



## City of San Pablo

### REQUEST FOR PROPOSALS

#### I. PROGRAMS AND SERVICES TO REDUCE CHILDHOOD OBESITY

The City of San Pablo (“City”) invites proposals from qualified firms, partnerships, corporations, associations, professional organizations or individuals represented by a fiscal agent to respond to this Request for Proposal (“RFP”) to offer programs and services that are designed with the intention to increase the health and wellness of youth in San Pablo and have a positive impact on the City of San Pablo’s continued efforts to decrease childhood obesity in the City.

This RFP is not a formal request for bids or an offer by the City to contract with any party responding to this RFP. The City reserves the right to reject any and all responses. The City also reserves the right to amend this RFP as necessary or waive at will any and all of the criteria or procedures specified in this RFP in the best interests of the City. All materials submitted to the City in response to this RFP will remain the property of the City. Respondents are solely responsible for all costs incurred in responding to this RFP.

The successful proposer shall be required to execute the attached Agreement for Services with the City of San Pablo. Any exceptions to the Agreement must be set forth in the proposal for consideration. Otherwise, all terms of the Agreement are deemed accepted.

#### II. PROJECT DESCRIPTION

The City of San Pablo is seeking community-based service providers to implement specific activities, programs, projects and services for youth ages 0 to 17 that directly align with the City of San Pablo’s [Community Action Plan \(CAP\)](#) to address the health concern of childhood obesity in this community. Addressing this concern may be done through a variety of methods. Some of these methods for services may include: school-

based before, during, or afterschool programming, community-based programs, or other community service needs.

### III. GENERAL TIMELINE AND IMPORTANT ELEMENTS

<b>ESTIMATED TIMELINE</b> (Dates may be subject to change)	
RFP issued	Wednesday, 3/23/2022 by 5 pm
Question Submission Period Ends	Wednesday, 4/06/2022 by 5 pm
Answers to Questions Posted	Friday, 4/15/2022 by 5 pm
Proposals Due	Friday, 4/29/2022 at 5 pm
Interviews (if needed)	Week of 5/16/2022
Proposals Recommended for Funding Presented to City Council	Month of June 2022
Contract Finalization and Execution with Grantees	Month of June 2022
Contracts Period Begins	Month of July 2022

### IV. SUBMISSION REQUIREMENTS

Interested organizations, agencies, or persons represented by a fiscal agent are invited to submit their proposals in response to this RFP. The deadline to apply is **5:00 pm on April 29, 2022**. All proposals must be submitted through email to [joraw@sanpabloca.gov](mailto:joraw@sanpabloca.gov). Mailed or walk in submissions will not be accepted. Proposals will not be accepted after this deadline. See **IX. Instructions to Proposers** for complete proposal packet requirements.

The City of San Pablo is committed to providing as much clarity as possible during this RFP process. All questions about the RFP must be submitted in writing to Jora Atienza Washington at [joraw@sanpabloca.gov](mailto:joraw@sanpabloca.gov). COSP staff **will not answer questions via telephone or in person**. The deadline to submit questions is **April 6, 2022 at 5 pm**. To ensure applicants have access to both submitted questions and their corresponding answers, the City will publish all received questions and answers by **April 15, 2022 at 5**

**pm** at the City of San Pablo's [Childhood Obesity Prevention Advisory Group website](https://www.sanpabloca.gov/2641/COPAG-Childhood-Obesity-Prevention-Advis): (<https://www.sanpabloca.gov/2641/COPAG-Childhood-Obesity-Prevention-Advis>).

## V. FUNDING PRIORITIES

Funding priority will be given to proposals that address the following areas:

1. Increasing physical activity levels of youth
2. Increasing access of youth to healthy foods and beverages and limiting access to unhealthy foods and beverages
3. Changing messages to youth about nutrition and physical activity, including limiting junk food marketing
4. Improving nutrition and physical activity of youth in San Pablo schools within incorporated city limits. Eligible schools are:
  - Bayview Elementary School
  - Dover Elementary School
  - Downer Elementary School
  - Lake Elementary School
  - Riverside Elementary School
  - Helms Middle School
  - Middle College High School
  - Richmond High School
5. Programs and services with specific and measurable goals and outcomes.

## VI. TOTAL FUNDS AVAILABLE

This RFP will provide approximately \$300,000 in funding from July 1, 2022 through June 30, 2023. The funds provided must be used for this specific strategy (Childhood Obesity Prevention) and awards are subject to availability of funds and grant terms.

Tier Funding Categories
Tier 1 Program Award Range: \$15,000-\$25,000
Tier 2 Program Award Range: \$25,001-\$50,000
Tier 3 Program Award Range: \$50,001-\$100,000

## VII. USES OF COSP FUNDS

Grant awards shall only be used to support program costs that are direct or indirect expenses related to the requirements provided in the RFP. These funds should be primarily used to support San Pablo residents.

