



**MILLBRAE**

**REQUEST FOR PROPOSAL  
FOR A COMPREHENSIVE CLASSIFICATION  
AND COMPENSATION STUDY**

Proposals Due: July 13, 2018, by 4:00 PM

## **I. INVITATION**

The City of Millbrae is requesting proposals from individual professionals and/or consulting firms to conduct a comprehensive classification and compensation study of the City's full-time and part-time positions.

Respondents to this Request for Proposal (RFP) should have extensive experience, a knowledgeable background, and strong qualifications in human resources management. The selected individual and/or firm ("Consultant") will be required to interface with employees and managers in an approachable manner. Presentations to the City Council and employee groups will be required. All products and recommendations must comply with applicable State and Federal laws, be of top quality, and enhance the City's ability to recruit and retain qualified personnel in an affordable manner.

## **II. BACKGROUND INFORMATION**

The City of Millbrae, with a diverse resident population of 23,168, is located in San Mateo County on the Peninsula, 15 miles south of San Francisco. The City is approximately 3.2 square miles, with its boundaries extending roughly from the Bayshore Freeway on the east to Skyline Boulevard on the west.

The City was incorporated in 1948 and is a general law city operating under the City Council/City Manager form of government. Transportation has shaped Millbrae's growth. The San Francisco International Airport is in close proximity to Millbrae. The Millbrae Intermodal Station serves as a major transit hub for the Peninsula, connecting the BART, Caltrain, and SamTrans networks. It is the largest intermodal station west of the Mississippi River, in terms of construction size and land usage.

The City government provides a high level of municipal services; City departments include Administration, Community Development, Finance, and Public Works.

The City has reviewed and revised job descriptions as vacancies occurred but has not had a comprehensive classification and compensation review in a number of years. The City has 80 budgeted, full-time employees working in 79 possible job classifications, and 46 budgeted part-time employees working in 11 possible job classifications.

There are two recognized employee groups:

- Teamsters Union Local 856 Miscellaneous Unit
- Sanitation Workers Division of Teamsters Union Local 856

There is also an unrepresented group of executive staff and senior management. Memoranda of Understanding, existing job specifications, and salary and benefit information can be found on the City's website at:

<https://www.ci.millbrae.ca.us/departments-services/human-resources/salary-benefit-information>.

### **III. SCOPE OF SERVICES**

**Classification study:** Discuss classifications to be studied, the data collection process and employee communications strategies. Review class specifications, the number of employees in each class, vacant classifications, personnel rules, reclassification procedures, policies for revising classifications, and other data as needed.

**Compensation study:** Discuss and make recommendations to the City's compensation philosophy, approach, and structure. Review salary schedules, MOU's, survey agencies (or criteria to determine them), labor market policies, internal equity structure, and related documentation.

#### **CLASSIFICATION STUDY – SCOPE OF WORK and WORK PLAN**

The consultant will be responsible for providing the following services to the City of Millbrae:

##### **Position Description Questionnaire**

Provide City Management with a sample Position Description Questionnaire (PDQ). Describe guidelines for distribution, including the role of supervisors and employees in completing the information. Schedule a one-day on-site visit to assist with employee orientation sessions.

##### **Collect and Review Position Description Questionnaires**

Follow-up to assist City management in responding to questions and ensuring all questionnaires are submitted within a specified time frame. Review questionnaires for completion and accuracy and compare with current job specifications for the classifications being studied.

##### **Interviews with City Management, Supervisors and Employees**

Schedule interviews with incumbents on their duties and responsibilities as described in the PDQ and in their job specifications. Group interviews may be conducted with selected incumbents in classes where the jobs are essentially the same. Conduct interviews with supervisors to provide clarification or additional information. Provide an update to City management on progress and key issues.

##### **Classification Allocation**

Analyze various factors to determine the proper class, such as, but not limited to, decision-making scope and complexity of work, contact with others required by the job, supervision received and exercised, and knowledge, skills and abilities. If applicable, contact other

comparable agencies with similar classes to obtain information. Identify Fair Labor Standards Act (FLSA) status (exempt/non-exempt) for each classification.

### **Preliminary Recommendations and Draft Report**

Prepare, submit and present a draft report summarizing each classification studied, determining whether a position is appropriately classified and no revisions are warranted, or recommending changes such as reallocating a position to a different class, revising and/or retitling an existing class or establishing a new class. Develop and attach draft classification specifications. Identify career ladders, for example flex classifications such as the Maintenance Worker series, and promotional opportunities as deemed appropriate. Assist with responses to Departments, supervisors, incumbents and bargaining units.

