

City of Piedmont
COUNCIL AGENDA REPORT

DATE: September 8, 2015

TO: Mayor and Council

FROM: Paul Benoit, City Administrator

SUBJECT: Consideration of the Issuance of a Request for Proposals for Aquatics Facilities Master Planning Consulting Services

RECOMMENDATION

By motion,

1. Approve the Request for Proposal for the Aquatics Center Master Plan dated September 9, 2015 for the purpose of securing the services of a qualified design professional to assist the City of Piedmont with a conceptual design for a new Aquatics Center Master Plan.

BACKGROUND

Through the Facilities Maintenance Division of the Department of Public Works, the City has been making a methodical assessment of the existing Aquatics Center to better determine the needs for improvement, both short term and long term. This analysis brings into focus the question of whether or not the City is getting the best value from continuing to invest in an aging facility. Furthermore, with the recent development of the Facilities Maintenance Program (FMP) combined with the annual input from the Capital Improvement Projects (CIP) committee, there has been growing support for the City to consider a wider and more forward thinking approach to a completely new, and possibly larger, Aquatics Center plan that would better meet the needs of the community. As a result, the City Council authorized staff to proceed with developing a specific Request for Proposal (RFP) to secure the services of a design professional with proven experience in planning similar aquatics facilities, that could assist the City through the process of investigating the conceptual possibilities and costs of a new Aquatic Center. The RFP as proposed by staff is attached as Exhibit A. City Council approval of the RFP will allow staff to advertise, distribute, and solicit proposals from qualified and experienced design consultants. One of the critical criteria for selection of this consultant will be that they have a proven track-record of experience in the design of aquatics facilities. Further details regarding the selection process are contained in the draft RFP.

If approved, the schedule for the RFP process is as follows:

City Council Approval of RFP	September 8, 2015
RFP Advertised & Published	September 9, 2015
Mandatory Pre-Proposal Conference	September 15, 2015
PROPOSALS DUE	October 7, 2015
City Review of Proposals Complete	October 28, 2015
Interview of Finalists	November 12, 2015
City Council Award of Contract	December 7, 2015

FISCAL CONSIDERATIONS

The cost of the design professional's services for the development of this Master Plan will be paid through the Capital Improvement Projects Fund as approved by the City Council for Fiscal Year 2015-2016.

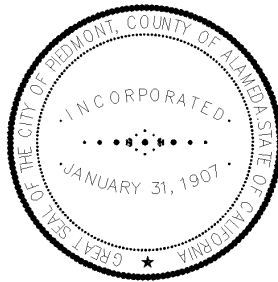
CITY ATTORNEY REVIEW

The City Attorney has reviewed and approved the Sample Contract

By: Chester Nakahara. Public Works Director

By: Sara Liilevand, Recreation Director

CITY OF PIEDMONT
PUBLIC WORKS DEPARTMENT
REQUEST FOR PROPOSAL



AQUATICS CENTER MASTER PLAN

September 9, 2015

PROPOSAL DUE :
4:00pm, Wednesday, October 7, 2015

**CITY OF PIEDMONT
REQUEST FOR PROPOSAL
Aquatics Center Master Plan**

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**CITY OF PIEDMONT
REQUEST FOR PROPOSAL
Aquatics Center Master Plan**

A N N O U N C E M E N T

The City of Piedmont (City) through the Department of Public Works (DPW) issues this Request for Proposal (RFP) for professional design services to assist the City of Piedmont with the creation of a conceptual Master Plan for a new aquatics facility located at 777 Magnolia Ave. in the City of Piedmont. The City is seeking a professional design firm with specific and demonstrated experience, knowledge, and expertise in the design of aquatics facilities, including operational issues, associated site provisions, and ancillary spaces. The RFP is being managed by the Department of Public Works with the active involvement of the Recreation Department and the City Administrator's office. This RFP is funded by the Capital Improvement Program for Fiscal Year 2015-2016.

The RFP may be obtained at the City of Piedmont, Department of Public Works, 120 Vista Ave., Piedmont, California 94611 on weekdays from 8:30am to 5:00pm, or by downloading the document(s) from the following website:

www.ci.piedmont.ca.us

A mandatory Pre-Proposal Meeting will be held on **Tuesday, September 15, 2015 at 2:00pm** at the City of Piedmont , City Hall Council Chambers located at 120 Vista Ave., Piedmont, California 94611. After the mandatory sign-in and introductory remarks, and an initial question and answer period, the participants will proceed on foot to the subject site located at 777 Magnolia Ave., Piedmont, California 94611. **Only those that sign-in and fully attend the Pre-Proposal Meeting will be eligible to submit a response to the RFP.** Additionally, those attendees will automatically receive, via email, any addenda that is issued to the RFP.

All questions regarding the RFP must be submitted in writing. Electronic mail to the Project Manager is an acceptable form for questions and clarifications. The last day to submit questions or requests for information will be **Wednesday, September 23, 2015 at 5:00pm** and must be addressed to the designated Project Manager as detailed in this RFP. Questions via email will be accepted only if they meet the 5:00 pm deadline.