Examples of eligible uses of grant funds include, but are not limited to:

1. Staffing cost: salary and benefits
2. Rent, lease, occupancy, maintenance, utilities, and similar operating costs of a facility for the primary and direct use of proposed program or service;

3. Materials and supplies;
4. Food costs for the youth programs;
5. Transportation of youth participants for program activities;
6. Administrative costs up to 15% of the total proposed grant amount (including administrative costs of subcontractors)

Grant funds shall not be used for:

1. Services that do not primarily benefit San Pablo residents (with primarily defined as at least 80% of participants);
2. Services that do not primarily benefit children and youth;
3. Acquisition of capital goods;
4. Acquisition of real property;
5. Rent, lease, occupancy, maintenance, utilities, and similar operating costs of a facility not used primarily and directly by the proposed program or service.
6. Fiscal agent fees that exceed 10% of the total proposed grant amount;
7. Depreciation on buildings or equipment;
8. Political activity and/or advocacy;
9. Purposes directly supporting a future funding mechanism (i.e. soda tax) to be undertaken by the City, and;
10. Services that should be provided by other entities such as other City departments, county or state government entities, or local education agencies.

## **VIII. LOCAL ECONOMIC OPPORTUNITY POLICY**

The City of San Pablo has adopted a Local Economic Opportunity Policy to encourage Agencies and contractors to consider San Pablo residents and businesses when providing services under contract to the City of San Pablo. Proposals shall address how the proposer intends to effectuate the City's Local Economic Opportunity Policy. In addition, the contract for the successful proposer shall include the following provisions:

- **Employment of Local Residents.** Pursuant to the San Pablo Economic Opportunity Policy, the Contractor and any subcontractors shall contact the San Pablo Economic Development Corporation ("EDC" at [info@sanpabloedc.org](mailto:info@sanpabloedc.org) or 510-215-3200) at least ten business days prior to hiring or staffing for fulfillment of the Contract, describing number, duties and qualifications needed for available positions, and shall fairly consider for employment any workers referred by the EDC within three business days. "Local Resident" means an individual having an adjusted household income of less than the Area Median Income for Contra Costa County, and domiciled in the City of San Pablo as of the relevant hiring date, with "domiciled" as defined by Section 349(b) of the California Election Code. Discrimination against Local Residents on the basis of their local status is prohibited.
- **Local Subcontracting – Outreach.** Contractor shall contact the San Pablo Economic Development Corporation ("EDC" at [info@sanpabloedc.org](mailto:info@sanpabloedc.org) or 510-

215-3200) at least two weeks prior to any subcontract award, providing notice and details regarding subcontracting opportunity. The EDC shall notify qualified local businesses of subcontracting opportunities, and provide technical assistance to qualified local businesses during the subcontracting bidding process.

## IX. INSTRUCTION TO PROPOSERS

Proposals will be assessed for their ability to achieve the intent of this funding strategy. For current and former grantees, the City will consider information on existing and prior program performance and Contractor fiscal compliance. Please limit responses to no more than 10 pages in total. Clarity and brevity are preferable to volume. Proposals shall include:

- A. **Grant Application Checklist (required):** This check list serves as a cover sheet of a complete proposal. Applicants need to submit just one completed check list per proposal packet, but are responsible to ensuring that all required components are included in the submission.
  
- B. **Project Narrative (required):**
  1. **Letter of Interest (Maximum 500 words):** Describe applicant's interest, qualifications and experience with similar projects and working with municipalities in the capacity sought for this project.
  2. **Approach, Management, and Evaluation Plan (Maximum 500 words):** Describe applicant's internal capacity to implement and evaluate proposed services, including how the applicant plans to record, submit, and report on measurable outcome data, both during the proposed program, and at the conclusion of services. Applicant should also discuss how it intends to comply with the San Pablo Local Economic Opportunity Policy.
  3. **Project Experience (Maximum 500 words):** Describe similar projects completed or in progress by applicant. Proposals for school-based services should describe previous experience working in San Pablo or other West Contra Costa Unified schools, if applicable.
  4. **Scope of Services (Maximum 1500 words):** Describe in detail the proposed services including: (1) number of total projected unduplicated clients, number of projected unduplicated clients who are San Pablo residents (if different from the total number, and categorized by age range as outlined below); (2) projected dosage of services (number of participation hours for unduplicated clients; may vary depending on activities proposed); and (3) schedules and timelines as appropriate (see *Example Table* below); If services are co-located in a school, include how proposed services align and specifically

support that school community’s goals.

The proposed number of clients served should be categorized as:

- 0-5 years (early childhood/preschool)
- Kindergarten-3<sup>rd</sup> grade (early elementary school)
- 4<sup>th</sup>-6<sup>th</sup> grade (older elementary school)
- 7<sup>th</sup>-8<sup>th</sup> grade (middle school)
- 9<sup>th</sup>-12<sup>th</sup> grade (high school)
- Adults (18 years of age and older)

**Example Table:**

<b>Clients Type</b>	<b># of Unduplicated Clients, Total</b>	<b># of Unduplicated Clients, San Pablo Residents</b>	<b>Projected # of Average Dosage hours per client</b>	<b>Brief description &amp; Proposed schedule</b>
<i>0-5 years</i>	<i>30</i>	<i>26</i>	<i>10</i>	<i>Twice weekly (M/W or T/Th) Movement classes for Pre-K and their Caregivers for 10 weeks</i>
<i>Adults</i>	<i>30</i>	<i>26</i>	<i>10</i>	<i>Twice weekly (M/W or T/Th) Movement classes for Pre-K and their Caregivers for 10 weeks</i>
<i>4<sup>th</sup>-6<sup>th</sup> grade</i>	<i>50</i>	<i>42</i>	<i>50</i>	<i>Afterschool (twice weekly) and weekend (Saturday or Sunday) sports league for 15 weeks</i>