### **Final Report**

Develop and present a final report to City Management staff and other parties as needed, including the above elements in the draft report, along with implementation strategies.

## **COMPENSATION STUDY - SCOPE OF WORK and WORK PLAN**

The consultant will be responsible for providing the following services to the City of Millbrae:

### **Determine Appropriate Survey Agencies & Benchmark Classifications**

Provide information and recommendations on potential agencies to be used for comparability as a survey agency. Data will include organization size and function, population served, budget size, and any other criteria the City deems important. Recommend benchmark classifications for City review, based on an analysis of the City's existing classifications, salary schedules and internal equity structure, recommend benchmark classifications for City review.

### **Design, Develop, and Distribute Salary Survey Instrument**

Based on identified benchmark classes, develop a comprehensive compensation survey instrument designed to ensure the effective collection of salary and benefit information from the identified survey agencies. The survey instrument will include the minimum and maximum monthly salaries and relevant benefits for each classification to include base salary, cash supplements, certification pay, auto allowance, employer-paid insurance premium contributions for health, dental, vision insurance, life insurance and AD&D insurance, leave benefits including holidays, sick leave, administrative leave (comp time), and vacation. Leave data will be summarized in separate tables to determine common practices.

Contact survey agencies to request copies of organization charts, salary schedules, class specifications, and related documentation to verify and confirm an appropriate match between the City's classifications and each survey agency's comparable classes.

### **Design and Develop Data Spreadsheets**

Incorporate appropriate formulas into spreadsheets that produce easily readable labor market data. The labor market data analyses will be conducted based upon policy direction from the City with respect to its proposed labor market position. Special tables will be developed to display the results of survey on various leave practices such as holiday, vacation, and so forth.

### **Review, Analyze, and Validate Labor Market Survey Data**

Collect, analyze, and place survey data into data spreadsheets. In conjunction with the survey data received from each labor market agency, review additional background information (e.g., organization charts, salary schedules, position control documents, classification specifications, and related documentation). Audit the salary survey information and contact the benchmark agencies with any issues, concerns, or questions on the data to ensure the matches are accurate.

### **Conduct External Market and Internal Equity Analysis; Prepare Draft Salary Recommendations**

Develop an internal equity chart showing how all the City's classes relate to the benchmark classes. Analyze the salary survey data and internal salary relationships provided in the internal equity chart to develop salary recommendations and allocate each classification to the appropriate salary range based upon the labor market data and internal equity analysis. Consider factors such as the City's ability to recruit and retain employees in the current labor market, while also maintaining key internal relationships.

### **Prepare and Submit Draft Compensation Report**

Develop a draft report detailing the results of the labor market survey and draft salary recommendations. Include: market-based salary findings; total compensation findings; leave data; internal equity analysis; implementation strategies; and, summary of market trends. Meet with City management staff to present the draft plan and review the recommendations. Address any issues, concerns, and comments prior to the preparation of the final compensation report.

### **Final Report**

Present the final compensation report with the results of the compensation analysis and study, all findings, recommendations, and project deliverables to the City management staff and other parties as needed

## **IV. SCHEDULE**

The following is an outline of the anticipated schedule for the proposal review, contract award and study. Schedule is subject to change:

RFP released	June 15, 2018
Requests for Clarification due by 4:00 p.m.	June 27, 2018
Proposals due	July 13, 2018
Proposals reviewed/Consultant Interviews (week of)	July 16, 2018
City Council award contract	July 24, 2018
Project start date	August 7, 2018
Draft Studies due	February 7, 2019
Final Reports due	March 7, 2019

**V. RFP REQUIREMENTS**

Responses to this request should include the following information:

1. Consultant name and/or business name, DBA (if applicable) and principal contact person, including office location, address, telephone number, fax number and email address.
2. Qualifications information, which demonstrates the knowledge, experience, and capability that will enable the respondent to provide the services outlined in the Scope of Services, including a brief description and history of the firm and/or individual including the number of years in business, number of classification and compensation studies completed and the range of services offered. Key individuals who will be involved in providing or developing the services should be identified and listed. Please provide resumes for all proposed key personnel, and a list of all proposed subconsultants, if any.
3. A description of the proposed approach to completing the scope of work. Identify the key steps. Describe how you plan to interface with employees and managers to validate job descriptions. Describe the scope of involvement of city staff.
4. Describe what factors you recommend be considered to assess comparable agencies.
5. Describe any optional services you provide which would be of interest and assistance to a classification and compensation study. Identify the personnel associated with each service, if applicable.
6. Provide a timeline for this process.
7. Provide at least three references that can be contacted for verification of the respondents' experience and qualifications. The references will be public agencies, for which you and/or your firm have provided classification and compensation

- services within the past three years. Identify similar process on which the respondent has worked, and contact information.
8. Indicate the proposed compensation rate and structure for the described services. Provide the price of each component including optional services.
  9. Certificates of insurance demonstrating policies sufficient to meet the coverage requirements stated in the City's standard Consulting Services Agreement.
  10. Acknowledgement of receipt of each addendum to the RFP (if any).

**VI. PROCEDURES FOR SUBMISSION, ADDENDA, VALIDITY OF PROPOSALS**

Interested individuals and/or firms are invited to submit three hard copies (one designated original and two copies), of their responses by **4:00 PM, Friday, July 13, 2018**. Proposals should be submitted in a sealed envelope labeled **“RFP Response for Compensation Study – Do Not Open with Regular Mail”**.

Proposals must be mailed or delivered to:

Angela Louis, Administrative Services Director  
City of Millbrae  
621 Magnolia Avenue  
Millbrae, CA 94030

**Proposals received after the submittal deadline stated above will not be considered. Facsimile and e-mail proposals will not be accepted.**

All materials submitted in accordance with this RFP become the property of the City and will not be returned. If you have any questions regarding this RFP, please contact Angela Louis at: [alouis@ci.millbrae.ca.us](mailto:alouis@ci.millbrae.ca.us). Any other contact with City personnel related to this RFP, prior to the formal appointment of the consultant, is expressly prohibited.

All requests for clarifications made by the City must be in writing and will be provided to all respondents. The deadline for submitting requests for clarification is June 27, 2018, by 4:00 p.m. The City reserves the right to amend this RFP by addendum at any time. The City will publish addenda on its website. Failure of any prospective Proposer to receive the notification or addenda shall not relieve the Proposer from any obligation under the RFP as clarified, interpreted or modified. The City may, at its discretion, deliver copies of any addendum to any potential proposer. The Addendum shall have the same binding effect as the remainder of the RFP. However, no other instructions given to respondents by City staff shall bind the City. If the City determines that an addendum requires significant

changes in the preparation of proposals, the City may extend any relevant deadlines. Any new deadlines will be included in an addendum.

Submission of a proposal constitutes a firm offer to the City for 180 days from the submission deadline of the proposal. Notwithstanding the foregoing, a proposer may withdraw its proposal any time before the date and time when proposals are due, without prejudice, by submitting a written request for its withdrawal to Angela Louis, Administrative Services Director. A telephone or email request is not acceptable. The withdrawal of a proposal does not prejudice the right of a proposer to submit another proposal within the time set for receipt of proposals. After the proposal due date, a proposal may be withdrawn only if the City fails to award the Agreement within the proposal validity period, or any agreed-upon extension thereof.

**VII. REVIEW AND SELECTION CRITERIA**

City staff will evaluate the materials provided in response to the Request for Proposal based on the following criteria:

Criteria	Value
<p>Approach to Scope of Services:</p> <ul style="list-style-type: none"> <li>• Understanding of the scope of work and the overall classification and compensation study goals.</li> <li>• Consultant’s strategy for carrying out the needed work tasks to meet the goals, evaluated for its feasibility, responsiveness to the Scope of Services, effectiveness, and thoroughness.</li> <li>• Proposed plan for completing the work in a timely and professional manner.</li> <li>• Clarity of presentation and content of the responses to this request. Elaborate or costly submissions are not required.</li> <li>• Requested exceptions to City's standard professional services agreement</li> <li>• Optional services (including cost)</li> </ul>	0-25 points
<p>Qualifications and Experience of Firm</p> <ul style="list-style-type: none"> <li>• Experience of the firm in providing the specified services for similar entities</li> <li>• Record of performance, including results of reference checks.</li> <li>• The present workload of the consultant and their ability to meet the proposed schedule.</li> </ul>	0-20 points
Qualifications and Experience of Assigned Personnel	0-25 points

