

Community Pool Project Management RFP – Response to Questions

- Q1: At Pre-Proposal conference it was stated that the Project Manager / Owner’s Rep (PM) would not be precluded from submitting on Construction Manager (CM) RFP. However based on the RFP language, we believe this statement may have been made in error. Please see Page 4, under Scope of Services, third paragraph, it describes a role and responsibility for Project Manager to identify construction management consultants, generate CM RFP, review CM RFP, evaluate CM RFP and assist in determining recommended CM consultant. This is clearly conflict of interest if Project Manager is not precluded from submitting on CM RFP. We request that this question be sent to the City Attorney to confirm that PM is/will be precluded from submitting on future CM RFP.
- A1: **The City has reconsidered this question. This confirms that the selected Project Manager may not submit for the Construction Manager position. Please note that the template Contract, Article 19 on page 20, prohibits the Project Manager from having any conflict of interests.**
- Q2: Please refer to the template Contract, beginning on page 15, Article 5.d.-f. with respect to Key Personnel and liquidated damages. Proposers understand that any turnover of Key Project personnel is disruptive to the project and recognize that City has a legitimate concern regarding the unsound practice of ‘bait and switch’ of Key Personnel. However, it is our view that the contract remedy in d.-f. is not a good approach, may be harmful to the project success, the success of the team and could have other unintended negative consequences. If the Independent Contractor is a sole proprietor, then there is no issue with them committing or bonding themselves to the project for their individual commitment to the project for specified duration. However, accessing liquidated damages in the amount of six times the gross monthly salary, or any amount for that matter, will have negative impact for an Independent Contractor’s employee. With respect to the employee, it may have the effect of making the employer force the employee to stay on a project that they may no longer want to be on. If the employee refuses, then the employer could avoid the penalty by terminating the employee, clearly not direct intention of the City, but in fact the end result. Secondly, with respect to why this may not be in best interest of the City, highly qualified and experienced potential Independent Contractor firm RFP respondents may choose not submit because of these clauses. Additionally, RFP respondents that do decide to submit on this RFP will need weigh the LD risks, (if gross annual salary is \$150k-\$180k, then LD penalty would be \$75k-\$90k) and this may result in respondents weighing \$ risk over submitting their very best Key Personnel. Third issue is that 5d.-f. provides an advantage to sole proprietors over companies and firms that may be more qualified and more experienced, which does not seem to be in the best interest of open/fair competition and assembling the best project team for the Piedmont Community Pool project. The City is already protected with standard and industry recognized language in Article 5a.-c., which requires City’s written approval of changes to Key Personnel. We recommend that City delete Article 5, d. e. & f.
- A2: **The City’s goal is to maintain continuity of staffing for key personal. The City is willing to negotiate who is defined as key personal and other specific contact language with the selected consultant after the top ranked proposers have been selected.**
- Q3: During the evaluation process, will (being part of a small firm) put me at a disadvantage for not being part of a larger firm?

A3: **The City is open to any firm of any size, and will evaluate the merits of each proposal based on the criteria listed on page 10-11 of the RFP. Regardless of firm size, each proposers demonstrated project understanding and approach, experience and capabilities should be clearly described to the City.**

Q4: Contract Provision 5.a states that the Project Manager shall be “resident at the project site and shall be devoted solely to the project”.

- Is this clause negotiable? In all of my years as an Owner Representative, I have found that this requirement is more appropriate for a junior to mid-level project engineer in a scenario for a Construction Manager.
- I don't believe that the description of the services desired requires a full time presence of the Project Manager, and the billings associated with that type of staffing are not needed. Can you clarify?

A4: **The City does not believe that full time staffing will necessarily be required. When preparing your proposal submittal, please thoroughly describe your project understanding and approach so that the evaluation team understands how your firm intends to staff the various phases of the project and provide with City with the full scope of services as described in the RFP.**

Q5: Contract Provision 5.d.(1) covers Liquidated Damages in the event of a change in personnel.

- Is this clause negotiable?
- It appears that it is an important contract term as it was listed specifically in the RFP document.
- Being an single independent contractor, facing the potential loss of 6 times a monthly salary (in this case that would perhaps be calculated as a monthly fee?) - would be devastating.
- Please clarify if this is a non-negotiable clause.

A5: **Please see A2 above.**

Q6: Contract Provision 22 discusses the need for appropriate licensure.

- I am a licensed architect in the State of California, but I am not providing design services as an Owner Representative - or is there an expectation that I would be?
- Owner Representatives often are based in the Construction field - but I do not have a Contractor's license. Is there an expectation that I would need a Contractor's License?
- Is there a different license that the City is requiring?

A6: **The City is not requiring that proposers hold any specific license. The City does require that proposers be aware of required licenses for performing the requested scope of services and that all relevant licensure be maintained for the duration of the project.**

Q7: Is there an overall project schedule available?

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A7: **Below is a tentative project schedule:**

- Award contract for Project Management Services April 5, 2021
- Release of RFP for Design Services May 3, 2021
- Award of Design Service contract July 5, 2021
- Bidding of project June 6, 2022
- Award of Construction July 18, 2022
- Project Completion August 1, 2023

Q8: Is there a pre-proposal conference attendee list available?

A8: **The pre-proposal conference attendee list is available at the following location:**

https://piedmont.ca.gov/services_departments/public_works/city_projects

Q9: Aside from assisting with the Pre-Bid conference, will the PM/OR have other Bid Phase tasks, or will the CM cover the Bid Phase?

A9: **The selected PM/OR will assist with all bid phase tasks, including those tasks described in the Scope of Services.**