5. **References:** Provide name and contact information of maximum of three professional references (names, email addresses, and phone numbers).
6. **Insurance:** A statement that your insurance meets the terms contained in the sample agreement included with this RFP.
7. **Conflict of interest Statement:** Declaration stating that Contractor has not made any contributions to any City of San Pablo public official (hired or elected), or to volunteers serving on review commissions having an influence on this work.
8. **Contractor Contract Statement:** Include a statement that your firm accepts the terms of the City’s Professional Services Agreement (attached).

- C. **Proposed Budget (required):** Provide a proposed budget of the total project for the applicant's proposal. Total budget must include all costs associated to the program including direct and indirect costs. Proposals need to utilize the *Proposed Budget Template* (attached).
- D. **Letter of Support (optional; depending on location of services):** For proposed services that occur on school sites or other shared locations, a letter of support from a school administrator (for schools) or other executive or lead management staff (for other locations) is required.
- E. **Fiscal Agent Agreement (for programs utilizing a fiscal sponsor):** For proposals that are represented by a fiscal agent, include a current memorandum of understanding or utilize the *Sample Statement of Fiscal Agent Responsibilities* (attached).

## X. EVALUATION PROCESS

- A. The City of San Pablo and members of the City's appointed Childhood Obesity Prevention Advisory Group will review and evaluate all submitted documents received per this RFP.
- B. It is the intent of the City to keep the contents of the proposal confidential until a recommendation of contract award is made. However, to the extent that the submittals are deemed public records under California law, the submittals may be released publicly.
- C. Submittals will be reviewed for responsiveness and evaluated pursuant to established objective criteria listed below.
- D. After the submittals are evaluated and/or ranked, the City of San Pablo and the Childhood Obesity Prevention Advisory Group may elect to interview one or more Contractor/organizations. Adequate time will be allowed for presentation of qualifications followed by questions and answers.
- E. Final selection of a Contractor/organization and authority to proceed with project services, shall be at the sole discretion of the City and upon approval of the San Pablo City Council.

<b>SELECTION CRITERIA</b>	
<b>Criteria</b>	<b>Maximum Points</b>
Quality of Scope of Work	25
Experience with similar kinds of work	15
Unduplicated Number of San Pablo Youth Residents to be served	15
Quality of Approach, Management, and Evaluation of project	25
Proposed approach to local hiring and local contracting	10
References	10
<b>Total Possible Points</b>	<b>100</b>

**EXHIBIT A**

Form of Professional Services Agreement

**CITY OF SAN PABLO  
AGREEMENT FOR PROGRAM SERVICES**

THIS AGREEMENT (“**Agreement**”), dated and effective this [redacted] day of [redacted], 20[redacted] (“**Effective Date**”), is by and between the City of San Pablo, a municipal corporation organized and existing under the laws of the State of California, (“**City**”), and [redacted], a [redacted], (“**Contractor**”) (individually, a “**Party**,” and collectively, the “**Parties**”).

**RECITALS:**

WHEREAS, the City desires a contractor to provide health and wellness programs and services (“**Services**”) as further set forth in this Agreement;

WHEREAS, Contractor has represented to City that Contractor has the special training, skill, competence and expertise necessary to provide the Services needed by the City; desires to enter into this Agreement with the City as an independent contractor; and is willing to provide the Services on the following terms and conditions.

NOW, THEREFORE, Contractor and the City agree as follows:

**TERMS AND CONDITIONS**

(1) **Scope of Services.** Contractor agrees to provide the Services to the City as specified in, collectively, the scope of services set forth in the City’s Request for Proposals, dated [redacted] and any addenda thereto (“**RFP**”), attached as **Exhibit A** and incorporated herein, and the scope of services set forth in Contractor’s proposal dated [redacted] (“**Proposal**”), attached as **Exhibit B** and incorporated herein. In the event of any conflict or inconsistency between any of the terms of the RFP, the Proposal, and this Agreement, the terms most favorable to the City will prevail. Any services not encompassed in this Section (1) are additional services (“**Additional Services**”) subject to prior written authorization by the City, as further specified below in Section (3), “Additional Services.”

A. **Fingerprinting.** Contractor and any employees of Contractor or approved substitutes who come in contact with City of San Pablo participants must complete a successful fingerprinting/criminal background investigation through the City of San Pablo before providing services.

B. **Minors.** For Contractors providing services to minors (those under age 18), the following requirements also apply:

1. Contractor agrees to comply with all requirements of California Public Resources Code section 5164, including but not limited to ongoing criminal background checks of all individuals who have, or could have, supervisory or disciplinary authority over a minor. Until there is written confirmation that the individual has cleared this criminal background check, Contractor shall ensure that the individual has no interactions with minors.

