



CITY OF MILLBRAE

REQUEST FOR PROPOSALS

FOR PROJECT AND CONSTRUCTION MANAGEMENT SERVICES

FOR THE MILLBRAE RECREATION CENTER DESIGN/BUILD PROJECT

Response due by 5 PM, November 1, 2019

TABLE OF CONTENTS

	<u>Page</u>
GENERAL INFORMATION:.....	1
BACKGROUND:	1
PURPOSE:	2
SCOPES OF SERVICES:.....	2
PRELIMINARY SCHEDULE:	10
DEADLINE FOR WRITTEN QUESTIONS:	11
PROCESS FOR RESPONSE:	11
PROPOSAL CONTENTS	12
PROCESS FOR CONSULTANT SELECTION	14
CITY’S RESERVATION OF RIGHTS	15
CONFIDENTIALITY.....	15
ATTACHMENTS.....	16
ATTACHMENT 1 – AGREEMENT FOR PROFESSIONAL SERVICES	1
ATTACHMENT 2 - ACKNOWLEDGEMENT FORM.....	1
ATTACHMENT 3 – MILLBRAE RECREATION CENTER MASTER PLAN, CONCEPTUAL DESIGN REPORT AND SCHEMATIC DESIGN PACKAGE.....	1

GENERAL INFORMATION:

The City of Millbrae ("City") is requesting proposals and fee schedules from qualified consultants for the purpose of selecting one consultant ("Consultant") to provide comprehensive project management and construction management ("PM/CM") services for the Millbrae Recreation Center Design/Build Project ("Project").

Any and all changes in this request for proposal ("RFP") will be made by written addendum, which shall be issued by the City and posted to the City's website as noted under DEADLINE FOR WRITTEN QUESTIONS. Addenda are effective upon posting. It is the responsibility of proposers to carefully review this RFP and to check the City website regularly for additional addenda. The City will also require a Project Labor Agreement for the design-build team ultimately selected for the Project.

Proposers, by submitting a response to this RFP, waive all right to protest or seek any legal remedies whatsoever regarding an aspect of this RFP. Although, it is the City's intent to choose only a small number of most qualified consulting teams to interview with the City, the City reserves the right to interview any number of qualified finalists.

The Consultant shall be required to enter into the City's standard Agreement for Professional Services (**Attachment 1**) and include in the Proposal a signed copy of the Standard Agreement Acknowledgement (**Attachment 2**). All proposers that respond to the RFP shall assume that the execution of this agreement, **without changes**, will be required unless proposed modifications are requested at the time of submittal of the proposal and then accepted by the City in a final agreement.

The City of Millbrae is an Equal Opportunity Employer. Firms participating in the selection process must comply with all applicable laws.

BACKGROUND:

Incorporated in 1948, the City of Millbrae ("City") is located adjacent to the San Francisco International Airport and is 15 miles south of the City of San Francisco, in the heart of San Mateo County. The City encompasses 3.3 square miles and serves a largely residential population of approximately 23,200.

City services include: administration, community development, recreation, police, fire, and public works. The City of Millbrae is a full service city providing water, wastewater collection and treatment, storm water collection and other typical municipal services to its residents. The City has a network of over 58 center line miles of street network, approximately 1,400 street lights, five traffic signals, approximately 55 miles of sanitary sewer collection network, approximately 75 miles of water distribution piping, over 21 miles of storm drainage collection system, 12 parks and over 68 acres of open space.

On July 21, 2016, a major structure fire destroyed the 15,800 square foot Millbrae Community Center, located in Central Park at 477 Lincoln Circle (APN: 021-433-210), a City owned parcel. Central Park, an 8.64 acre site, is a central gathering location serving the community for social, recreational and community needs. Since the fire, the City has set up an interim Community Center located in a modular complex at the City Hall parking lot, and has coordinated with partners to maintain ongoing programs.

Since the fire, the City has accomplished the following major milestones which has led to this current phase of the Project:

March 2017 - the City contracted with Group 4 Architecture, Research + Planning (Group 4) to prepare a master plan to lay the groundwork for the new recreation center and campus, with programming, operational and site recommendations.

January 2018 - City Council accepted the final *Millbrae's New Community/Recreation Center Master Plan Report*.

May 2019 - City Council accepted the final *Millbrae Recreation Center Conceptual Design Report*.

September 2019 – City Council accepted the final *Millbrae Recreation Center Schematic Design Submittal* of a two story 25,900 square feet building, approved the use of design-build delivery method, and authorized the issuance of this RFP to support the project.

The Millbrae Recreation Center Master Plan Report, Conceptual Design Report, and Schematic Design Submittal can be downloaded at

<https://cityofmillbrae.box.com/s/yizdz2ah3ceku0cq28jur1m8htvro9aa>

The accepted final Millbrae Recreation Center Schematic Design has a project budget estimate of \$34.5 million, which exceeds the \$30 million budget for this Project. With escalation of construction cost in the San Francisco Bay Area estimated at 10% annually, the City determined that design-build method will allow the City to work with the selected design-build team to modify the design and reduce construction cost and expedite the Project.

PURPOSE:

The objective of this Project is to rebuild the Millbrae Recreation Center by March 2022, utilizing the design-build method. This RFP is for comprehensive PM/CM services as this Project transitions from the traditional design-bid-build method to the design-build method. The PM/CM contract will include a sum not-to-exceed or lump sum for the contract as well as hourly rates for all personnel.

