public Resources Code Section 5164. CONTRACTOR agrees that none of its employees shall work with minors unless the proper screening and notification to CITY pursuant to the above-referenced code sections have taken place.

_____ By initialing this line, CONTRACTOR agrees and promises to screen for tuberculosis, pursuant to Public Resources Code 5163, all of its employees who will have supervisory or disciplinary authority over minors in City programs or at City facilities, and to provide sufficient proof to the City, that their employees have on file a certificate showing that within the last two years the person has been examined and has been found to be free of communicable tuberculosis.

Contractor:

Agreement Amount: Not-to-Exceed \$

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Project Manager: Keith Haase, Program Manager

11. Out of State Business. If CONTRACTOR is an out of state business and does not have a local office within the State of California, CONTRACTOR shall provide to CITY a completed Withholding Exemption Certificate Form as required by the California Franchise Tax Board. If the out of state contractor fails to provide the required form, CITY shall withhold seven (7%) percent of the total payment amount and send the withholdings to the Franchise Tax Board, as required by State law.

12. Proprietary or Confidential Information. CONTRACTOR understands and agrees that, in the performance of the work under this Agreement or in contemplation thereof, CONTRACTOR may have access to private, proprietary or otherwise confidential information owned or controlled by CITY, the disclosure of which may be damaging to CITY or to third parties.

CONTRACTOR agrees that all confidential information disclosed to CONTRACTOR by CITY shall be held in confidence and used only in performance of this Agreement. CONTRACTOR shall exercise the same standard of care to protect such information, as a reasonably prudent businessperson would use to protect its own private, proprietary or confidential information.

13. Public Records. CONTRACTOR acknowledges that CITY is subject to the provisions of the California Public Records Act (Govt. Code § 6250 et seq.) (the “Act”); therefore, this Agreement and any writing prepared for or submitted to CITY, including but not limited to CONTRACTOR’S Proposal or Statement of Qualifications, is subject to disclosure as a public record, unless any portion thereof is exempt under the Act. If CONTRACTOR believes that any portion of a public record is exempt from disclosure under the Act, it must clearly identify the portion(s) it believes to be exempt and identify the basis for the exemption. CONTRACTOR bears the burden of proving any claimed exemption under the Act, and by signing this Agreement and initialing the acknowledgement below, CONTRACTOR agrees to indemnify, defend, and hold harmless CITY against any third party claim seeking disclosure of the public record or any portions thereof.

PLEASE INITIAL:

_____ CONTRACTOR has read and understands the Public Records Act requirements outlined above and hereby affirms that (1) CONTRACTOR bears the burden of proving any claimed exemption under the Act, and (2) CONTRACTOR agrees to indemnify, defend, and hold harmless CITY against any third party claim seeking disclosure of the public record or any portions thereof.

14. Financial Records of Contractor. CONTRACTOR shall maintain accounting records of funds received under this Agreement and full documentation of performance hereunder. CONTRACTOR shall permit CITY to have access to those records for the purpose of making an audit, examination, or review of financial and performance information relating to this Agreement. CONTRACTOR shall maintain such records for a minimum of four (4) years following payment by CITY for the last

Contractor:

Agreement Amount: Not-to-Exceed \$

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invoice for such services to be provided. When requested by CITY, CONTRACTOR shall make all such records available to CITY within fourteen (14) days of the request.

15. Conflict of Interest. CONTRACTOR shall comply with CITY Resolution No. 2020-017, Conflict of Interest Code, as amended from time to time, and will file all required disclosure statements.

16. Nondiscrimination. CONTRACTOR represents that it does not and agrees that it shall not discriminate against any employee or applicant for employment because of age, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), religion, color, disability, genetic characteristics or information, race, national origin, ancestry, citizenship status, marital status, military or veteran status, medical condition, or sexual orientation (including homosexuality, bisexuality, or heterosexuality) or any other protected classification as defined and protected by law.

17. Indemnification. CONTRACTOR agrees to defend, hold harmless, and indemnify CITY, its officers, agents and employees from and against any and all losses, liability, or damages arising out of, in consequence of, or resulting from the negligent or willful acts, or omissions of CONTRACTOR.

CONTRACTOR shall hold CITY harmless and defend any suit or other proceedings brought by CONTRACTOR'S employees, contractors, or agents, either against CONTRACTOR or CITY, for compensation and/or other benefits claimed as "common law" or "implied by law" employees of CITY.