Proposals that respond to this RFP are physically due in hard copy, on **Wednesday, October 7, 2015 at 4:00pm** and must be in accordance with and contain all of the required components as detailed in this RFP. Proposals transmitted via email , late submissions, and postmarks on mailed responses will not be accepted as meeting the requirements of this RFP.

**CITY OF PIEDMONT
REQUEST FOR PROPOSAL
Aquatics Center Master Plan**

INTRODUCTION

The City of Piedmont (City) is soliciting this Request for Proposal to retain the services of a professional architect that specializes in aquatics facilities to assist the City of Piedmont in the design of a new conceptual Master Plan. In addition, the consultant is to provide siting preferences and preliminary cost estimates for the construction of the proposed improvements in this new conceptual Master Plan.

The City of Piedmont (City) is a full service, charter city serving approximately 10,800 residents. It was established in 1907, and is located in the hills of north Oakland, overlooking the San Francisco Bay with a temperate climate and average rainfall. It is primarily comprised of architecturally designed, single family detached residences, which are well-maintained by its residents. Piedmont is characterized by its idyllic, tree-lined, well maintained streets, and excellent schools. The Piedmont Unified School District consistently ranks as one of the best public school districts in the state, which makes residing in the city attractive to young families. Additionally, the city's own Fire and Police Departments provide top-notch emergency services, which is attractive to older, long-time residents, as well as young families. Within Piedmont's 1.8 square miles are beautiful and carefully maintained city parks, landscaped medians, civic facilities, and athletic fields. These facilities are enjoyed by many Piedmont residents and add significantly to the quality of life. The existing Aquatics Center is the only such facility providing for aquatics related activities in the community, and is therefore a key component for those that partake and enjoy aquatic related activities in Piedmont. It is used by residents, non-residents, students, children, and adults for a variety of organized and non-organized activities. Importantly, it serves the Piedmont Unified School District for their competitive teams in swimming and water polo. Finally, this center serves as the home base for the local private swim team known as the Piedmont Swim Team. For a Vicinity Map, please see Exhibit A.

REQUEST FOR PROPOSALS - SCHEDULE

RFP Advertised & Published	September 9, 2015
Pre-Proposal Conference	September 15, 2015
Deadline for Written Questions	September 23, 2015
Deadline for Response to Questions	September 30, 2015
PROPOSALS DUE	October 7, 2015
City Review of Proposals Complete	October 28, 2015
Finalists Selected	October 30, 2015
Notify Candidates for Interviews	November 2, 2015
Interviews	November 12, 2015
Steering Committee Selects Consultant	November 13, 2015
City Council Staff Report Due	November 25, 2015
City Council Award of Contract	December 7, 2015

RFP PROJECT TEAM & MANAGER

This project is a joint effort between the Department of Public Works, which manages the Facilities Maintenance Program, the Recreation Department, which operates the Aquatics Center, and the City Administrator who oversees both departments and is the liaison to the City Council. The Project Manager for this RFP is Chester Nakahara, Public Works Director. All matters and questions related to this RFP shall be directed to the Project Manager. His contact information by phone is (510)420-3061; email is cnakahara@ci.piedmont.ca.us.

RFP PROGRAM FUNDING

As part of its Fiscal Year 2015-2016 budget process and approval, the City Council has appropriated \$30,000 in the Capital Improvement Projects Fund for the consultant fees associated with this RFP.

BACKGROUND INFORMATION

The existing Aquatics Center is located at 777 Magnolia Ave., adjacent to the City of Piedmont Recreation Center and across the street from Piedmont High School and Middle School. It sits within Assessor's Parcel No. 050-4626-002-02, which is approximately 51,142 square feet, but also shares this parcel with the Recreation Center building, associated improvements, and the Carriage House and parking lot at 799 Magnolia Ave. The adjacent parcel 050-4626-002-01 is currently used by the Recreation Building as a developed outdoor space. The tennis courts and outdoor basketball courts sit on parcel number 050-4626-001-00. Rounding out this city block are two (2) private residences. The assessor's parcel map is attached as Exhibit B.

The existing facility was originally constructed in 1964 and consists of the Main Pool and the Baby (aka Wading) Pool. The Medium (aka Training) Pool was added in 1968. The facility was originally operated by a private organization known as the Piedmont Swim Club. They leased the facility from the City of Piedmont and were responsible for all operations, coordination of activities, schedules and allocation of use, revenue, expenses, maintenance, repairs, and improvements during their tenure. However, since Fiscal Year 2011-2012, the Aquatics Center has been fully operated by the Recreation Department of the City of Piedmont. The present facility consists of the following:

Main Pool:	42ft. x 75 ft. with 1,500 sq.ft. deck area, 157,000 gallons
Medium (Training) Pool	25ft. x 50ft. with 3,000 sq.ft. deck area, 28,000 gallons
Baby (Wading) Pool	16ft. x 20ft. with 1,000 sq.ft. deck area, 3,000 gallons

The existing Aquatics Center Building is a single story structure measuring 30ft x 67ft., (2,010 sq.ft.) and consists of an office, men's and women's locker rooms, a staff room, mechanical rooms for the equipment and a chemical storage area with the main pool surge pit. The Existing Site Plan is attached as Exhibit C, and photographs of the existing facility are attached as Exhibit D.