SCOPES OF SERVICES:

PROJECT MANAGEMENT AND CONSTRUCTION MANAGEMENT SERVICES FOR THE MILLBRAE RECREATION CENTER DESIGN/BUILD PROJECT

The City is requesting qualified consultants to conduct the following services:

1. GENERAL PROJECT MANAGEMENT SERVICES

- 1.1. **Project Administration:** Monitor and advise the City as to all material developments in the Project. Consultant shall develop and implement with City approval reporting methods for schedules, cost and budget status, and projections for the project and provide updates for the City's quarterly progress reports in the format requested by the City Representative.

- 1.1.1.1. The Consultant shall be the focal point of all communication to and from the Design-Builder and shall be copied on all communications between the City, the City Representative, and the Criteria Architect/Engineer (Criteria A/E).

- 1.1.1.2. Chair, conduct and take minutes of periodic meetings between the City and its design professional(s) at the City Project Committee meetings and of construction meetings during the course of the Project. Consultant shall invite the City and/or its representative to participate in these meetings. Consultant shall keep meeting minutes to document comments generated in these meetings, but shall not be responsible for analyzing design issues raised in said meetings.
 - 1.1.1.3. At the request of the City, the Consultant and the Design-Builder will use and maintain a Management Information System (“MIS”) to assist in establishing, and maintaining communications between the City, City Representative, Consultant, Criteria A/E, Design-Builder and other parties on the Project. The Consultant shall confirm with the City’s Representative the type of information to be managed and reported, the reporting format, the desired frequency for distribution of the various reports, the degree of accessibility by potential users, and the security protocol for the system. Consultant will maintain a log of all meetings, site visits or discussions held in conjunction with the work of this Project, with documentation of major discussion points, observations, decisions, questions or comments. These shall be furnished to the City and/or its representative for inclusion in the overall Project documentation.
- 1.2. **Scheduling:** Prepare methods to track and report on schedule status for the project. The Consultant shall develop master schedules and milestone schedules for the project, and shall report on same each month to the City.
- 1.3. **Cost Controls:** Prepare and implement methods to track all potential change orders to the Project. The Consultant shall generate monthly reports to the City reflecting this information.
- 1.4. **Communications to City Council:** The Consultant may be required to attend monthly meetings of the City Council, and to provide updates.
- 1.5. **Interface with Regulatory Agencies:** Provide direction and planning to ensure Project adherence to applicable environmental requirements such as those emanating from the Environmental Protection Agency (EPA), Cal/EPA, the California Environmental Quality Act (“CEQA”), Air Quality Management City and State of California and Regional Water Quality Control Board laws, regulations and rules. The Consultant shall provide direction to all contractors and their subcontractors and Design Professionals and their sub-consultants on compliance with, any storm water pollution prevention plans, other storm water management program and other environmental impact mitigation requirements that are approved by the City and applicable to the Project, at no additional cost to the City. Consultant will also Cooperate and coordinate with the persons responsible for operation of the City’s labor compliance program.
- 1.6. **Procurement of Separate Consultants:** The Consultant may be required to make recommendations to the City regarding selecting, retaining, and coordinating any additional professional services relating to the Project.

- 1.7. **Changes and Claims:** The Consultant will evaluate claims, requests for construction change directives, and requests for change orders from Design-Builder, and other consultants, and draft proposed responses for the City. The Consultant will assist the City in resolving claims (that do not involve Consultant), including documentation of the rationale for resolution.
- 1.8. **Project Manager:** Consultant shall designate a Project Manager, acceptable to the City, who will be responsible for initiating and implementing the work and maintaining effective communications among Consultant, the City, and other involved agencies and organizations.
- 1.9. **Reporting:** Consultant shall provide regular progress reports, in a format acceptable to the City. Such progress reports shall include:
 - 1.9.1.1. Accomplishments during the reporting period, issues encountered or anticipated, and activities scheduled for the next period, clearly indicating any City resource needs in the near and far term to assure the project schedule is maintained.
 - 1.9.1.2. Comparison of adopted schedule to Project progress, clearly indicating any risks to the Project schedule.
 - 1.9.1.3. Comparison of actual costs to the Project budget including percentage used and percent of project complete, clearly indicating any risk to the Project budget, such as disparities in schedule completion and expenditures to date compared to budgeted amounts anticipated to have been spent for equal percent of Project completion.
- 1.10. **Records:** Consultant shall maintain accurate records of all correspondence, work papers, and other relevant documents for a period of ten years.

2. PRECONSTRUCTION PHASE

- 2.1. Coordination of Procurement of Design-Builder: The Consultant will coordinate the development of the Bridge Design (design criteria and 30% schematic design), the Request for Qualifications (RFQ), and the Request for Proposals (RFP) for a design-builder for the Project ("Design-Builder"), as well as the procurement of the Design-Builder, with assistance from City staff and legal counsel.
 - 2.1.1. The role of the Consultant during the Bridge Design development and the RFQ/RFP process will include, but not be limited to:
 - 2.1.1.1. In conjunction with the Criteria A/E and City, prepare design criteria for constructability and construction technology efficiency. Develop recommendations to the City relative to components and/or systems proposed to be included in the Project Scope, i.e. LEED/sustainability features, building components, project phasing, etc.
 - 2.1.1.2. Review of cost estimate and assistance in setting the stipulated sum.