18. Insurance. CONTRACTOR shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by CONTRACTOR, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included on CONTRACTOR'S bid.

A. Required Insurance. CONTRACTOR shall maintain, at all times, during the term of this Agreement and at CONTRACTOR'S sole cost and expense:

- i. **Comprehensive general** liability (using Insurance Services Office form CG 00 01 or equivalent) in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. 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 not less than five million dollars (\$5,000,000).
- ii. **Automobile liability** insurance using Insurance Services Office form number CA 0001, Code 1 (any auto) or equivalent with a limit no less than one million dollars (\$1,000,000). Such insurance policy shall contain the same provisions and endorsements as are required herein for comprehensive general liability insurance.

Contractor:

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- iii. **Workers' Compensation** insurance and Employer's Liability insurance as required by the laws of the State of California. Said insurance policy shall provide that the insurer waives all rights of subrogation against CITY, its officers, agents, employees and volunteers for losses arising from work performed by CONSULTANT for CITY. Any notice of cancellation or non-renewal of Workers' Compensation policies must be received by CITY at least thirty (30) days prior to such change. CONSULTANT shall require each subcontractor to maintain Workers' Compensation insurance and Employer's Liability insurance in accordance with the laws of the State of California for all of the subcontractor's employees. This requirement may only be waived by CITY upon written verification that CONSULTANT is a sole proprietor and does not and will not have employees during the term of this Agreement.
- iv. **Sexual Abuse or Molestation (SAM) Liability:** If the work will include contact with minors, and the CGL policy referenced above is not endorsed to include affirmative coverage for sexual abuse or molestation, Contractor shall obtain and maintain a policy covering Sexual Abuse and Molestation with a limit no less than \$1,000,000 per occurrence or claim.

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

B. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- i. CITY, its officers, officials, employees, agents and volunteers are to be named as additional insured with respect to: Liability arising out of activities performed by or on behalf of CONTRACTOR; products and completed operations of CONTRACTOR; premise owned, occupied or used by CONTRACTOR; or automobile owned, leased, hired or borrowed by CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officers, officials, employees, agents or volunteers. If CONTRACTOR submits the ACORD Insurance Certificate, the additional insured endorsements must be set forth on the ISO Form CG20 10 11 85 or both CG 20 10 and CG 20 37 forms.
- ii. For any claims related to this project, CONTRACTOR'S insurance coverage shall be primary insurance with respect to CITY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, agents or volunteers shall be excess of CONTRACTOR'S insurance and shall not contribute with it.

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- iii. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CITY, its officers, officials, employees, agents or volunteers.
 - iv. Afford coverage for all claims based on any act, omission, event or condition that occurred or arose (or the onset of which occurred or arose) during the term of this Agreement;
 - v. 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 (cross liability endorsement);
 - vi. Expressly provide that CITY, although named as insured, shall nevertheless be entitled to recover under the policy for any loss, injury or damage to CITY and that the insurer waives all rights of subrogation against CITY, its officers, agents, employees and volunteers for losses arising from work performed by CONTRACTOR for CITY;
 - vii. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to CITY.
 - viii. Certificate Holder. The certificate holder shall include CITY and sent to the address as indicated in Section 21 (Notices) of this Agreement.
 - ix. Interpretation. All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Officer of the State of California as of the effective date of this Agreement.
- C.** The Automobile Liability policy shall be endorsed to include Transportation Pollution Liability insurance, covering materials to be transported by CONTRACTOR pursuant to the contract. This coverage may also be provided on the CONTRACTORs Pollution Liability policy.
- D. Verification of Coverage.** CONTRACTOR shall furnish the CITY with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to CITY before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR'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.
- E. Subcontractors.** CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that CITY is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.

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F. Insurer's Qualifications. All insurance required under this section and all renewals of this agreement shall be issued by good and responsible companies admitted to do and doing business in the State of California and be rated in the "A" category by Best's Insurance Guide.

G. Excess Insurance. If CONTRACTOR maintains higher insurance limits than the minimums specified herein, CITY shall be entitled to coverage for the higher limits maintained by CONTRACTOR.