<ul style="list-style-type: none"> <li>• Skills and experience of assigned personnel, availability of staff</li> <li>• Experience and performance of Consultant on similar studies.</li> </ul>	
<p>Cost Proposal</p> <ul style="list-style-type: none"> <li>• Reasonableness of the proposed costs for scope of services only</li> <li>• Proposers' cost proposals will be compared to what other comparable public agencies have paid for similar services, and in accordance with what is considered to be the industry's standard and customary costs for the services.</li> </ul>	0-30 points
Total	100 points

An Evaluation Committee will review and score proposals based on the criteria set forth above. Each member of the Committee will first read, evaluate, and score all proposals by each of the criteria described in this section. The Committee will then discuss these evaluations, ultimately combining the individual scores to arrive at a composite score for each firm. These composite scores will comprise the official record for the evaluation; individual evaluation records will not be available for public inspection at any point during or after the evaluation process.

The City reserves the right to award a contract solely on the basis of the proposals. However, at its discretion, the Evaluation Committee may make requests to proposers for additional information or clarification, or establish a competitive range and invite all proposers in the competitive range to interview with the Evaluation Committee. At a minimum, the proposed lead individual and other key staff members should appear at the interview. If you or your firm is selected to participate in an oral interview, you will be notified the week prior to the scheduled interview. The City of Millbrae will not be liable for any costs associated with your firm preparing its response to this RFP.

No consultant will be allowed to modify the content of his or her responses at any time after the submission deadline, except in direct response to a request from the City for clarification or for an oral interview, if no such modification will result in a substantive amendment to the submittal.

**VIII. ACCEPTANCE OR REJECTION OF PROPOSAL**

The City reserves the right to accept or reject any or all responses received in response to this request. The City also reserves the right to waive any informality, technical defect or clerical error or irregularity in any response. Additionally, the City may, for any reason, decide not to award an agreement based on this RFP. The City reserves the right to cancel

this RFP. The City shall not be obligated to respond to any responses submitted, nor be legally bound in any manner by the submission of the response. The City reserves the right to negotiate deliverables and associated costs.

## **IX. CONTRACT NEGOTIATION AND AWARD**

Upon conclusion of the evaluation process, the Administrative Services Director will recommend a proposer to the City Manager. The City has the right to award the contract to the highest ranked proposer. By submitting a proposal, all proposers agree to execute a contract, without negotiations, in a form substantially similar to the City's standard consulting services agreement. However, at its sole discretion, the City may enter into negotiations with the proposer regarding any proposed exception to the Agreement. If for any reason, the City is unable to reach an agreement with the highest ranked proposer, the City may enter into negotiations with the next highest ranked proposer until a contract is executed or the City decides to terminate the process.

Upon the successful conclusion of the negotiations, the City Manager will recommend award of a contract to the recommended proposer to the City Council and notify all other proposers of the recommendation for award. Proposers agree to execute awarded contracts within ten days of receiving notice of the Council's award of the contract.

## **X. INSURANCE REQUIREMENTS**

The selected Consultant, at Consultant's sole cost and expense and for the full term of the Agreement or any extension thereof, shall obtain and maintain at least all of the insurance requirements outlined in the City's standard Consulting Services Agreement.

All policies, endorsements, certificates, and/or binders shall be subject to approval by the City of Millbrae as to form and content. The selected Consultant agrees to provide the City with a copy of said policies, certificates and/or endorsements.

The selected Consultant shall satisfy these insurance requirements prior to approval of the Agreement. Please address any issues with respect to insurance requirements in your response to the proposal.

## **XI. EXAMINATION OF PROPOSED MATERIAL**

The submission of a response to this RFP shall be deemed a representation and certification by the Consultant that Consultant has read and understood the RFP, has investigated all aspects of the RFP, and is aware of the applicable facts pertaining to the RFP process, its procedures and requirements. No request for modification of the responses to this request shall be considered after its submission on grounds that the Consultant was not fully informed as to any facts or condition.

## **XII. PUBLIC NATURE OF PROPOSAL MATERIAL**

Responses to this RFP become the exclusive property of the City. At such time as the Administrative Services Director or City Manager recommends a Consultant to the City Council for award of a contract, all responses to the RFP received become a matter of public record pursuant to the California Public Records Act (Gov. Code sections 6250 et seq.) ("CPRA").