- 2.1.2. The role of the Consultant during procurement of the Design-Builder will include, but not be limited to:
 - 2.1.2.1. Assist the City with developing interest in the solicitation, including assistance with issuing public notices, and the RFQ and RFP documents, as well as outreach to potential proposers,.
 - 2.1.2.2. Participation in confidential meetings with proposers
 - 2.1.2.3. Assistance with evaluating proposals submitted.
 - 2.1.2.4. Assist City in final negotiations of the Design-Build contract.
- 2.2. Manage Design-Builder's Criteria Compliance Log and manage review of Design-Build progress documents for conformance to the Criteria Documents. The recommendations resulting from such review shall be provided to the City and Design-Builder in writing or as notations on the design documents.
- 2.3. Develop and implement a management control system to support such functions as planning, organizing, scheduling, budgeting, reporting progress and identifying and documenting problems and solutions for the Project. The system will allow for monthly progress reports to the City regarding the schedule for the Project.
- 2.4. Advise City regarding “green building” technology and lifecycle costing, when applicable.
- 2.5. Monitor Design-Builder’s development of System Confirmation documents, which depict the materials, equipment, design, layout and general coordination of each major building system (i.e.: structural, exterior closure, mechanical, plumbing, electrical, etc.) in sufficient detail to confirm compliance with the design criteria.
- 2.6. Conduct value engineering workshops based on progress Construction Documents, with input by the Criteria A/E, other City Consultants and City stakeholders. The results of these studies will be in written report form and will be distributed to the City, Design-Builder and other project stakeholders as appropriate. Monitor the completion of the Construction Documents to confirm that the approved value engineering items are incorporated.

3. CONSTRUCTION SERVICES

- 3.1. Review Design-Build cost estimates to ensure compliance with City Project budget. Review and reconcile the Design-Builder’s detailed schedule of values against the initial estimate of probable construction cost. Review to assess compliance with the requirements of the design criteria and Design-Build RFP. Maintain a log of potential changes to the project along with potential cost impacts, if any. Keep the City Representative apprised of the status on a continuous basis.
- 3.2. Monitor the Design-Builder to verify that tools, equipment, and labor are furnished and work performed and completed within the time as required or indicated by the Contract Documents, under the direction and to the satisfaction of the City. The Consultant verify that the requirements of the Design-Build Contract Documents are met, observed

performed, and followed in accordance with the professional standards of care for construction management.

- 3.3. Monitor Design-Builder's requests for information's to the City, and Criteria A/E responses as required, to determine the anticipated effect on compliance with the Project Budget and Schedule. Comment on matters of cost, scheduling and time of construction, and clarity, consistency, and coordination of documentation.
- 3.4. Coordinate work of the Design-Builder and effectively manage the Project to achieve the City's objectives in relation to cost, time and quality.
- 3.5. Review Design-Builder's construction schedules for conformity with the requirements of the construction contract(s) and conformity with the overall schedule for the Project. Where Design-Builder's construction schedules do not so conform, the Consultant will take appropriate measures to secure compliance, subject to City approval.
- 3.6. Monitor Design-Builder's compliance with the requirements of their respective construction contracts for updating, revising, and other obligations relative to their respective construction schedules. The Consultant shall incorporate Design-Builder's construction schedule updates and revisions into the Project construction schedule.
- 3.7. Perform regular performance analysis of Design-Builder's progress and include in monthly report to City. Provide claim cost and time reports during the course of the project. Review, analyze and resolve disputes during the course of the project in order to mitigate the need to resolve claims through mediation, arbitration, or litigation. Require that the Design-Builder submit a cost-loaded CPM construction schedule, review the Schedule, and verify that it is prepared in accordance with the contract requirements.
- 3.8. Authorize minor variations in the work from the requirements of the contract documents that do not involve an adjustment in the contract price or the contract time or design and which are consistent with the overall intent of the contract documents.
- 3.9. Develop, implement, and coordinate with assistance from the City procedures for the submittal, review, verification and processing of applications for payments from the Design-Builder.
- 3.10. Verify that safety programs are developed and submitted by the Design-Builder as required by the contract(s). Neither Consultant nor City shall be responsible for or have any liability for contractor(s) failure to provide, comply with, or enforce said safety programs.
- 3.11. Provide daily inspection service and record the progress of the Project by a daily log. Special inspection services may be provided as additional services. Proposal shall provide break down of inspection services to be provided by proposer.
- 3.12. Monitor ongoing Project costs to verify that projected costs do not exceed approved budget and provide the City timely notice of any potential increase in costs in excess of approved budgets provided to Consultant.
- 3.13. In conjunction with the inspector and the design professional(s), monitor work of the Design-Builder to determine that the work is being performed in accordance with the

requirements of the respective Construction Documents. As appropriate, with assistance of design professional(s) and the inspector, make recommendations to the City regarding special inspection or testing of work that is not in accordance with the provisions of the Contract Documents.

3.13.1. To guard City against defects in the work of the Design-Builder, the Consultant shall establish and implement a quality control (QC) and quality assurance (QA) program to monitor the quality and workmanship of construction for conformity with:

3.13.1.1. Accepted industry standards;

3.13.1.2. Applicable laws, rules, or ordinances; and

3.13.1.3. All Design and Contract Documents;

3.13.2. Where the work of a construction contractor does not conform as set forth above, the Consultant shall, with the input of the Criteria A/E and the Design-Builder's design professional(s):

3.13.2.1. Notify the City of any non-conforming work observed by the Consultant;

3.13.2.2. Reject the non-conforming work; and

3.13.2.3. Take any and all action(s) necessary to compel the Design-Builder to correct the work.

3.14. Maintain logs of requests for information ("RFI") from Design-Builder.

3.15. Cause the Design-Builder to develop a list of anticipated submittals along with a matrix identifying which submittals will be required to be submitted to the City and/or the Criteria A/E for conformance to City Standards and the Criteria Documents for review and approval.

3.16. Establish and implement procedures, in collaboration with the City and design professional(s), for expediting the processing and approval of shop drawings, product data, samples, and other submittals for each contract. Receive and transmit submittals from the Design-Builder to the Criteria Architect or City, as appropriate for review and approval. Maintain submittal and shop drawing logs.