H. Waiver of Subrogation. CONTRACTOR hereby grants to CITY a waiver of subrogation which any insurer may acquire against CITY, its officers, officials, employees, and volunteers, from CONTRACTOR by virtue of the payment of any loss. CONTRACTOR 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.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the CITY for all work performed by the CONTRACTOR, its employees, agents, and subcontractors.

I. 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.

PLEASE INITIAL:

_____ CONTRACTOR has read and understands the insurance requirements outlined above and hereby affirms that (1) the cost of providing such insurance has been incorporated in CONTRACTOR's compensation, and (2) that CONTRACTOR has confirmed that CONTRACTOR will obtain the required insurance coverages upon execution of the Agreement.

19. Termination on Notice. CITY may terminate this Agreement immediately for cause or without cause upon giving thirty (30) calendar days written notice to CONTRACTOR. In the event of termination without cause, CITY shall pay all outstanding charges for services performed and approved by CITY as of the date of termination. Termination shall not extinguish any outstanding performance obligations under this Agreement, including but not limited to, making financial records available for review, return of any private or confidential information, warranties, or mutual indemnities.

20. Suspension of Performance. For the convenience of CITY or because of events beyond the control of CITY, CITY may give written notice to CONTRACTOR to suspend all work under this Agreement. If CONTRACTOR'S work is suspended for longer than a period of one hundred twenty (120) days, an adjustment to CONTRACTOR'S compensation may be made for increased costs, if any, and this Agreement shall be modified accordingly.

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21. Invoices, Payments, and Notices. CONTRACTOR shall submit invoices, not more frequently than every two (2) weeks, for the services rendered during the preceding period. Invoices shall describe the beginning and end dates of the billing period, services performed including tasks summary, accounting of hours worked, reimbursable expenses incurred, and any other documentation as may be requested by CITY.

CITY shall make payments based on invoices received for work satisfactorily performed and for authorized reimbursable expenses incurred. CITY shall pay undisputed invoices in net thirty (30) days from receipt of the invoice.

If either party shall desire or is required to give notice to the other such notice shall be given in writing, via prepaid U.S. certified or registered postage, addressed to recipient as follows:

To CITY:

City of San Ramon

Attn: City Clerk

7000 Bollinger Canyon Road

San Ramon, CA 94583

cityclerk@sanramon.ca.gov

To CONTRACTOR:

Contractor

Attn: Contact Name

Contact Title

Address

Address

Email

Changes to the above information shall be given to the other party in writing ten (10) business days before the change is effective.

22. Commencement, Completion and Closeout. Time is of the essence in the performance of this Agreement. Any time extension granted to CONTRACTOR must be in writing and shall not constitute a waiver of right CITY may have under the Agreement.

It shall be the responsibility of CONTRACTOR to coordinate and schedule the work to be performed so that commencement and completions take place in accordance with the provisions of the Agreement. Within thirty (30) days of completion CONTRACTOR shall submit to CITY a final billing to include all costs, charges, and claims in connection with the completed work. CITY shall not be required to pay for any work or claims not included on the aforementioned final billing.

23. Jurisdiction, Venue, and Governing Law. Any action at law or in equity brought by either of the Parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of Contra Costa, State of California, and the Parties waive all provisions of law providing for a change of venue in these proceedings to any other county. This Agreement shall be governed by the laws of the State of California.

24. Signatures and Counterparts. This Agreement may be entered into by the Parties by signing any one or more counterparts, all of which shall constitute one and the same instrument. It is understood and agreed that this Agreement shall become effective and binding when one or more counterparts have been executed by each

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party and delivered to each other party. Additionally, electronic, facsimile, and scanned signatures shall be binding the same as originals.

25. Entire Agreement of Parties. This Agreement supersedes any and all agreements, oral or written, between the parties with respect to the rendering of services by CONTRACTOR to CITY and contains all of the representations, covenants and agreements between the parties as to the rendering of those services. In the event of a conflict between the body of this Agreement and its Exhibit B, the terms of the body of this Agreement and Exhibit A shall govern.

Signatures intentionally omitted

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Attachment B – Scope of Services

The Scope of Services of Respondents Proposal must include the components listed below. Respondents are not limited to the components presented. Respondents are encouraged to expand on the suggested components and approach, and/or include supplemental information relevant to the services and required qualifications, pursuant to RFP section 4 “Proposal Requirements.”

A. General Description

Respondent (“CONTRACTOR”) agrees to provide swim lessons as outlined in this RFP.