PROJECT DESCRIPTION

Through the Facilities Maintenance Division of the Department of Public Works, the City has been making a methodical assessment of the existing Aquatics Center to better determine the needs for improvement, both short term and long term. This analysis brings into focus the question of whether or not the City is getting the best value from continuing to invest in an aging facility. Furthermore, with the recent development of the Facilities Maintenance Program (FMP), which is an annually reviewed budget-cycle document that makes a five-year projection of necessary and prioritized facility improvement projects, combined with the annual input from the Capital Improvement Projects (CIP) committee, there has been growing support for the City to consider a wider and more forward thinking approach to a completely new, and possibly larger, Aquatics Center plan that would better meet the needs of the community. This plan would also include a cost analysis to determine both the cost of construction and a realistic, informed projection of annual operating costs.

With respect to a potentially larger facility, the City would entertain options that include incorporating adjacent land owned by the City and currently under different uses. A new facility must be sized appropriately to primarily meet the needs of Piedmont residents, as opposed to those of a broader region. While it is anticipated that a larger footprint will be required to support a new facility, it is desirable, to the extent possible, that impacts to adjacent public uses and private residences are minimized.

SCOPE OF WORK

The scope of work shall include but not be limited to those described in the attached Exhibit - E Scope of Services. All services shall be in accordance with the City's standard Professional Services Agreement and general provisions attached as Exhibit - F to this RFP.

In general terms, the City is seeking a highly-qualified professional architect and team that has extensive and demonstrable experience in the design of aquatics facilities in the municipal setting. The charge of the selected Consultant is to design a new Master Plan which includes the desired features on the limited site, and to develop a realistic cost estimate for construction of the new Aquatics Center. The challenge will be to accomplish this in relatively the same location and area as the existing facility. In recognizing this constraint, the City will allow the Consultant to consider adjacent areas under City ownership that are currently used for different purposes. The most critical interface with adjacent parcels is the area containing the existing Recreation Center. The current use and internal space allocations of the Recreation Center, which is predominantly offices, meeting rooms, and classrooms, will be the concurrently studied by a design consultant under a separate RFP. It will be of utmost importance for the aquatics consultant and the Recreation Center consultant to work cooperatively in order that both proposed solutions flexibly interface in the crossover zones. Looking forward, the main goal of this completed process is to then allow the City to develop the appropriate programming, budgets and fund-raising efforts to move forward with the steps required for eventual implementation.

The Scope of Services also includes extensive interaction with the public, user groups, and city-appointed commissions and committees to both obtain programming information, but to also be used by the Consultant as a forum to present possible alternative design ideas and to allow for a very open design process and decision-making factors

INSURANCE REQUIREMENTS

The insurance requirements are set forth in the City's Professional Services Agreement and general provisions as attached on Exhibit - F.

PROPOSAL REQUIREMENTS

Written proposals must include responses to the following:

Project Approach and Schedule

Describe the proposed approach, methods, and procedures to be used in completing the requirements described in the Scope of Services capable of meeting the City's expectations. Include a proposed schedule showing completion of the various tasks or milestones. The final agreement with the consultant will include a schedule for completion of the major milestones based on this schedule. The City's review periods will not be counted against the time of completion for the various tasks or milestones.

Project Team

Describe the qualifications and experience of the firm and the proposed staff to be assigned to this project. Describe the qualifications and experience of any proposed sub-consultants and identify the tasks or sub-tasks to be assigned to them. Firms, sub-consultants and proposed staff must demonstrate experience with similar projects. Firms shall include a list of similar projects that each of the project team members have collaborated on. Staff proposed to be in charge of the design must demonstrate significant experience with the design of similar projects. Describe the proposed team organization and man-hours budgeted for each team member.

Fee Proposal

Propose a fee based on an hourly rate schedule with a "not to exceed" maximum cost for all work identified in the Scope of Services. Include a copy of your firm's current itemized hourly rate fee schedule. Indicate if travel time and mileage will be charged. Include any sub-consultant cost. Additionally, provide a breakdown of the proposed fee by task in accordance with the tasks defined in the Consultants Proposed Scope of Services. Finally, provide budgets for reimbursable expenses such as mileage, reproduction, photos, etc., which are not associated with strict hourly rates.

References

Provide a list of at least three client references that have received services from your firm on similar projects. Include client references for any proposed sub-consultants. Provide name of the contact person, address, telephone, and email for all references.

Exceptions

Identify any exceptions you are proposing with respect to the Scope of Services, the City's insurance requirements and/or the City's contract provisions.