3.17. Record the progress of work at the Project. When present, prepare daily reports for the Project containing a record of weather, number of workers, work accomplished, problems encountered, and other relevant data.

3.18. Prepare and distribute monthly project status reports for the Project, including updates on project activities, progress of work, outstanding issues, potential problems, schedule, and status of RFI's, change orders, and submittals. Attend one City Council meeting each month to present updates.

- 3.19. Maintain at the Project site and, if necessary, at the Consultant's office, a current copy of all approved documents, drawings, requirements of the Design-Build Contract Documents, addenda, change orders and other modifications, and drawings marked by the Design-Builder to record all changes made during construction. These shall include shop drawings, product data, samples, submittals, applicable handbooks, maintenance and operating manuals and instructions, and other related documents and revisions which are relevant to the contract work. Maintain records of principal building layout lines, elevations of the bottom of footings, floor levels, and key site elevations as provided by the Design-Builder. At the completion of the Project, deliver all such records to City.

4. PROJECT COMPLETION

- 4.1. The Consultant shall observe, with the City's maintenance personnel, the Design-Builder's startup testing of utilities, operational systems and equipment. The Consultant shall maintain records of start-up and testing as provided by the Design-Builder and shall ensure the City of compliance with applicable provisions of the contract(s), that all work has been performed and accepted, and that all systems are complete and operative. The Consultant will facilitate and coordinate the activities of the City's Commissioning agent.
- 4.2. Support City and project stakeholders in planning and procurement of Furniture, Fixtures and Equipment (FF&E) including security, furniture, data/telecommunications, Audio/Visual, and other equipment. Create and maintain FF&E schedule including scope confirmation, procurement, delivery, and installation activities. Interface with City purchasing staff to schedule procurement of FF&E. Review requisitions and/or purchase orders for accuracy, and confirm delivery dates and delivery scope.
- 4.3. Work with City to procure a move manager (issue RFP; evaluate Proposals, make recommendation for selection). Work with the move manager and building users to develop move procedures and schedule; monitor execution of move manager services. Manage keying with Design-Builder and project stakeholders.
- 4.4. Punch list & back check (in coordination with Design-Builder). Monitor the completion of omission and defect items identified on the final inspection Punch list. Recommend acceptance of completed work or rejection of unsatisfactory work and coordinate walk-throughs by City personnel.
- 4.5. The Consultant shall determine, along with the Criteria A/E, Architect of Record, and the City, when the Project or designated portions thereof are complete, and shall assist with the issuance of a Certificate of Final Completion.
- 4.6. The Consultant shall conduct, along with the Criteria A/E, Architect of Record, and the City, final inspections of the Project or designated portions thereof. The Consultant shall notify the City of final completion.

5. FINAL DOCUMENTS

- 5.1. The Consultant shall review and monitor all as-built drawings, maintenance and operations manuals, and other closeout documents to be sure that all required documents meeting

contract requirements are provided, and shall secure and transmit to the City those documents and all required guarantees, keys, manuals, record drawings, and daily logs. The Consultant shall also forward all documents and plans to the City upon completion of the project and ensure all such plans and documents are well organized for any appropriate audit or review of the project.

6. WARRANTY

- 6.1. Obtain from the Design-Builder Operation and Maintenance Manuals, Warranties, and Guarantees for materials and equipment. Coordinate reviews of this information with the Criteria A/E, City maintenance staff, and the Commissioning Agent. Following review and incorporation of appropriate comments, deliver this information to the City and provide a copy of the information to the Criteria A/E. Also coordinate required equipment and operations training of City's maintenance staff. Assist the City in obtaining follow-up services for required warranty work for a period of one year following Final Completion of the Project. Develop warranty call-back procedures, implementation of such procedures, and participation in meetings with the City and Design-Builder to review and resolve outstanding issues.

7. EXCEPTIONS

- 7.1. Consultant is NOT responsible for:
 - 7.1.1. Ground contamination or hazardous material analysis.
 - 7.1.2. Any asbestos testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by City.
 - 7.1.3. Compliance with the California Environmental Quality Act ("CEQA"), except that Consultant agrees to coordinate its work with that of any CEQA consultants retained by the City, and to provide current information for use in CEQA compliance documents.
 - 7.1.4. Historical significance report.
 - 7.1.5. Soils investigation.
 - 7.1.6. Geotechnical hazard report.
 - 7.1.7. Topographic survey, including utility locating services.
 - 7.1.8. Other items specifically designated as the City's responsibilities under this Agreement.
 - 7.1.9. As-built documentation from previous construction projects.
 - 7.1.10. Directing the Design-Builder's means and methods.

ADDITIONAL SERVICES

The following Additional Services to this Agreement shall be performed by Consultant if needed and requested by City as indicated in the Agreement. The Additional Services should not be included in the proposed lump sum or not-to-exceed amount in the Cost Proposal. If required, these Additional Services will be performed at the hourly rates stated in the Cost Proposal, and may warrant adjustments to the Consultant's compensation

1. Providing services required because of significant and reasonable documented and approved changes in the Project initiated by the City or by the Design-Builder, including but not limited to size, quality, complexity, the City's schedule, or method of bidding or negotiating and contracting for construction.
2. Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection with replacement of such work.
3. Providing services made necessary by the default of contractor(s), or by major defects or deficiencies in the work of the contractor, or by failure of performance of the City's consultants, or in the absence of a final Certificate of Payment, more than sixty (60) days after the date of completion of work on the project involved.
4. The selection, layout, procurement or specification at the City's request of movable furniture, furnishings, equipment or other articles that is not included in the Contract Documents.
5. Providing surveys relative to future facilities, systems or equipment which are not intended to be constructed during the Construction Phase.
6. Preparation of applications and supporting documents for governmental grants and permits other than as required in this Agreement.
7. Seeking variances or changes to agency guidelines on behalf of the City when so directed by the City.
8. Providing coordination of Services or providing services related to Services performed by the City's own forces.
9. Preparing to serve or serving as a witness in connection with any public hearing, dispute resolution proceeding or legal proceeding, other than that necessitated by the negligent acts, errors or omissions of Consultant or where the Consultant is party thereto, except for a contractor's hearing necessitated by its request to substitute a subcontractor.
10. Providing any other services not otherwise included in this Agreement or not customarily furnished In accordance with generally accepted scope of program or project management practice.
11. Consultant may be compensated for any significant additional time required for training and familiarization of assigned projects due to changes in City and/or Project management personnel.