If a proposer believes that its proposal contains proprietary information, trade secrets, or other information exempt from disclosure under the CPRA, the proposer must clearly mark each page containing such material as "Confidential." **Any proposal which contains language purporting to render all of the proposal "Confidential," "Trade Secret," or "Proprietary" may be regarded as non-responsive.**

If a request is made for information marked "Confidential," the City will provide the Consultant who submitted the information with reasonable notice to allow the Consultant to seek protection from disclosure by a court of competent jurisdiction.

By submitting a proposal with information marked as confidential the proposer agrees that if the City withholds from disclosure information identified as confidential, the proposer will defend, indemnify, and hold harmless the City from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the proposer information), and pay any and all costs and expenses related to the withholding of the proposer's information. The proposer agrees not to make a claim, sue, or maintain any legal action against the City or its councilmembers, officers, employees, or agents concerning the withholding from disclosure of the proposer's information.

By submitting a proposal, the proposer agrees that the City has no obligation to withhold any information from disclosure not marked as confidential and may release the information sought without any liability to the City.

## **XIII. DISQUALIFICATION**

Factors such as, but not limited to, any of the following may be considered just cause to disqualify a response to the RFP without further consideration:

- A. Evidence of collusion, directly or indirectly, among Consultants in regard to the amount, terms, or conditions of this proposal;
- B. Any attempt to improperly influence any member of the selection staff;
- C. Existence of any lawsuit, unresolved contractual claim or dispute between Consultant and the City;

- D. Evidence of incorrect information submitted as part of the RFP;
- E. Evidence of Consultant's inability to successfully complete the responsibilities and obligations of the proposed scope of work; and
- F. Consultant's default under any agreement, which results in termination of the agreement.

#### **XIV. NON-CONFORMING RESPONSE**

A proposal shall be prepared and submitted in accordance with the provisions of these RFP instructions and specifications. Any alteration, omission, addition, variance, or limitation of form or to a RFP may be sufficient grounds for non-acceptance of the response, at the sole discretion of the City.

#### **XV. NON-DISCRIMINATION/NON-PREFERENTIAL TREATMENT**

The successful Consultant shall not discriminate, in any way, against any person based on race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, or any other protected classification in connection with or related to the performance of City of Millbrae contracts.

#### **XVI. PROHIBITION OF GIFTS**

City officials are subject to several legal and policy limitations regarding receipt of gifts from persons, firms, or corporations either engaged in business with the City, or proposing to do business with the City. The offering of any illegal gift shall be grounds to disqualify a Consultant. To avoid even the appearance of impropriety, Consultants should not offer any gifts or souvenirs, even of minimal value, to City officers or employees.

#### **XVII. PROTEST PROCEDURES**

Protests pursuant to this RFP are subject to Millbrae Administrative Standard Procedures 1-15, Bid Protest Procedures. Protests based upon restrictive specifications or alleged improprieties in the proposal procedure which are apparent or reasonably should have been discovered prior to receipt of proposals shall be filed in writing with the City Clerk, at least 5 calendar days prior to receipt of proposals. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Protests based upon alleged improprieties that are not apparent or which could not reasonably have been discovered prior to submission date of the proposals, such as disputes over the staff recommendation for contract award, shall be submitted in writing to the City

Clerk, within two business days from receipt of the notice from the City advising of staff's recommendation for award of contract. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

### **XVIII. ADDITIONAL TERMS AND CONDITIONS**

- A. This RFP does not commit the City to pay any costs incurred in the submission of the response or in making any necessary studies or analysis in preparation of submission of the response.
- B. The City reserves the right without limitation to:
  - 1. Execute an agreement with one or more Consultant based solely on the response to this RFP and any approved additions;
  - 2. Enter into an agreement with another Consultant in the event that the originally selected Consultant defaults or fails to execute an agreement with the City;
  - 3. Enter into negotiations with one or more Consultant;
  - 4. Modify and re-issue the RFP; and
  - 5. Take action regarding the RFP deemed to be in the best interest of the City.
- C. The City reserves the right to verify any information provided during the RFP process. The City may contact references listed or any other person known to have contracted with Consultant.
- D. An agreement shall not be binding or valid with the City unless and until it is executed by authorized representatives of the City and of the Consultant.