PROPOSAL DELIVERABLES & SUBMISSION DEADLINES

Five (5) hard copies of your proposal must be physically in the possession of the City of Piedmont's Public Works Department at 120 Vista Avenue, Piedmont, CA 94611. by **4:00 pm on Wednesday, October 7, 2015**. All submittals must be in accordance with and contain all of the required components as detailed in this RFP. Proposals transmitted via email, late submissions, and postmarks on mailed responses will not be accepted as meeting the requirements of this RFP. Your proposals must be sealed in a manila envelope or mailing box and clearly labeled with the title:

CITY OF PIEDMONT
September 9, 2015
RFP Response
for the
AQUATICS CENTER MASTER PLAN
777 Magnolia Ave. – Piedmont, CA. 94611

and addressed to:

Chester Nakahara, Public Works Director
City of Piedmont
120 Vista Ave.
Piedmont, California 94611

RIGHT OF REFUSAL

The City reserves the right to reject any and all proposals without qualifications. Proposals will be considered only in their entirety. The City reserves the right to add or deduct any specific requirements and associated costs from the selected proposal.

SELECTION PROCEDURES

Proposals submitted by the deadline and deemed complete will be evaluated by the City. This initial evaluation will be based on clarity of presentation, understanding of the project goals and the City's expectations, understanding of the factors and influences of the project, firm experience and qualifications in aquatics related facilities, key personnel experience, ability to perform in a timely manner, satisfaction of similar clients, and the proposed fees. Finalists will then be selected for oral interviews. At the interviews, the finalists will be expected to present examples of aquatics projects designed by the firm that have been successfully constructed. These projects should have similar constraints to Piedmont's, and should demonstrate the Consultant's ability to synthesize divergent needs and expectations from the client base into a beautiful, cohesive, high-value, constructible facility that integrates well with its surrounding environment.

EXHIBIT A
Aquatics Center Master Plan
VICINITY MAP

Project Location

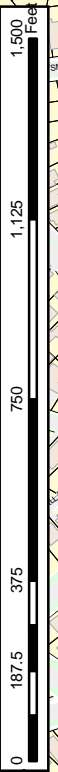


EXHIBIT B
Aquatics Center Master Plan
ASSESSOR'S PARCEL MAP

4626

Revised Map of Piedmont Park (Bk. 6 Pg. 24)
Scale 1 in = 40 ft.

Rev. 12-49 M.L.M.

4624

4625

Bonita Avenue.

Magnolia

BOOK 51
4680

Piedmont

Avenue

Vista Avenue.

4627

CITY ①

1

CITY ②-2

④

③

②-1

Hillside Avenue.

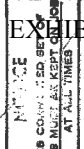
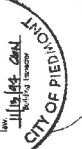
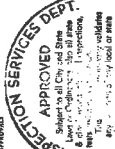
4628

BOOK 51
4655

EXHIBIT C
Aquatics Center Master Plan
SITE PLAN – EXISTING



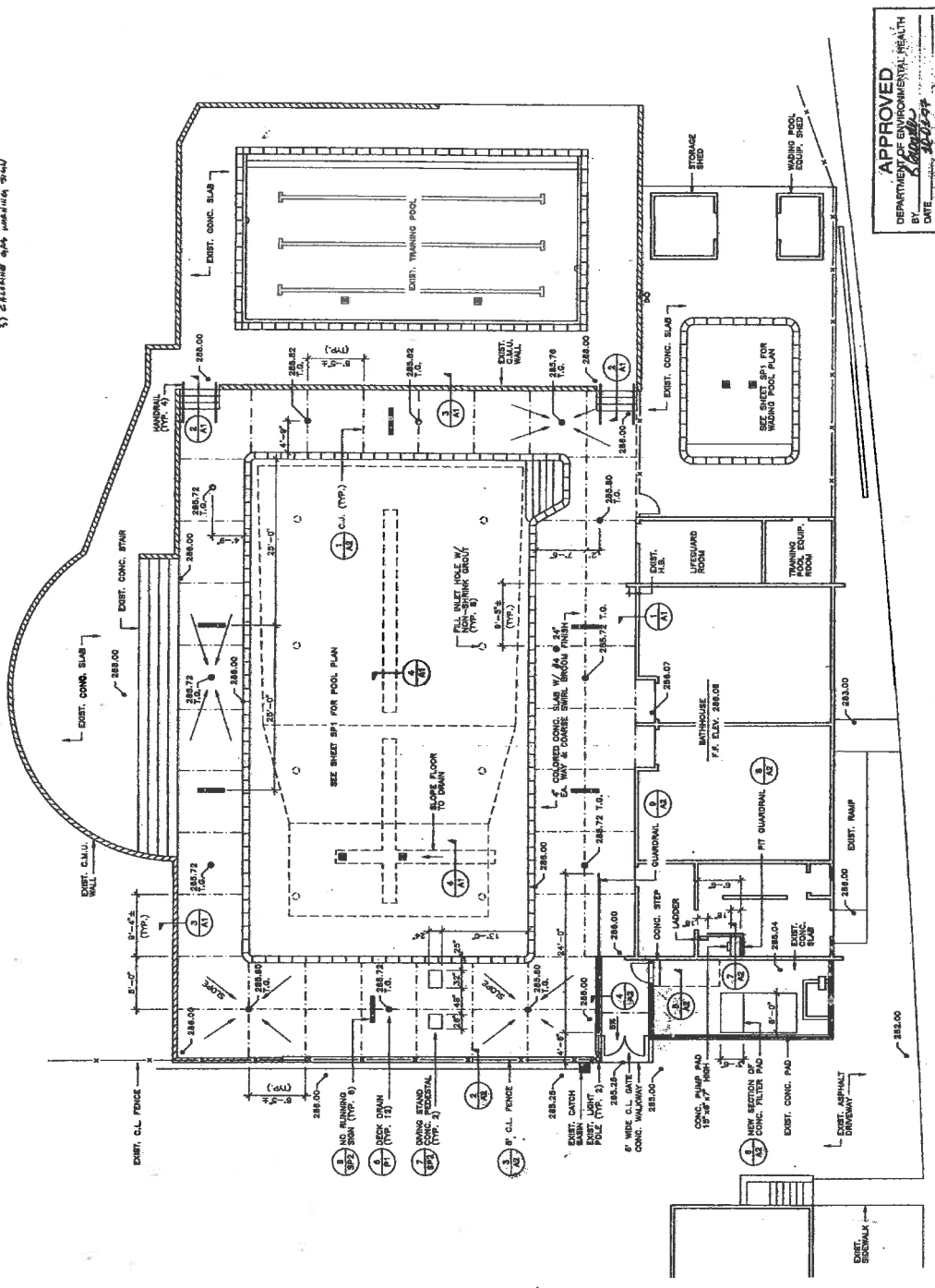
Jones & Madsen, Inc.
10000 E. 15th Avenue
Suite 100
Denver, CO 80231
(303) 751-1100
FAX (303) 751-1101
WWW.JONES-AND-MADSEN.COM