2. Programs, where the instructor, or Contractor or its employees, comes in direct contact with minors, should maintain a maximum ratio of 20 participants per instructor and minimum ratio of 2 participants to 1 instructor or 1 participant to 2 instructors/staff (so that a single



less than the prevailing wage as defined in sections 1771 and 1774 of the Labor Code. The prevailing wage rates are on file with the City and are available online at <http://www.dir.ca.gov/DLSR>. Pursuant to Labor Code section 1775, Contractor and any subcontractor will forfeit to City as a penalty up to \$200 for each calendar day, or portion of a day, for each worker paid less than the applicable prevailing wage rate, in addition to paying each worker the difference between the applicable wage rate and the amount actually paid.

2. **Working Day:** Pursuant to Labor Code section 1810, eight hours of labor consists of a legal day's work. Pursuant to Labor Code section 1813, Contractor will forfeit to City as a penalty the sum of \$25 for each day during which a worker employed by Contractor or any subcontractor is required or permitted to work more than eight hours during any one calendar day, or more than 40 hours per calendar week, unless such workers are paid overtime wages under Labor Code section 1815. All Services must be carried out during regular City working days and hours unless otherwise specified in the scope of services or authorized in writing by City.
3. **Payroll Records:** Contractor and its subcontractors must maintain certified payroll records in compliance with Labor Code sections 1776 and 1812, and all implementing regulations promulgated by the Department of Industrial Relations ("DIR"). For each payroll record, Contractor and its subcontractors must certify under penalty of perjury that the information in the record is true and correct, and that it has complied with the requirements of Labor Code sections 1771, 1811, and 1815. Unless the Agreement is for an amount under \$25,000, Contractor must electronically submit certified payroll records to the Labor Commissioner as required under California law and regulations.
4. **Apprentices:** If the amount of the Agreement is \$30,000 or more, Contractor must comply with the apprenticeship requirements in Labor Code section 1777.5.
5. **DIR Monitoring, Enforcement, and Registration:** The Services are subject to compliance monitoring and enforcement by the DIR pursuant to Labor Code section 1725.5, and, subject to the exception set forth below, Contractor and any subcontractors must be registered with the DIR to perform public works projects. The registration requirements of Labor Code section 1725.5 do not apply if the Agreement is for an amount under \$25,000.

(2) **Compensation.** As full compensation for the satisfactory and timely performance of the Services as specified in Section (1), "Scope of Services," and the attached exhibits, City hereby agrees to pay Contractor a sum not to exceed \_\_\_\_\_ Dollars <write out amount> (\$) \_\_\_\_\_ as follows:

*<Indicate any special payment arrangement, if applicable, e.g., hourly rates.>*

Contractor will be paid all undisputed amounts within thirty (30) days of City's receipt of detailed invoices for Services provided to the City Manager's satisfaction during the preceding calendar month. Invoices must include all of the information contained in Section (7), "Billings," below. Each invoice must be signed by an authorized representative of Contractor, verifying that the invoiced

Services have been performed. Contractor will not be entitled to compensation for Additional Services, as defined below in Section (3), unless authorized by City in writing in advance, and memorialized in an amendment to this Agreement executed by the authorized representatives of each Party. This Section (2) supersedes any conflicting or inconsistent provisions in the Proposal.

**(3) Additional Services.** In addition to the Services included in Section (1), "Scope of Services," the Parties may from time to time agree that Contractor will provide Additional Services for additional compensation, as authorized by the City Manager. The nature and scope of the Additional Services, including the time for performance and terms for mutually agreeable additional compensation must be memorialized in a writing, executed by both Parties, as further specified in Section (25), "Amendments," before Contractor may begin providing the Additional Services. Contractor will not be entitled to compensation for any Additional Services performed without a written amendment to include the Additional Services in this Agreement. If Contractor believes that services that it is directed to perform by City are not included in Section (1), "Scope of Services," Contractor will promptly notify the City in writing of the basis for this belief. If the City agrees that the subject services are not included in Section (1), "Scope of Services," the Parties will promptly execute a writing to authorize the services as Additional Services for mutually agreed-upon additional compensation. Except as otherwise specified in the written authorization, all Additional Services are subject to the same terms and conditions as all Services under this Agreement, including, billing, record-keeping, reporting, insurance, indemnity, and compliance with all applicable laws and standards.

**(4) Effective Date and Term.** The term of this Agreement ("**Term**") begins on the Effective Date set forth above, and expires on [REDACTED]. If the Term expires later than the end of the City's fiscal year, the continuation of the Term into the next fiscal year will be contingent upon the City's lawful encumbrance or appropriation of new funds for the Agreement.