PRELIMINARY SCHEDULE:

The following is a preliminary schedule for the RFP.

Distribution of RFP	10/9/2019
Deadline to submit written questions	10/16/2019
Deadline to submit proposals	11/1/2019, 5PM
City interview/oral presentations with final candidates (if necessary)	TBD
Negotiations with top ranked consultant(s)	TBD
Recommendation presented to the City Council	11/12/19
Notice to proceed	12/01/19

Note that this schedule is preliminary. The schedule may be adjusted, as needed, by the City.

DEADLINE FOR WRITTEN QUESTIONS:

Questions about this RFP or process must be submitted in writing (e-mail acceptable) to Jane Kao, Senior Civil Engineer, 621 Magnolia Avenue, Millbrae, CA 94030 or jkao@ci.millbrae.ca.us before 5 pm on 10/16/19. The City will compile a list of written questions with responses and post to the City website within one week. It is the responsibility of proposers to carefully review this RFP and check the City website regularly for additional addenda.

Except as specified above, proposers and their representatives may not communicate with any officer, director, employee, or agent of the City with respect to this RFP except as may be reasonably necessary to carry out the procedures specified in this RFP. Nothing herein prohibits proposers or their representatives from making oral statements or presentations in public to one or more representatives of the City during a public meeting. The City will not respond to verbal inquires and interested proposers are specifically discouraged from contacting the city in person or by telephone during this RFP and selection process.

PROCESS FOR RESPONSE:

Interested proposers should submit one (1) original and four (4) bound copies and one (1) digital file copy in PDF format of their proposal to: City of Millbrae, Public Works, Attention: Jane Kao, Senior Civil Engineer, 621 Magnolia Avenue, Millbrae, CA 94030 no later than 5:00 p.m. on November 1,2019. The proposal should be in an envelope clearly marked: PROJECT MANAGEMENT AND CONSTRUCTION MANAGEMENT SERVICES FOR THE MILLBRAE RECREATION CENTER DESIGN/BUILD PROJECT

Late submittals shall not be accepted.

The proposal shall be concise, and shall not include unnecessary promotional material.

A proposer may withdraw its proposal at any time prior to the submittal deadline by submitting a written request for withdrawal to the proposal signed by an authorized agent of the firm. The proposer may thereafter submit a new or modified proposal prior to the submittal deadline. Modifications offered in any other manner, including oral or written, will not be considered.

Submission of a proposal indicates acceptance by the firm of the conditions contained in this RFP unless clearly and specifically noted in the proposal submitted and confirmed in the final contract between the City of Millbrae and the Consultant selected.

PROPOSAL CONTENTS

Proposals are limited to 30 pages, and must include the following and follow directions outlined in each section below:

1. Letter of Transmittal. This Letter of Transmittal must:
 - a. Describe the proposer's interest in and commitment to providing PM/CM services for the Project.
 - b. State that the proposal is valid for at least a 90 day period.
 - c. Identify an officer of the firm who is authorized to contractually bind the firm, and to negotiate a contract with the City shall sign the letter, and provide name, title, address, email, and telephone number of this officer.
 - d. Provide name, title, address, mail, and telephone number of key contact for the proposer during the RFP and award process.
 - e. Indicate whether there are any conflicts of interest that would limit the proposer's ability to provide the requested service.
2. Table of Contents. Each proposal shall include an index to the major topics contained in the proposal and all pages shall be numbered.
3. Standard Agreement Acknowledgement. A signed copy of the Acknowledgement (Attachment 2) that the consultant agrees with the City's Standard Professional Services Agreement without any changes. In the alternative, if the proposer does not agree with the City's Standard Professional Services Agreement, the proposer must identify each section that proposer wishes to modify and the proposed modification. By submitting a proposal without exceptions, proposer agrees to the execution of the City's Standard Professional Services Agreement, without changes.
4. Approach to Scope of Services.
 - a. Work Plan and Approach.
 - i. Discuss your firm's understanding of the Scope of Services to be performed.
 - ii. Describe the method for management of overall project costs, schedule, quality assurance/quality control, responsiveness to City requests and inquiries, and other issues critical to this project. Specifically address your firm's approach to resolving unanticipated issues efficiently and effectively while maintaining Project budget and schedule. In addition, explain your team's ability to adapt to changes in environment and/or existing conditions throughout the process that may affect the program outcome and schedule.
 - iii. Describe the needs from City staff. For example, what City staff expertise is needed and how much time to you anticipate.
 - iv. Identify any "value-added" services that your firm may provide.