PIEDMONT SWIM CLUB
RENOVATION
777 MAGNOLIA AVENUE
PIEDMONT, CALIFORNIA 94614

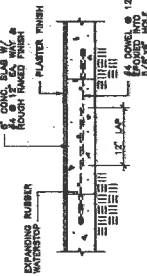
PROJECT NUMBER: 88-40
DATE: 4-8-97
BY: [Signature]
CHECKED BY: [Signature]
APPROVED BY: [Signature]
DATE: 4-8-97
PIEDMONT SWIM CLUB
777 MAGNOLIA AVENUE
PIEDMONT, CALIFORNIA 94614

VERIFY REAR SIGNATURE:
1) OWNER'S LEGAL REPRESENTATIVE
2) THE DESIGN ARCHITECT'S REPRESENTATIVE
3) ENGINEER'S REPRESENTATIVE



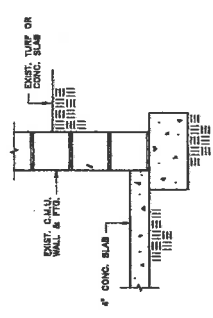
APPROVED
DEPARTMENT OF ENVIRONMENTAL HEALTH
BY: [Signature]
DATE: 4/8/97

SITE PLAN
1/2" = 1'-0"

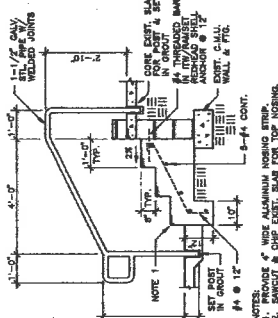


NOTES:
1. REINFORCEMENT BARS FOR MECHANICAL BOND.
2. CHISEL TO EXPOSE EXIST. REBAR IN POOL SHELL & BOND TO FLOOR TRENCH.
3. FLOOR TRENCH.

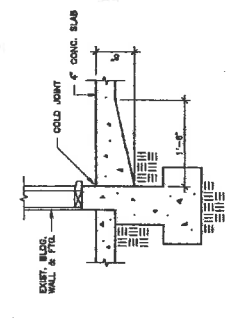
FLOOR TRENCH 1/2" = 1'-0"



DECK EDGE 1/2" = 1'-0"