### **XIX. ATTACHMENTS**

- Attachment: (1) City of Millbrae Job Classification List  
(2) City of Millbrae Standard Consulting Services Agreement

Attachment 1 - City of Millbrae Job Classification List - June 13, 2018

Accountant	Permit Officer
Accounting Technician	Permit Technician
Administrative Analyst	Plan Check/Building Inspector
Administrative Assistant	Plant Chief Treatment Plant Operator I
Administrative Intern (part time)	Plant Chief Treatment Plant Operator II
Administrative Services Director	Plant Maintenance Worker I
Assistant City Manager	Plant Maintenance Worker II
Assistant Engineer	Plant Operator I
Assistant Planner	Plant Operator II
Associate Engineer	Plant Operator Trainee
Associate Planner	Plant Senior Manintenance Worker
Building Official	Plant Senior Treatment Operator
CIP Manager	Plant Superintendent
City Clerk	Project Manager (part time)
City Engineer	Project Manager - Housing and Economic Development (four-fifths time)
City Manager	Public Works Director
Code Enforcement Officer	Public Works Inspector
Community Development Director	Public Works Lead Worker II
Deputy City Manager	Public Works Superintendent
Deputy City Manager/Finance Director	Public Works Supervisor I
Deputy City Manager/Public Works Director	Public Works Supervisor II
Deputy Director of Community Development	Pump Mechanic I
Deputy Director of Public Works	Recreation Coordinator
Development Services Engineer	Recreation Leader I (part time)
Equipment Mechanic I	Recreation Leader II (part time)
Equipment Mechanic III	Recreation Leader III (part time)
Finance Director	Recreation Services Manager
Financial Services Manager	Recreation Specialist
Financial System Analyst II	Recreation Specialist I (part time)
Industrial Waste Inspector (Trainee)	Recreation Specialist II (part time)
Industrial Waste Inspector I	Recreation Superintendent
Industrial Waste Inspector II	Senior Accountant

Attachment 1 - City of Millbrae Job Classification List - June 13, 2018

Information System Supervisor	Senior Accounting Technician
Junior Recreation Leader (part time)	Senior Civil Engineer
Lab and Sournce Control Supervisor	Senior Industrial Waste Inspector
Laboratory Analyst (Technician)	Senior Maintenance Worker
Laboratory Chemist	Senior Management Analyst
Maintenance Worker	Senior Office Assistant
Management Analyst	Senior Planner
Management Assistant	Senior Water Maintenance Worker
Office Assistant I	Special Programs Coordinator (Environmental) (half time)
Office Assistant II	Special Programs Manager (Environmental)
Parks Field Supervisor	Special Projects Manager
Parks Maintenance Technician	Street Sweeper Operator
Parks Superintendent	Tiny Tot Teacher (half time)

**AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT is made as of the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by and between the City of Millbrae ("CITY") and \_\_\_\_\_ ("CONSULTANT").

WHEREAS, the CITY desires to obtain professional services for \_\_\_\_\_ and has issued a Request for Proposals dated \_\_\_\_\_, 20 \_\_, a copy of which is attached and incorporated as Exhibit A;

WHEREAS, the CONSULTANT desires to furnish such services and has submitted a Proposal dated \_\_\_\_\_, a copy of which is attached and incorporated as Exhibit B.

NOW, THEREFORE, the parties agree as follows:

1. RENDITION OF SERVICES. The CONSULTANT agrees to provide professional services to the CITY in accordance with the terms and conditions of this Agreement ("Services"). In the performance of its Services, CONSULTANT represents that it has and will exercise that degree of professional care, skill, efficiency and judgment ordinarily employed by consultants providing similar services.

2. SCOPE OF SERVICES. The scope of the CONSULTANT's Services shall consist of the services set forth in Exhibit A, as supplemented by Exhibit B except when inconsistent with Exhibit A.

3. TERM. [CUSTOMIZE AS NEEDED]

The term of this Agreement will be for a term of \_\_\_\_ years commencing upon the Effective Date of the Agreement. The CONSULTANT shall furnish the CITY with all the materials, equipment and services called for under this Agreement, and perform all other work, if any, described in the Contract Specifications.

The CITY reserves the right, in its sole discretion, to exercise up to \_\_ one- year option term(s) to extend the Agreement, pursuant to the terms of Section 4, Compensation. If the CITY determines to exercise the option term(s), the CITY will give the CONSULTANT at least 30 days' written notice of its determination.