- v. Identify location where most work activity is anticipated to take place.
 - b. Schedule: Outline a proposed Project schedule. Include any significant milestone and resource needs such as staff, meeting space, reports, etc. from the City.
5. Team Experience / Capacity. Provide the information listed below especially highlighting successful projects with cities or clients, quality of work, success in meeting project timelines, project budget, and related criteria.
- a. Experience. Describe your experience and capacity to manage projects of size and scope similar to the study in this RFP. Identify any current projects or anticipated projects for other clients that consultant anticipates will run concurrently with work for the City. Identify how consultant will ensure that Project staff is available for City meetings when needed.
 - b. Key Personnel Background. Name, position, summary of qualifications, resumes, related experience and proposed relationships and responsibilities of project manager, key personnel, and subcontractors. Provide proposed organization chart for Project team.
 - c. Subconsultants. Identify any subconsultants that would be used and their specific role. (All subconsultant costs, including any markup, must be included in proposer's cost proposals.)
 - d. Provide a listing of similar projects performed within the last five (5) years. Include the following information:
 - i. Clients name, point of contact, addresses, and telephone numbers
 - ii. Description of project and year of completion
 - iii. Key personnel involved
 - e. Location. Identify the location of the office(s) where work will be performed
 - f. Organization Chart and Staffing Plan. Provide an organization chart for your firm providing positions, titles, responsibilities, and interrelationships. Provide a Staffing Plan based on the proposed Project schedule.
6. References. Provide at least five references from owner's of similar projects your firm has served a similar role on, preferably from California public agencies. At least two references must have worked with the proposed project manager and other key staff proposed to be assigned to the Project. References should include the following:
- a. Name of the owner/agency
 - b. Time period for the project
 - c. Brief description of the scope of the work
 - d. Reference contact name, email, and telephone number

7. Cost Proposal. **Each Cost Proposal must be provided in a separate sealed envelope marked “Costs / Fees” and does not count toward the page limit.**
- a. Provide a complete outline of the total cost of the work, expressed either as a not-to-exceed amount, or a lump sum:
 - i. If the consultant proposes to perform the project pursuant to a time and materials compensation structure, the following must be provided: 1) estimated number of consulting hours; 2) ancillary costs (including travel and other incidentals); 3) reimbursable expenses; 4) overhead; 5) profit; and 6) an all-inclusive not-to-exceed cost. Note that the City does not reimburse for local travel.
 - ii. If the proposer proposes to perform the work for a fixed cost with milestones, proposer shall provide milestones upon which payment is anticipated, as well as assumptions used to develop the cost proposal, and the total lump sum cost.
 - b. All cost proposals must include sufficient detail about the proposer's assumptions to permit City to ascertain that the work can be completed within the cost proposed and to compare to other proposals.
 - c. All cost proposals, regardless of proposed compensation method, must include the hourly rates for all project team members and subconsultants.

PROCESS FOR CONSULTANT SELECTION

Proposals shall conform to the Proposal Format and Requirements. It is important that all listed items be included in the proposal. The City may disregard proposals which do not comply with all of the requirements or which are not submitted prior to the proposal deadline.

Proposals will be reviewed and ranked by the City and contents of each proposal will be ranked by a selection committee. Criteria include:

- Acceptance of City’s standard terms and conditions (any requested exceptions will be evaluated based on reasonableness and conformance with industry standard)
- Qualifications and Experience of Firm including proposed work plan and approach, recent projects including ability to resolve unexpected issues efficiently as well as meet project timelines and budget
- Qualifications of personnel proposed to be assigned to project including experience on comparable projects, availability to the City, and qualifications of both staff and subconsultants
- Understanding of proposal and project approach, value-added services, and anticipated resource needs of City
- Cost including staffing plan and approach, comparison to amounts paid by similar agencies.

More details about each of these criteria can be found in the previous section: PROPOSAL CONTENTS.

Following the selection committee’s evaluation process, the City may contact persons involved in former or current projects of proposer, including but not limited to reference contacts. The City may award

contracts based on the proposals alone, or, in its sole discretion, may invite one or more consultants to make oral presentations and/or interview with the selection committee.

At the conclusion of the evaluation process, the City will select the top ranking proposer and enter into contract negotiations. Except as initiated by the City in its sole discretion, negotiations are limited to those exceptions to the Agreement for Professional Services identified in the proposal. If negotiations with the top-ranking firm are unsuccessful, negotiations will terminate and the City will undertake negotiations with the next ranked firm until a contract is agreed upon. City staff will make recommendations to the City Council for award of contracts. Upon City Council approval, a contract will be executed and work initiated.

CITY'S RESERVATION OF RIGHTS

During the review process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarification from those that submit proposals, waive defects, or allow corrections of errors or omissions.

The City reserves the right to modify the scope of services at any time based on the best interests of the City and will negotiate with Consultant accordingly.

The City reserves the right to reject any or all proposals without qualifications, and to negotiate specific requirements and costs using the selected proposal as a basis.

The City reserves the right to retain all proposals submitted and to use any concepts or information in a proposal regardless of whether or not that proposal is selected.

This RFP does not commit the City to award a contract. In addition, the City will not be liable for any costs incurred by the proposers incidentals to the preparation of proposals or for developing and carrying out interview presentations, if needed.

Although, it is the City's intent to choose only a small number of most qualified proposers to interview with the City, the City reserves the right to choose any number of qualified finalists.

CONFIDENTIALITY

All responses to this RFP become property of the City and will be kept confidential until a recommendation for award of a contract has been announced. Thereafter, submittals are subject to public inspection and disclosure under the California Public Records Act (Cal. Govt. Code Sections 6250 et seq). Therefore, unless the information is exempt from disclosure by law, the content of any proposal, request for explanation, exception, or substitution, response to these specifications, protest, or any other written communication between the City and any proposer regarding the procurement, shall be available to the public.

If any proposer believes any communication contains trade secrets or other proprietary information that the proposer believes would cause substantial injury to the consultant's competitive position if disclosed, the proposer must request that the City withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. By submitting a proposal with portions marked "confidential," a proposer represents it has determined such portions qualify for exemption from disclosure under the California Public Records Act. A proposer may not designate its entire proposal as confidential nor may a consultant designate its Cost Proposal as confidential. The City will not honor such designations and will disclose submittals so designated to the public.