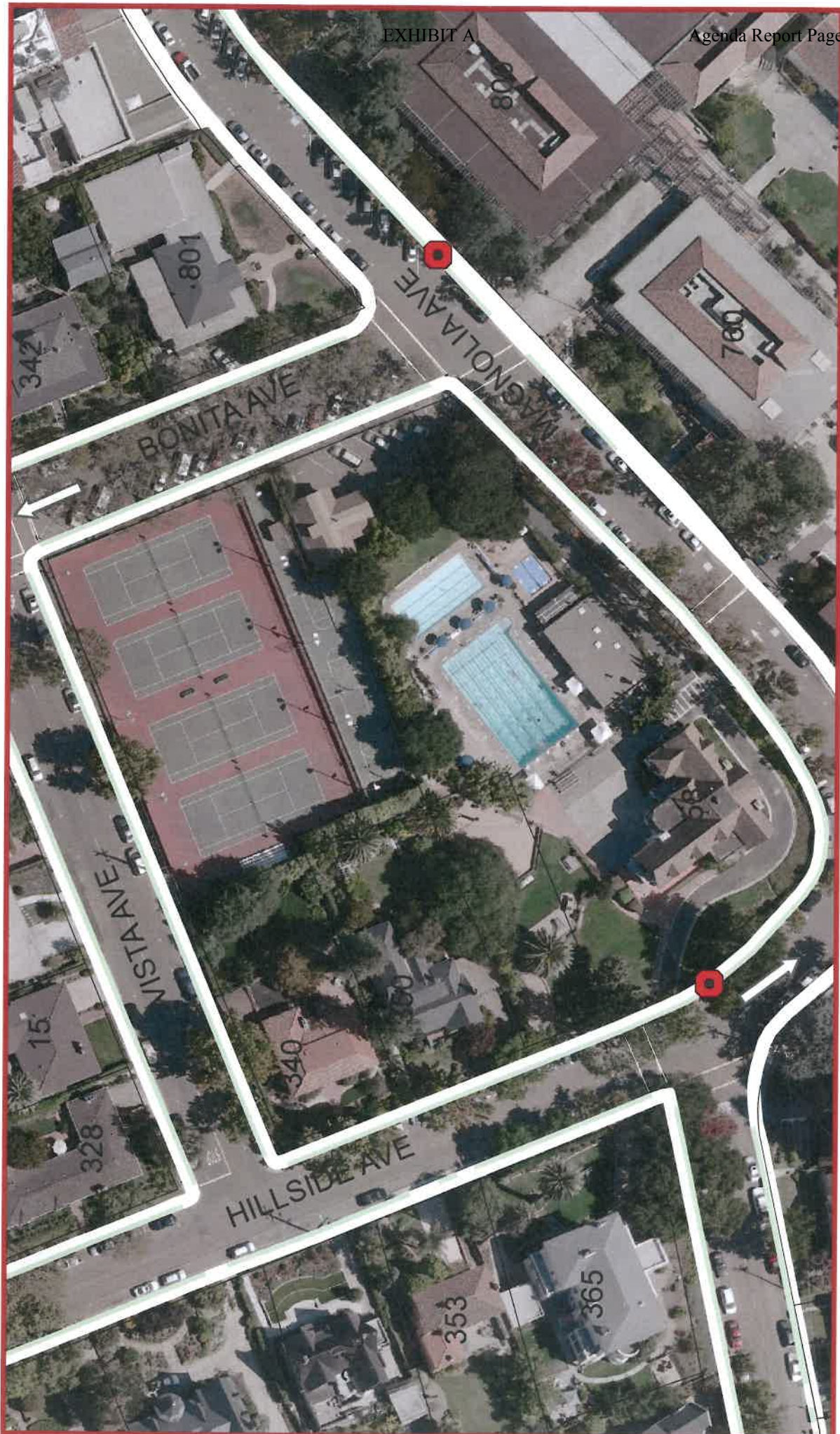


STAIR SECTION 1/2" = 1'-0"



DECK EDGE 1/2" = 1'-0"

EXHIBIT D
Aquatics Center Master Plan
SITE & EXISTING FACILITY PHOTOGRAPHS





Aquatics Center Overview



Main Pool & Trellised Sun Deck



Medium (aka Training) Pool



Baby (aka Wading) Pool



Main Pool & Aquatics Center Building



Aquatics Center Building

EXHIBIT E
Aquatics Center Master Plan
SCOPE OF SERVICES

GENERAL

1. The site must be optimized for a full functioning, modern, safe, accessible, and contextually pleasing facility that interfaces well with the adjacent Recreation Center.
2. During the programming stage, the Consultant is expected to honestly evaluate the City's needs and to provide guidance and advice with respect to user group expectations.
3. The Consultant must review the history of the existing Aquatics Center, historical data, reports, and plans developed over the years.
4. The Consultant must meet with user groups, staff, and the public to gather, evaluate, and consolidate community needs into a definable program;
5. The Consultant must interface a minimum of 3 times with the Recreation Commission, and at least 2 times with the City Council. These public meetings will be used as forums to gather information, present concepts, obtain feedback, and obtain final approval of the proposed design.
6. The Consultant is tasked with producing a conceptual master plan that best represents a balance of expectations of the community and includes a realistic cost estimate that will serve as a goal for future funding considerations.
7. If warranted, provide alternative schematic designs and associated cost estimates that allow the Consultant to explain how the plan could be influenced by different prioritized assumptions or goals.
8. Provide construction cost estimates of the proposed Master Plan including breakdowns according to major construction components.

It should be noted that the Recreation Center will be simultaneously going through a similar RFP and design process for the existing building to better serve the space needs of the Recreation Department and its programs. The consultant selected for this Aquatics Center Master Plan should consider possible synergies with the selected consultant for the Recreation Center Design Assessment, for an integrated and coordinated complex on adjacent sites.