**(5) Independent Contractor Status.** It is expressly understood and agreed by the Parties that Contractor, while providing Services pursuant to this Agreement, is an independent contractor and not an employee of the City. Contractor is solely responsible for the means and methods by which it provides the Services. Contractor is solely responsible for all matters relating to the payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. Contractor is solely responsible for its own acts and those of its agents and employees during the Term of this Agreement. Contractor will not represent, at any time or in any manner, that Contractor is an employee of the City. Contractor will exercise its judgment in recommending to City the methods by which to accomplish City's objectives and needs. Contractor acknowledges that the City will provide no training. Contractor is free to accept, and has accepted in the past, other contracts to provide instruction or classes. Contractor is responsible for purchasing, bringing, providing, and controlling any and all equipment, tools, supplies, instruments, etc. needed for the classes and completion of the Services set forth herein, as well as for maintenance and use of such equipment. It is understood that Contractor is engaged on a temporary basis only, and that if the City and/or Contractor desires to continue Contractor's services after expiration of the Term or termination of this Agreement, Contractor must enter into a new agreement.

**(6) Billings.** Contractor's invoice shall utilize invoicing and reporting forms provided by the City, which include the following information: (a) a brief description of services performed, including any Additional Services; (b) the date the services were performed;

(c) number of unduplicated clients served; (d) the number of hours spent and by whom; (e) the current Agreement not-to-exceed amount; (f) amount previously billed; (g) total paid to date; (h) outstanding balance, if any; (i) the current invoice amount; (j) the total amount billed against the Agreement to date; (k) the remaining balance of the not-to-exceed amount; and (l) the Contractor's signature. Except as specifically authorized by City, Contractor shall not bill City for duplicate services performed by more than one person. In no event shall Contractor submit any billing for an amount in excess of the maximum amount of compensation provided in sections (2) and (3). City shall have access to records maintained by Contractor related to this Agreement.

**(7) Advice and Status Reporting.** Contractor will provide the City with timely reports, orally or in writing, of all significant developments arising during performance of its Services, and provide the City with information as is necessary to enable City to monitor the performance of this Agreement, including statements and data demonstrating the effectiveness of the Services provided in achieving the City's express goals and objectives. The City may withhold payments otherwise due to Contractor pending timely delivery of all such reports and information. Contractor will promptly notify the City Manager of any matters that could adversely affect Contractor's ability or eligibility to continue to provide Services under this Agreement.

**(8) Retention of Records.** Contractor's complete files, including all records, employee time sheets, and correspondence pertaining to the Services, will be available for review by the City and copies furnished for the City's files upon request by the City. Contractor will maintain adequate documentation to substantiate all charges for hours and materials charged to City under this Agreement. Contractor will maintain the records and any other records related to the Services or this Agreement and will allow City access to such records for a period of four years after the expiration of the Term or termination of the Agreement.

**(9) Written Reports and Documents.** In accordance with Government Code section 7550, if the total compensation paid to Contractor under this Agreement exceeds \$5,000, any document or written report prepared by Contractor for or under the direction of City will contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such document or written report. The contract and subcontract numbers and dollar amounts shall be contained in a separate section of such document or written report. When multiple documents or reports are the subject or product of this Agreement, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or reports.

**(10) Record and Fiscal Control System.** Contractor will maintain its financial records and fiscal control systems in a commercially reasonable manner. Contractor will maintain personnel and payroll records to adequately identify the source and application of all received funds; withhold income taxes; pay employment taxes (including Social Security), unemployment compensation, worker's compensation and other taxes as may be due. Contractor will maintain an effective system of internal control to assure that funds provided through the City are used solely for authorized purposes.

**(11) Access to Records; Audits.** The City will have access at any time during normal business hours and as often as necessary to any bank account and books, records, documents, accounts, files, reports, and other property and papers of Contractor relating to the Services to be

provided under this Agreement for the purpose of making an audit, review, survey, examination, excerpt or transcript.

**(12) Contractor's Testimony.** Unless the Services include serving as an expert witness, Contractor agrees to consult with City and testify at City's request at no additional cost other than normal witness fees if litigation is brought against City in connection with Contractor's Services. This Section (12) will survive expiration of the Term or termination of the Agreement.

**(14) Assignment of Personnel.** Contractor will only assign competent and qualified personnel to perform the Services. If City asks Contractor to remove a person assigned to the Services, Contractor agrees to do so immediately regardless of the reason, or the lack of a reason, for City's request.

**(16) Insurance.** Before it may begin performing Services under this Agreement, Contractor must procure and provide proof of the insurance coverage and endorsements required by this Section in the form of certificates and endorsements acceptable to City. All required insurance must be issued by a company licensed to do business in the State of California, and each such insurer must have an A.M. Best's financial strength rating of "A" or better and a financial size rating of "VII" or better. If Contractor fails to provide any of the required coverage in full compliance with the requirements of this Agreement, City may, at its sole discretion and in addition to any other remedies, purchase such coverage at Contractor's expense and deduct the cost from payments due to Contractor, suspend performance of the Services under the Agreement, or terminate Contractor for default. The procurement of the required insurance will not be construed to limit Contractor's liability under this Agreement or to fulfill Contractor's indemnification obligations under this Agreement. If coverage limits carried by Contractor exceed the minimum limits specified below, the higher limits will be deemed to be required by this Agreement.