If a proposer requests that the City withhold from disclosure information identified as confidential, and the City complies with the consultant's request, proposer agrees to assume all responsibility for any challenges resulting from the non-disclosure, 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 consultant's information), and pay any and all costs and expenses related to the withholding of the consultant'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.

If proposer does not request that the City withhold from disclosure information identified as confidential, the City shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to the City.

ATTACHMENTS

Attachment 1: Sample Agreement for Professional Services

Attachment 2: Acknowledgement Form for City of Millbrae Agreement for Professional Services

Attachment 3: Millbrae Recreation Center Schematic Design Submittal

ATTACHMENT 1 – AGREEMENT FOR PROFESSIONAL SERVICES

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; and

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.**

The term of this Agreement will commence 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 Section 2.

It is understood that the term of the Agreement, as specified herein is subject to the CITY’s right to terminate the Agreement in accordance with Section 13 of this Agreement.

4. **COMPENSATION.**

[FOR NOT-TO-EXCEED 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 other costs and expenses incurred by the CONSULTANT. The hourly rate by personnel category shall be as set forth in Exhibit B. CITY will render payment in the manner specified in Section 5.

[FOR LUMP SUM COMPENSATION]

The CONSULTANT agrees to perform all of the services included in Section 2 for a total all-inclusive lump sum fee of _____ (\$_____), in accordance with Exhibits A and B. The total all inclusive sum includes all labor, materials, taxes, profit, overhead, insurance,

subcontractor/subconsultant costs and all other costs and expenses incurred by the CONSULTANT. CITY will render payment in the manner specified in Section 5.

5. MANNER OF PAYMENT. CONSULTANT shall submit invoices to CITY on a monthly basis.

[NOT TO EXCEED COMPENSATION]

Invoices shall itemize, by personnel, the number of hours devoted by CONSULTANT to work under this Agreement, applicable hourly rates in accordance with the fee schedule described in Exhibit B, and those out-of-pocket expenses incurred in the performance of work hereunder.

[LUMP SUM COMPENSATION]

Invoices shall include a description of the services performed and milestones achieved by CONSULTANT pursuant to the schedule in Exhibit B.

CITY shall render payment within thirty (30) days of receipt of approved invoices.

All invoices should be sent to:

City of Millbrae
621 Magnolia Avenue
Millbrae, CA 94030
Attn: _____

6. CONSULTANT'S KEY PERSONNEL. It is understood and agreed by the parties that at all times during the term of this Agreement that _____ shall serve as the primary staff person of CONSULTANT to undertake, render and oversee all of the services under this Agreement. In the event that Consultant replaces key personnel, the replacement personnel shall have similar qualifications as the person being replaced and shall be subject to final approval by the City.

7. CITY REPRESENTATIVE. Except when approval or other action is required to be given or taken by the City Council, the City Manager, or such person or persons as they may designate in writing from time to time, shall represent and act for the CITY.

8. CONSULTANT'S STATUS. Neither the CONSULTANT nor any party contracting with the CONSULTANT shall be deemed to be an agent or employee of the CITY. The CONSULTANT is and shall be an independent contractor, and the legal relationship of any person performing services for the CONSULTANT's shall be one solely between said parties.

9. OWNERSHIP OF WORK. All reports, designs, drawings, plans, specifications, schedules, and other materials prepared, or in the process of being prepared, for the Services to be performed by CONSULTANT shall be and are the property of the CITY. The CITY shall be entitled to access to and copies of these materials during the progress of the work. Any property of the CITY in the hands of the CONSULTANT or in the hands of any subcontractor upon completion or termination of the work shall be immediately delivered to the CITY. If any property of the CITY is lost, damaged or destroyed before final delivery to the CITY, the CONSULTANT shall replace it at its own expense and the CONSULTANT hereby assumes all risks of loss, damage or destruction of or to such materials. The CONSULTANT may retain a copy of all material produced under this agreement for its use in its general business activities.

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, 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.

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 termination for default, the CITY shall remit final payment to CONSULTANT in an amount to cover only those services performed and expenses incurred in accordance with the terms and conditions of this Agreement up to the effective date of termination.

14. NOTICES. All communications relating to the day to day activities of the project shall be exchanged between the CITY Manager and the CONSULTANT's _____.

All other notices and communications deemed by either party to be necessary or desirable to be given to the other party shall be in writing and may be given by personal delivery to a representative of the parties or by mailing the same postage prepaid, addressed as follows:

If to the CITY: City of Millbrae
621 Magnolia Avenue
Millbrae, CA 94030
Attn: City Manager

If to the CONSULTANT: _____
Attn: _____

The address to which mailings may be made may be changed from time to time by notice mailed as described above. Any notice given by mail shall be deemed given on the day after that on which it is deposited in the United States Mail as provided above.

15. EQUAL EMPLOYMENT OPPORTUNITY. In connection with the performance of this Agreement, the CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, religious creed (including religious dress and grooming practices), citizenship, political activity or affiliation, national origin, ancestry, physical or mental disability, marital status, age (if over 40), medical condition (as defined under California law), veteran status, sexual orientation, gender identity, gender expression, sex or gender (which includes pregnancy, childbirth, breastfeeding, or related medical conditions), military or veteran status, taking or requesting statutorily protected leave, or any other characteristics protected under federal, state, or local laws (collectively “Protected Characteristics”). The CONSULTANT shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their Protected Characteristics. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the consulting officer setting forth the provisions of this nondiscrimination clause.