SPECIFIC TASKS

Based on the above information, the consultant's scope of work should include, but not be limited to the following specific tasks:

Task 1 – Background Information

From available city records to be provided by the City, review all information pertaining to the project including previous studies, plans, surveys, drawings, maps, improvements drawings and utility information. Conduct field investigations and records of the existing site and surrounding conditions that may influence or be impacted by the design process. Document unusual or special conditions that could potentially affect the design of the proposed improvements.

Task 2 - Coordinate with Utilities

If the available background documents are not sufficiently detailed, coordinate with all utility companies for utility locations within the project area. This shall include, but not be limited to the City of Piedmont (sanitary and storm sewer system), East Bay Municipal Utility District (water), PG&E (gas and electric) and AT&T (telephone). Disposition of all overhead and/or underground facilities shall be shown as part of the Master Plan deliverables.

Task 3 – Public Interaction for Design Programming

Coordinate with City staff to schedule public meeting(s) to gather user-group and general public input to better understand the influencing factors to the design solutions. Using this public input as one of the many factors, create a design program to address the prioritized goals. This design program will be presented to the City Council for additional input, final review and approval.

Task 4 – Kick-Off and Progress Meetings

Initially meet with City representatives to discuss the project goals, schedules, design criteria, roles and responsibilities and procedures for coordination. Once work has begun, meet with the City on an agreed-to schedule to present design ideas and discuss progress. Once the City has determined that goals have been met for the 35% design solution(s), again meet with the Recreation Commission to present progress-to-date conceptual designs and to gain further public reaction.

Task 5 – Design Plans & Review Phases

Perform all work necessary to complete the conceptual design of the project according to the phases as outlined below.

For the first submittal review, the consultant shall submit concept plans for review at the **35% complete phase**. This will include the historical research work completed, layout plan showing existing conditions, including the interface of existing potential areas, the various site constraints and influences to design goals. Alternative conceptual site plans showing the possible preliminary location and relative size of each component shall be depicted. Each plan should show the pros and cons of each based on certain design assumptions to show the compromises that each alternative renders. Other exhibits that will assist the consultant in communicating the thrust of the proposed design, or depict specific components of the plan such as conceptual site sections, massing studies, landscaping concepts, photographs of similar facilities, and

perspective renderings or fly-over views are welcomed at this time. The 35% conceptual plan shall be presented to the Recreation Commission, and following their review, to the City Council for further public input and guidance.

Following commission, council and public review of the 35% submittal, the consultant shall complete the conceptual plans to the **85% complete phase**. At a minimum, this will include a tighter conceptual site plan to scale, a separate conceptual landscape plan, and site sections to show relative elevation differences over the site(s). Floor plans and conceptual exterior elevations of any proposed structures or space to show the size, massing, and desired aesthetic theme is also required at this time; as well as tighter perspective renderings or fly-over views to help the public more easily understand the design goals of the plan. The Consultant shall also include, at this time, a preliminary cost estimate to implement their plan. The 85% conceptual plan shall be presented to the Recreation Commission, and following their review, to the City Council for final public input and guidance.

Based on comments received from the 85% submittal, the Consultant shall prepare and submit **100% complete plans**. These would incorporate all of the final requested revisions and modifications rendered through the public input process. Moreover, the final deliverables, including the cost estimates, must be of sufficient clarity and quality such that they can be used by the City, under a separate project, as a springboard for the next stage of funding, development and construction drawings. The Consultant shall submit to the City one (1) mylar, five (5) hard copies, and two (2) electronic copies, one in PDF and one in AutoCad as the final deliverable.

EXHIBIT F
Aquatics Center Master Plan
PROFESSIONAL SERVICES AGREEMENT
(SAMPLE)

CONTRACT

This Contract made _____, between the City of Piedmont, California, a municipal Corporation, 120 Vista Avenue, Piedmont, California 94611, referred to as "City" and _____, hereinafter referred to as "Independent Contractor".

1. City is a municipal corporation which needs certain services performed as more specifically set forth hereafter.
2. Independent Contractor agrees to perform these services for City under the terms and conditions set forth in this Contract.

3. Services

The Independent Contractor shall provide services as follows XXXXX

4. Compensation

City will pay Independent Contractor \$XXXXX

Payment will be made on a completion of milestone basis in accordance with the consultant's completion schedule. Payments will be made as the work progresses and is approved by the City. The total payment for completion of all the tasks included in the agreement shall not exceed the agreed upon "not to exceed" amount.

5. Term

The term of this Contract shall be XXXXX

Unless otherwise terminated as provided in this Contract, this Contract shall terminate on XXXXX

6. Contractual Relationship

The parties intend that an Independent Contractor-employer relationship will be created by this Contract. City is interested only in the results to be achieved, and the conduct and control of the work will lie solely with Independent Contractor. Independent Contractor is not to be considered an agent or employee of City for any purpose, and neither Independent Contractor or any employees of Independent Contractor are entitled to any of the benefits that City provides for City's employees. It is understood that City does not agree to use Independent Contractor exclusively. It is further understood that

Independent Contractor is free to contract for similar services to be performed for other cities, persons or entities while it is under Contract with City. Independent Contractor shall be fully responsible for all income, social security or other taxes or deductions, including but not limited to worker's compensation and unemployment deductions, relating to the services it performs for City.