A. **Policies and Limits.** Contractor must procure and maintain the following insurance policies and limits at all times during the Term of this Agreement:

1. **Commercial General Liability Insurance ("CGL"):** The CGL policy must be issued on an occurrence basis, written on a comprehensive general liability form at least as broad as CG 00 01, and must include coverage for liability arising from the operations of Contractor in the performance of the Services, including products and completed operations, property damage, sexual abuse or molestation, bodily injury and personal and advertising injury with limits of at least \$3,000,000 per occurrence/\$5 million general aggregate. The CGL coverage may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella policies, provided each such policy complies with the requirements set forth herein.
2. **Automobile Liability:** The automobile liability policy must provide coverage of at least \$1,000,000.00 combined single-limit per accident for bodily injury, death or property damage, unless waived by the City because the automobile is not used in providing services to the City. In any event, Contractor must carry the minimum auto insurance required under state law.
3. **Workers' Compensation Insurance and Employer's Liability:** If the Contractor has employees, the policy must comply with the requirements of the California

Workers' Compensation Insurance and Safety Act, providing coverage of at least \$1,000,000.00, or as otherwise required by law.

**B. Required Endorsements.** The insurance provided by Contractor must include the following endorsements as specified below. The endorsements must be executed by a person authorized to bind the issuing insurer. The endorsements are to be provided on forms provided, specified, or approved by the City. As an alternative to the City's forms, the Contractor's insurer(s) may provide complete copies of all required insurance policies, including endorsements.

1. **Additional Insured Endorsements:** The General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:
  - a. The City, its officers, officials, employees, and volunteers ("**Additional Insureds**") will be covered as additional insureds with respect to all covered liability. This must be provided in the form of an additional insured endorsement to the Contractor's insurance policy, using form CG 20 10 11 85, forms CG 20 10 10 01 and GC 20 37 10 01, or equivalent approved by the City.
  - b. The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the policies will apply as though separate policies have been issued to each of the Additional Insureds.
  - c. The insurance provided by the Contractor is primary and no insurance or self-insurance held or owned by any of the Additional Insureds may be called upon to contribute to a loss or defense.
  - d. Any failure by Contractor to comply with the reporting requirements for a policy will not affect nor abridge the coverage provided for any Additional Insureds.
  - e. The coverage or endorsement will not contain any limitations on the scope of protection available to the Additional Insureds.
2. **Notice:** Each insurance policy required by this clause must provide or be endorsed to state that coverage will not be reduced, canceled, or allowed to expire without at least 30 days written notice to the City, unless due to non-payment of premiums, in which case 10 days written notice is required.
3. **Waiver of Subrogation:** Each required policy must include an endorsement providing that the insurer will waive any right of subrogation it may have against the City. Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.

**C. Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions for the required insurance policies are subject to prior approval by the City Manager. Before beginning performance of the Services, Contractor must disclose the amounts of the deductibles and self-insured retentions that apply to the required policies. If the City Manager determines that the deductible or self-insured retention for any required policy is unacceptably high, at the option of City, (1) the insurer must reduce or eliminate the deductible or self-insured retention with

respect to the Additional Insureds, or (2) the Contractor must provide a bond or financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses. During the Term of this Agreement, Contractor may not increase any deductibles or self-insured retentions with respect to the Additional Insureds, without the prior written consent of the City Manager. The City Manager may condition such consent upon the Contractor procuring a bond or financial guarantee that is satisfactory in form to the City, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

D. **Contractors or Subcontractors.** Contractor must ensure that each subcontractor is required to maintain the same insurance coverage required for Contractor under this Section (15), with respect to its performance of Services, including the required endorsements. Contractor must confirm that each subcontractor has complied with these insurance requirements before the subcontractor is permitted to begin Services under this Agreement. Upon request by the City, Contractor must provide certificates and endorsements submitted by each subcontractor to prove compliance with this requirement. The insurance requirements for subcontractors do not replace or limit the Contractor insurance obligations.

**(16) Indemnification.** Contractor shall, to the fullest extent permitted by law, indemnify, defend (with counsel acceptable to the City) and hold harmless City, and its employees, officials, volunteers and agents ("**Indemnified Parties**") from and against any and all losses, claims, damages, costs and liability of every nature arising out of or resulting from the performance of this Agreement by Contractor, its officers, employees, agents, volunteers, subcontractors or sub-Contractors, excepting only liability arising from the sole negligence, active negligence or willful misconduct of City. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution.

1. The duty to defend is a separate and distinct obligation from the Contractor's duty to indemnify. The Contractor shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the City, the City and its directors, officers, and employees, immediately upon tender to the Contractor of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of comparative active negligence or willful misconduct by an Indemnified Party does not relieve the Contractor from its separate and distinct obligation to defend City. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if the Contractor asserts that liability is caused in whole or in part by the negligence or willful misconduct of an Indemnified Party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an Indemnified Party, Contractor may submit a claim to the City for reimbursement of reasonable attorneys' fees and defense costs.

2. In the event that Contractor or any employee, agent, subcontractor or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("**PERS**") to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, subcontractors or subcontractors, as

well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

3. The review, acceptance or approval of the Contractor's Services or work product by any Indemnified Party shall not affect, relieve or reduce the Contractor's indemnification or defense obligations. The provisions of this Section are not limited by and do not affect the provisions of this Agreement relating to insurance.

4. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

5. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration, and that these provisions survive the termination of this Agreement.

(17) **Licenses**. If a license of any kind, which term is intended to include evidence of registration, is required of Contractor, its employees, agents, or subcontractors by federal or state law, Contractor warrants that such license has been obtained, is valid and in good standing, and Contractor shall keep it in effect at all times during the Term of this Agreement, and that any applicable bond has been posted in accordance with all applicable laws and regulations. Contractor, and subcontractors, will obtain and maintain a City of San Pablo Business License at all times during the Term of this Agreement.

(18) **Employment Practices**.

- A. **Employment of Local Residents**. Pursuant to the San Pablo Economic Opportunity Policy, the Contractor and any subcontractors shall contact the San Pablo Economic Development Corporation ("EDC") at [info@sanpabloedc.org](mailto:info@sanpabloedc.org) or 510-215-3200, at least ten business days prior to hiring or staffing for fulfillment of the Agreement, describing number, duties and qualifications needed for available positions, and shall fairly consider for employment any workers referred by the EDC within three business days. "**Local Resident**" means an individual having an adjusted household income of less than the Area Median Income for Contra Costa County, and domiciled in the City of San Pablo as of the relevant hiring date, with "domiciled" as defined by Section 349(b) of the California Election Code. Discrimination against Local Residents on the basis of their local status is prohibited.
- B. **Compliance With Law**. Contractor represents that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal opportunity employment. Contractor shall not discriminate in the employment of any person because of race, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment and Housing Act. Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 ("**ADA**") in performing its obligations under this Agreement. Failure to comply

with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Agreement. In performing Services and providing services under this Agreement, Contractor shall, at its sole cost and expense, comply with all applicable laws of the United States and the State of California; the Ordinances of the City of San Pablo; and the rules, regulations, orders, and directions of their respective administrative agencies and the officers thereof.

**(19) Local Subcontracting – Outreach.** Contractor shall contact the EDC at [info@sanpabloedc.org](mailto:info@sanpabloedc.org) or 510-215-3200) at least two weeks prior to any subcontract award, providing notice and details regarding subcontracting opportunity. The EDC shall notify qualified local businesses of subcontracting opportunities, and provide technical assistance to qualified local businesses during the subcontracting bidding process.

**(20) Termination.**

A. Termination for Convenience. City may terminate this Agreement at its sole discretion at any time prior to expiration of the Term or completion by the Contractor of the Services required hereunder. Notice of termination of this Agreement shall be given in writing to the Contractor, and shall be sufficient and complete when same is deposited in the United States Mail, postage prepaid and certified, address as set forth below in Section (21), “Notices.” The Agreement shall be terminated upon the date set forth in the City’s Notice of Termination. If the City terminates this Agreement, the Contractor shall be compensated for all Services satisfactorily performed prior to the time of receipt of cancellation notice, and shall be compensated for materials ordered by the Contractor or its employees, or services of others ordered by the Contractor or its employees, prior to receipt of notice of cancellation whether or not such materials or final instruments of service of others have actually been delivered, provided that the Contractor or its employees are not able to cancel such orders for materials or services of others. Compensation for the Contractor in the event of cancellation shall be determined by City in accordance with the percentage of Services completed and agreed to by the Contractor. In the event of cancellation, all notes, sketches, computations, drawings, and specifications or other data, whether complete or not, remain the property of the City. The City may make copies or extract information from any such notes, sketches, computations, drawings, and specifications, or other data whether complete or not.

B. Termination for Cause. City may terminate this Agreement for cause by providing Contractor with one day’s written notice of such termination if Contractor violates any of the terms and conditions of this Agreement. In City’s discretion and at City’s option, such termination for cause may alternatively be accomplished, where Contractor fails to perform any of the obligations required of Contractor within the time and in the manner provided for under the terms of this Agreement, within seven days after receipt of the notice of such default. Upon City’s termination of this Agreement for cause, City reserves the right to complete the Services by whatever means City deems expedient and the expense of completing such Services, as well as any and all damages to the extent caused by the negligent acts, intentional acts or errors or omissions of the Contractor, shall be charged to the Contractor.

C. Immediate Termination. City may terminate this Agreement immediately in any case where the Contractor engages in fraudulent or criminal activities while performing the Services, or is otherwise determined to lack the necessary skills to accomplish the desired objectives.

(21) **Ownership of Materials.** Any and all documents, including draft documents where completed documents are unavailable, or materials prepared or caused to be prepared by Contractor pursuant to this Agreement shall be the property of the City at the moment of their completed preparation. All materials and records of a preliminary nature such as survey notes, sketches, preliminary plans, computations and other data, prepared or obtained in the performance of this Agreement, shall be made available, upon request, to City at no additional charge and without restriction or limitation on their use consistent with the intent of the original design.

(22) **Amendments.** This Agreement may be modified or amended only by a written document executed by both Contractor and City's City Manager and approved as to form by the City Attorney. Such document shall expressly state that it is intended by the Parties to amend the terms and conditions of this Agreement.