Swim lessons will take place at the San Ramon Olympic Pool, 9900 Broadmoor Drive, San Ramon, CA 94583 and Dougherty Valley Aquatic Center, 10550 Albion Road, San Ramon, CA 94582.

CONTRACTOR:

1. Abide by all information provided by the CONTRACTOR in the Proposal submitted on September 27, 2022, in response to this RFP.
2. Lessons will be paid at the rate(s) as indicated in the CONTRACTOR’s submitted Proposal.
3. Provide excellent customer service, build rapport and be responsive to City Staff and Residents. This must be in line with current PCS customer service expectations as outlined in the Independent Contract Instructor Handbook - Section 3: Customer Service Value.
4. CONTRACTOR to supply all materials, labor, and equipment necessary to support the swim instruction program.
5. Provide consistent Swim Instructors.
6. Ensure employee background checks, reference checks, and tuberculosis screening process is being strictly enforced.
7. CONTRACTOR and employees must meet all Mandated Reporter responsibilities as defined by California Penal Code.
8. CONTRACTOR shall promptly handle customer complaints by working with the CITY to remedy the situation.
9. CONTRACTOR should recruit Instructors from San Ramon and give priority to qualified candidates that live in San Ramon.
10. Classes that include entry level swimming skills must be priced at an affordable rate.
11. Scholarships for those with financial aid must be accepted through the City of San Ramon’s scholarship fund.
12. Ensure Instructors appear for lessons wearing appropriate attire and have a clean presentable appearance.
13. Ensure all staff refrain from using cell phones during work shifts.
14. Ensure that staff enforces City of San Ramon aquatics facilities rules.

15. CONTRACTOR agrees to abide by and follow all policies within the “Independent Contract Instructor Handbook” and “Independent Contract Instructor Proposal Information” documents and any addendums.

CITY:

1. Provide a clean and safe facility for scheduled lessons at the San Ramon Olympic Pool and Aquatic Park and the Dougherty Valley Aquatic Center.
2. Provide certified lifeguards to provide supervision and support the safety of the program and facility.
3. Provide storage and shared work space.
4. Manage the registration process for customers to sign up for lessons.

B. Contract Period

Services shall begin on January 2, 2023 and shall be completed by December 31, 2025, with the option to renew for one successive two-year term. *If CONTRACTOR is either unwilling or unable to provide services beyond a certain timeframe (or for any future years), please indicate this in the response.*

C. Pricing and Schedule

CONTRACTOR shall provide a proposed total fixed fee for all work specified in Scope of Work to be paid by the City. *Please include any requirement for pay rate increases (i.e. inflation, etc.) over the contract period.* CONTRACTOR shall bill the CITY based on lesson rates shown below:

Title of Class	Year 1-3 Advertised Price*	Anticipated Year 4-5 Advertised Price	# of Days in Course	Total Minutes of Instruction per day	Contractor %	City %

* CONTRACTOR can add additional columns if needed to break out price by year.

The 2023 learn to swim schedule is as follows *(Please indicate any proposed changes in your response)*:

1. Spring: April 1 – June 4 – at San Ramon Olympic Pool*
 - a. Weekday Afternoon / Evening Lessons: 3:30 – 7:00 PM
 - b. Weekend Lessons: 9:00 AM – 12:30 PM

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*The San Ramon Olympic Pool facility is scheduled for renovation during the winter of 2022/2023. Start date and location of Spring swim lessons will be determined based on timeline of services.

2. Summer: June 5 – August 6 – San Ramon Olympic Pool & Dougherty Valley Aquatic Center

- a. Weekday Morning: 9:30 AM – 12:00 PM
- b. Weekday Afternoon / Evening: 3:30 – 7:00 PM
- c. Weekend Lessons: 9:00 AM – 12:30 PM

3. Fall: August 7 – October 1 – at San Ramon Olympic Pool

- a. Weekday Afternoon / Evening Lessons: 3:30 – 7:00 PM
- b. Weekend Lessons: 9:00 AM – 12:30 PM

D. Training / Certification

CONTRACTOR to provide only Swim Instructors who are experienced in the subject and age of the group being taught. Swim Instructors must also be CPR and First Aid certified.

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Attachment C – Independent Contract Instructor Handbook

Attached on the following pages.