7. Hold Harmless Contract

Independent Contractor agrees to defend, indemnify and hold the City, its officers, agents and employees, harmless from any and all claims, demands, actions and causes of action to the extent caused by Independent Contractor's negligent acts, errors or omissions or willful misconduct in the performance of this Contract. In addition, in the event a court of law determines that City is only responsible for a specific percentage of such damages and/or attorney's fees and/or costs of defense related thereto, or is not at all responsible, Independent Contractor shall be fully responsible for and shall reimburse City fully for all damages and attorneys fees and defense costs incurred by City based on the specific percentage that is determined by a court of law or arbitrator to be the responsibility of Independent Contractor, and if no such responsibility is found applicable to City, then Independent Contractor shall pay/reimburse City for 100% of its damages, its attorneys fees and its costs of defense.

8. Insurance

The following minimum levels of insurance coverage shall be provided during the term of this Contract. Prior to the execution of the Contract, Independent Contractor shall provide proof of insurance required. Independent Contractor shall provide City 30-day prior written notice of termination or material change in coverage and ten (10) days prior written notice of cancellation for non-payment.

The City of Piedmont, its Council Members, directors, officers, agents and employees shall be named as additional insured. Independent Contractor shall provide City with an additional insured certificate for each such insurance coverage.

A.	<u>Professional Liability Insurance.</u>	\$1,000,000
B.	<u>Worker's Compensation Insurance.</u>	\$1,000,000
C.	<u>Automobile Insurance</u>	\$2,000,000
C.	<u>Public Liability and Property Damage Insurance.</u> (single limit per occurrence)	\$2,000,000

Independent Contractor, Inc. shall notify City promptly (no less than 24 hours based on regular business days from the time it is initially notified) after it has been served or notified of any claim or legal action that in any way involves Independent Contractor, and the City of Piedmont, even if the City is not named in the claim or as a defendant in

any legal action, if such notification comes to Independent Contractor. from any source other than the City. Independent Contractor shall also promptly provide City, within the same time period set forth in the prior sentence, with copies of any document or information it has on such claim or legal action.

9. Assignability

Independent Contractor shall not assign, delegate, or transfer any interest in this agreement nor the performance of any Independent Contractor's obligations hereunder, without the prior written consent of the City.

10. Miscellaneous

As used in this Contract, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

11. Notices

Any notices to be sent pursuant to this Contract shall be given in writing, via facsimile and concurrently by prepaid U.S. certified or registered postage addressed to City at 120 Vista Avenue, Piedmont, California 94611, and to Independent Contractor at _____, or at such other address as each party shall give the other in writing from time to time, and notices shall be deemed received at the time of personal delivery or three (3) working days after being placed in the United States Mail, postage prepaid, certified mail, return receipt requested.

12. Governing Law

This Contract shall be governed by the laws of the State of California.

13. Modification

Any modification of this Contract will be effective only if it is in a writing signed by all parties to this Contract.

14. Time is of the Essence

Time is of the essence in the performance of this Contract.

15. Termination

The following provisions shall govern termination under this Contract:

- a. Either party may terminate this Contract for cause as follows:

- (1) The party electing to terminate shall give the other party written notice of termination at least five (5) days prior to the termination date, setting forth very specifically the grounds for termination, the specific provisions of the Contract that has been violated, and a full statement of the facts surrounding the violations(s).
 - (2) If the terminated party so elects, the parties shall meet promptly and make good faith efforts to resolve the violation(s) in a mutually agreeable way.
 - (3) If any such violation cannot be resolved by the parties at such meeting, or at any mutually agreed extension(s) of such meeting, the termination shall proceed.
 - (4) If the violation(s) have not been resolved, the terminating party may proceed with termination, and with retaining other person(s) or entities to provide engineering service, if the terminating party is the City.
- b. Either party may terminate the Contract at any time without cause upon at least sixty (60) days prior written notice to the other party. In the event of any such termination by City, Independent Contractor shall be paid for services actually performed through the date of termination, and Contractor's work shall be immediately discontinued as of that date, except that City may elect, at City's option, to have Independent Contractor complete one or more projects or specific activities which are then in progress, in which case Independent Contractor shall be paid for such services until completion. If terminated by Independent Contractor, any assignment accepted by Independent Contractor prior to the notice of termination shall be completed if desired by City.

16. Equal Opportunity

Independent Contractor shall insure that its policies and practices provide equal opportunity to all applicants and employees without regard to race, color, creed, gender, age, religion, national origin, sexual preference, marital status, disability, Acquired Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) and in addition, Independent Contractor must comply with the Americans with Disabilities Act.

IN WITNESS WHEREOF, the parties have executed this Contract at Piedmont, California, the day and year first above written.

CITY OF PIEDMONT:

By: _____
Margaret Fujioka, Mayor

By: _____
(Name of Independent Contractor)

Attest:

John O. Tulloch, City Clerk

Approved as to form and legality:

Michelle Marchetta Kenyon, City Attorney