(23) **Abandonment by Contractor.** In the event the Contractor ceases performing Services under this Agreement or otherwise abandons the Agreement prior to completing all of the Services, Contractor shall, without delay, deliver to City all materials and records prepared or obtained in the performance of this Agreement, and shall be paid for the reasonable value of the Services performed up to the time of cessation or abandonment, less a deduction for any damages or additional expenses which City incurs as a result of such cessation or abandonment. Contractor agrees to be financially responsible and to compensate City for any costs incurred by City in retaining the services of another to replace Contractor, but only to the extent that the costs of retaining the replacement exceed what remaining amounts would have been paid to Contractor under the Agreement had Contractor completed the Services.

(24) **Waiver.** The waiver by either Party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

(25) **No Third-Party Rights.** The Parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty, covenant, obligation, or undertaking established herein.

(26) **Severability.** Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either Party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the Parties.

(27) **Compliance with Laws.** In the performance of this Agreement, Contractor shall abide by and conform to any and all applicable laws of the United States, the State of California, and City ordinances. Contractor warrants that all Services done under this Agreement will be in compliance with all applicable safety rules, laws, statutes and practices, including but not limited to Cal/OSHA regulations.

(28) **Controlling Law and Venue.** This Agreement and all matters relating to it shall be governed by the laws of the State of California, and venue for any legal action arising from or

relating to this Agreement will be in the Superior Court of Contra Costa County, and no other place. Contractor hereby waives the removal provisions of Code of Civil Procedure section 394.

**(29) Breach.** In the event that Contractor fails to perform any of the Services described in this Agreement or otherwise breaches the Agreement, City shall have the right to pursue all remedies provided by law and equity. Neither payment by the City nor performance by Contractor shall be construed as a waiver of either Party's rights or remedies against the other. Failure to require full and timely performance of any provision, at any time, shall not waive or reduce the right to insist upon complete and timely performance of such provision thereafter. In the event of any suit, action or proceeding brought by either Party for breach of any term hereof or to enforce any provision hereof, the prevailing party shall be entitled to recover its reasonable attorney's fees.

**(30) Inspection by Other Agencies.** Authorized representatives of the Federal Government, the California Department of Transportation, or other government agencies which provide grant funding (if any) for this Agreement and the City have the right to inspect Contractor's performance of the Services, files, and work product.

**(31) Conflict of Interest.** Contractor warrants and covenants that Contractor presently has no interest in, nor shall any interest be acquired in, any matter which will render the services required under the provisions of this Agreement a violation of any applicable state, local, or federal law. In the event that any conflict of interest should nevertheless arise, Contractor shall promptly notify City of the existence of such conflict of interest so that the City may determine whether to terminate this Agreement. Contractor further warrants its compliance with the Political Reform Act (Gov. Code section 81000 et seq.) respecting this Agreement. Where City Manager determines, based on facts provided by City staff, that Contractor meets the criteria of section 18701 of the FPPC regulations, the individual providing services under this Agreement shall be considered a "designated employee" under the City's conflict of interest code, and shall be required to complete FPPC Form 700 regarding his or her economic interests in a timely manner.

**(32) Copyright.** Upon City's request, Contractor shall execute appropriate documents to assign to the City the copyright to work created pursuant to this Agreement. The issuance of a patent or copyright to Contractor or any other person shall not affect City's rights to the materials and records prepared or obtained in the performance of this Agreement. City reserves a license to use such materials and records without restriction or limitation consistent with the intent of the original design, and City shall not be required to pay any additional fee or royalty for such materials or records. The license reserved by City shall continue for a period of fifty years from the Effective Date unless extended by operation of law or otherwise.

**(33) Whole Agreement.** This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof.

**(34) Multiple Copies of Agreement.** Multiple copies of this Agreement may be executed but the parties agree that the Agreement on file in the office of the City Clerk is the version of the Agreement that shall take precedence should any differences exist among counterparts of the document.

(35) **Notices.** Notices required by this Agreement shall be personally delivered or mailed, postage prepaid, as follows:

To Contractor: \_\_\_\_\_  
Name, Title  
\_\_\_\_\_  
Address

To the City: City Manager, City of San Pablo  
San Pablo City Hall  
1000 Gateway Avenue  
San Pablo, CA 94806

Each Party shall provide the other Party with telephone and written notice of any change in address as soon as practicable. Notices given by personal delivery shall be effective immediately. Notices given by mail shall be deemed to have been delivered forty-eight hours after having been deposited in the United States mail.

IN WITNESS WHEREOF, Contractor has executed this agreement, and the City, by its City Manager, who is authorized to do so, has executed this agreement.

**APPROVED AS TO FORM:**

**CITY OF SAN PABLO**  
A Municipal Corporation

By \_\_\_\_\_  
Lynn Tracy Nerland, City Attorney

By \_\_\_\_\_  
Matt Rodriguez, City Manager

**[NAME OF CONTRACTOR]**

By \_\_\_\_\_  
Contractor, [Title]

**ATTEST:**

By \_\_\_\_\_  
Dorothy Gantt, City Clerk

Dated \_\_\_\_\_

Attachments:

Exhibit A: RFP FY 2022-2023 Childhood Obesity Prevention Programs and Services  
Exhibit B: Contractor's Proposed Program Scope of Work