It is understood that the term of the Agreement, and any option term granted thereto as specified herein are subject to the CITY's right to terminate the Agreement in accordance with Section 13 of this Agreement.

4. COMPENSATION.

[USE THIS CLAUSE FOR NOT-TO-EXCEED/LUMP SUM COMPENSATION]

The CONSULTANT agrees to perform all of the services included in Section 2 for a total all inclusive sum not-to-exceed fee of \_\_\_\_\_ (\$ \_\_\_\_\_), in accordance with Exhibits A and B. The total all inclusive sum shall include all labor, materials, taxes, profit, overhead, insurance, subcontractor/subconsultant costs and all



10. CHANGES. The CITY may, at any time, by written order, make changes within the scope of work and Services described in this Agreement. If such changes cause an increase in the budgeted cost of or the time required for performance of the agreed upon work, an equitable adjustment as mutually agreed shall be made in the limit on compensation as set forth in Section 4 or in the time of required performance as set forth in Section 3, or both. In the event that CONSULTANT encounters any unanticipated conditions or contingencies that may affect the scope of work or Services and result in an adjustment in the amount of compensation specified herein, CONSULTANT shall so advise the CITY immediately upon notice of such condition or contingency. The written notice shall explain the circumstances giving rise to the unforeseen condition or contingency and shall set forth the proposed adjustment in compensation. Such notice shall be given the CITY prior to the time that CONSULTANT performs work or services related to the proposed adjustment in compensation. Any and all pertinent changes shall be expressed in a written supplement to this Agreement prior to implementation of such changes.

11. RESPONSIBILITY; INDEMNIFICATION. CONSULTANT shall, to the fullest extent allowed by law, with respect to all services performed in connection with the Agreement, indemnify, defend, and hold harmless the CITY and its officers, officials, agents, employees and volunteers from and against any and all liability, claims, actions, causes of action, losses, damages, costs, or demands whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT or CONSULTANT's employees, officers, officials, agents or independent contractors. Such losses, damages, and costs shall include reasonable attorneys' fees of counsel of CITY's choice, expert fees and all other costs and fees of litigation. CONSULTANT shall not be obligated under this Agreement to indemnify City to the extent that the damage is caused by the active negligence or willful misconduct of CITY, its agents or employees. To the fullest extent permitted by law, this indemnity shall survive the termination or expiration of this Agreement.

12. INSURANCE.

A. Workers' Compensation. CONSULTANT shall procure and maintain at all times during the performance of such work, Workers' Compensation Insurance in conformance with the laws of the State of California and Federal laws when applicable. Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease. Prior to commencement of work under this Agreement by any such employee, CONSULTANT shall deliver to the CITY a Certificate of Insurance which shall stipulate that thirty (30) days advance written notice of cancellation, non-renewal or reduction in limits shall be given to the CITY. Such insurance shall also contain a waiver of subrogation in favor of the CITY and its Councilmembers, officers, and employees while acting in such capacity, and their successors and assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

B. Commercial General and Automobile Liability Insurance. CONSULTANT shall also procure and maintain at all times during the performance of this Agreement Commercial General Liability Insurance covering CONSULTANT and the CITY for liability arising out of the operations and activities of CONSULTANT and any subcontractors. CONSULTANT shall also procure and maintain during the entire term of this Agreement Automobile Liability Insurance which shall include coverage for all vehicles, licensed or unlicensed, on or off the CITY's premises, used by or on behalf of CONSULTANT in the performance of work under this Agreement. The policies shall be subject to a limit for each occurrence of One Million Dollars (\$1,000,000) naming as an additional insured, in connection

with CONSULTANT's activities, the CITY, and its Councilmembers, officers, and employees. The Insurer(s) shall agree that its policy(ies) is Primary Insurance and that it shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance covering the CITY.

Inclusion of the CITY as an additional insured shall not in any way affect its rights as respects to any claim, demand, suit or judgment made, brought or recovered against CONSULTANT. The policy shall protect CONSULTANT and the CITY in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest had been named as an insured. Such insurance shall also contain a waiver of subrogation in favor of the CITY and its Councilmembers, officers, and employees while acting in such capacity, and their successors and assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally

Prior to commencement of work hereunder, CONSULTANT shall deliver to the CITY a Certificate of Insurance which shall indicate compliance with the insurance requirements of this paragraph and shall stipulate that thirty (30) days' advance written notice of cancellation, non-renewal or reduction in limits shall be given to the CITY.