The CONSULTANT further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed or disclosed the compensation of the employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee’s essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing or action, including an investigation conducted by the employer, or is consistent with the contractor’s legal duty to furnish information.

16. CONFLICTS OF INTEREST. The CONSULTANT warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under California Government Code §§ 1090 et seq. or §§ 87100 et seq. during the performance of services under this Agreement. The CONSULTANT further covenants that it will not knowingly employ

any person having such an interest in the performance of this Agreement. Violation of this provision may result in this Agreement being deemed void and unenforceable.

Depending on the nature of the work performed, a consultant of the City is subject to the same conflict of interest prohibitions that govern City employees and officials (Cal. Govt. Code Section 1090 et seq. and Cal. Govt. Code Section 87100 et seq. as well as all applicable federal regulations and laws). During the proposal process or the term of the Agreement, CONSULTANT and its employees may be required to disclose financial interests. Upon request, the CONSULTANT agrees to promptly submit a Statement of Economic Interest on the form provided by the City.

No person previously in the position of councilmember, officer, employee or agent of the City may act as an agent or attorney for, or otherwise represent, the CONSULTANT by making any formal or informal appearance, or any oral or written communication, before the City, or any officer or employee of the City, for a period of twelve (12) months after leaving office or employment with the City if the appearance or communication is made for the purpose of influencing any action involving the issuance, amendment, award or revocation of a permit, license, grant or contract.

The CONSULTANT shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement and other solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to the City; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

The CONSULTANT shall not engage the services of any subcontractor or independent consultant on any work related to this Agreement if the subcontractor or independent consultant, or any employee of the subcontractor or independent consultant, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement, the CONSULTANT becomes aware of an organizational conflict of interest in connection with the work performed hereunder, the CONSULTANT immediately shall provide the City with written notice of the facts and circumstances giving rise to this organizational conflict of interest. The CONSULTANT's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the term of this Agreement, the City becomes aware of an organizational conflict of interest in connection with the City's performance of the work hereunder, the City shall similarly notify the CONSULTANT. In the event a conflict is presented, whether disclosed by the CONSULTANT or discovered by the City, the City will consider the conflict presented and any alternatives proposed and meet with the Consultant to determine an appropriate course of action. The City's determination as to the manner in which to address the conflict shall be final.

During the term of this Agreement, the CONSULTANT must maintain lists of its employees, and the subcontractors and independent consultants used and their employees. The CONSULTANT must provide this information to the City upon request. However, submittal of such lists does not relieve the CONSULTANT of its obligation to assure that no organizational conflicts of interest exist. The CONSULTANT shall retain this record for five (5) years after the City makes final payment under this Agreement. Such lists may be published as part of future City solicitations.

The CONSULTANT shall maintain written policies prohibiting organizational conflicts of interest and shall ensure that its employees are fully familiar with these policies. The CONSULTANT shall

monitor and enforce these policies and shall require any subcontractors and affiliates to maintain, monitor and enforce policies prohibiting organizational conflicts of interest.

Failure to comply with this section may subject the CONSULTANT to damages incurred by the City in addressing organizational conflicts that arise out of work performed by the CONSULTANT, or to termination of this Agreement for breach.

17. MISCELLANEOUS

A. Records. All CONSULTANT and subconsultant costs incurred in the performance of this Agreement will be subject to audit. The CONSULTANT and its subconsultants shall permit the City, the State Auditor, and their authorized representatives to inspect, examine, make excerpts from, transcribe, and copy the CONSULTANT's books, work, documents, papers, materials, payrolls records, accounts, and any and all data relevant to the Agreement at any reasonable time, and to audit and verify statements, invoices or bills submitted by the CONSULTANT pursuant to this Agreement. The CONSULTANT shall also provide such assistance as may be required in the course of such audit. The CONSULTANT shall retain these records and make them available for inspection hereunder for a period of ten (10) years after expiration or termination of the Agreement.

If, as a result of the audit, it is determined that reimbursement of any costs including profit or fee under this Agreement was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, the CONSULTANT agrees to reimburse the City for those costs within sixty (60) days of written notification by the City.

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. In the event of a conflict between this Agreement and Exhibit A or Exhibit B, this Agreement prevails.

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: _____

By: _____

City Manager

Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____

Name: _____

Title: _____

City Attorney

*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).

ATTACHMENT 2 - ACKNOWLEDGEMENT FORM

**ACKNOWLEDGEMENT FORM FOR CITY OF MILLBRAE
AGREEMENT FOR PROFESSIONAL SERVICES
CITY OF MILLBRAE REQUEST FOR PROPOSALS FOR MILLBRAE RECREATION
CENTER DESIGN/BUILD PROJECT.**

By signing below, the consultant acknowledges that it has examined the enclosed City of Millbrae "AGREEMENT FOR PROFESSIONAL SERVICES". If the City accepts the proposal, the agreement, without any changes, shall be executed by the consultant within three (3) working days of notification by the City and consultant shall comply with applicable insurance requirements.

Legal Name of the Firm:

Business address:

Name of Authorized Person:

Signature of Authorized Person:

_____ Date: _____

Telephone Number: _____

Email Address: _____

If requesting changes to the City's Standard Agreement for Professional Services, do not sign this page. Return this page with an outline of requested change to the City's Standard Agreement including section number and requested language.

**ATTACHMENT 3 – MILLBRAE RECREATION CENTER MASTER PLAN, CONCEPTUAL
DESIGN REPORT AND SCHEMATIC DESIGN PACKAGE**

The Millbrae Recreation Center Master Plan, Conceptual Design Report and Schematic Design Submittal can be downloaded at

<https://cityofmillbrae.box.com/s/yizdz2ah3ceku0cq28jur1m8htvro9aa>