C. Professional Liability Insurance. CONSULTANT shall also maintain Professional Liability Insurance covering CONSULTANT's performance under this Agreement with a limit of liability of One Million Dollars (\$1,000,000) for any one claim. This insurance shall be applicable to claims arising out of or related to the performance of this Agreement. Prior to commencing work under this Agreement, CONSULTANT shall furnish to the CITY a Certificate of Insurance, or certified copy of the Insurance policy if requested, indicating compliance with requirements of this paragraph. Such certificate or policy shall further stipulate that 30 days' advance written notice of cancellation, non-renewal or reduction in limits shall be given to the CITY. **[This coverage may not always apply. Confer with legal counsel/risk management if you have questions.]**

D. Deductibles and Retentions. CONSULTANT shall be responsible for payment of any deductible or retention on CONSULTANT's policies without right of contribution from the CITY. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that the policy of the CONSULTANT or any subcontractor contains a deductible or self-insured retention, and in the event that the CITY seeks coverage under such policy as an additional insured, CONSULTANT shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy for a lawsuit arising from or connected with any alleged act or omission of CONSULTANT, subcontractor, or any of their officers, directors, employees, agents, or suppliers, even if CONSULTANT or subcontractor is not a named defendant in the lawsuit.

13. TERMINATION. The CITY shall have the right to terminate this Agreement at any time by giving written notice to the CONSULTANT. In the event of termination for any reason other than the fault of the CONSULTANT, the CONSULTANT shall be compensated in accordance with the provisions of Sections 4 and 5 for the services performed and expenses incurred to the date of such termination, plus any reasonable costs and expenses which are reasonably and necessarily incurred by CONSULTANT to effect such termination. For



Attachment 2

B. CITY Warranties. The CITY makes no warranties, representations or agreements, either express or implied, beyond such as are explicitly stated in this Agreement.

C. Confidentiality. CONSULTANT shall not release any reports, information or promotional materials prepared in connection with this Agreement without the approval of the CITY Manager.

D. Use of Subcontractors. CONSULTANT shall not subcontract any Services to be performed by it under this Agreement without the prior written approval of the CITY, except for service firms engaged in drawing, reproduction, typing and printing. CONSULTANT shall be solely responsible for reimbursing any subcontractors and the CITY shall have no obligation to them.

E. No Assignment. CONSULTANT shall not assign any of the rights nor transfer any of its obligations under the Agreement without the prior written consent of the CITY.

F. Attorney's Fees. If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding shall recover, in addition to all court costs, reasonable legal fees.

G. Applicable Law. This Agreement, its interpretation and all work performed thereunder, shall be governed by the laws of the State of California.

H. Binding on Successors. All of the terms, provisions and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

I. Waiver. Any waiver of any breach or covenant of this Agreement must be in a writing executed by a duly authorized representative of the party waiving the breach. A waiver by any of the parties of a breach or covenant of this Agreement shall not be construed to be a waiver of any succeeding breach or any other covenant unless specifically and explicitly stated in such waiver.

J. Entire Agreement; Modification. This Agreement, including any attachments, constitutes the entire Agreement between the parties with respect to the subject matter hereof, and supersedes any prior understanding or agreement, oral or written, with respect to such subject matter. It may not be amended or modified, except by a written amendment executed by authorized representatives by both parties. In no event will the Agreement be amended or modified by oral understandings reached by the parties or by the conduct of the parties.

Attachment 2

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized representatives as of the day and year first above written.

CITY OF MILLBRAE:

CONSULTANT:

\_\_\_\_\_  
(See footnote below)\*

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\*Note: This Agreement must be executed by two Corporate Officers, consisting of:

- (1) the President, Vice President or Chair of the Board, and
- (2) the Secretary, Assistant Secretary, Chief Financial Officer, Assistant Chief Financial Officer, Treasurer, or Assistant Treasurer.

In the alternative, this Agreement may be executed by a single Officer or a person other than an Officer provided that evidence satisfactory to the City is provided demonstrating that such individual is authorized to bind the Corporation (e.g. a copy of a certified resolution from the Corporation's Board or a copy of the Corporation's bylaws).