

Request for Proposals By Livermore Area Recreation and Park District

For Consulting Services To Update the LARPD Parks,
Recreation, and Trails Master Plan

RFP RELEASE DATE:

FRIDAY, OCTOBER 11, 2024

PROPOSALS DUE:

TUESDAY, DECEMBER 10, 2024 BY 2:00 P.M.

DELIVER PROPOSALS TO:

Robert Livermore Community Center
4444 East Ave
Livermore, CA 94550

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NOTICE INVITING PROPOSALS FOR CONSULTING SERVICES TO CONDUCT A COMPREHENSIVE PARKS AND RECREATION MASTER PLAN

Introduction

The Livermore Area Recreation and Park District (“District”) is issuing this Request for Proposals (“RFP”) seeking to hire a qualified firm to conduct and update the District’s Parks, Recreation, and Trails Master Plan (“Master Plan”).

The consultant will collect and analyze data to update the 2016 Parks, Recreation, and Trails Master Plan, expanding its focus on the acquisition, management, and enhancement of regional open spaces and the development of interconnected trail systems. This updated Master Plan will establish a clear set of goals, policies, standards, and recommendations for the District’s existing and future community parks, neighborhood parks, special use facilities, and recreational programming over the next ten years. When complete, the Plan will guide planning and programming through recommendations in the following areas:

A. District Vision, Mission, and Goals:

1. Affirmation of Strategic Plan Goals and Objectives
2. Demographics Analysis
3. Recreation Trends Analysis
4. Level of Service Standards and Criteria
5. Park Classification System Recommendations

B. Community Demand, Supply, and Needs Assessment:

1. Provide the opportunity for community involvement in the planning, construction, and programming of recreation and park facilities.
2. Recreation Facilities (Specifically prioritizing aging facilities including Bothwell Recreation Center, May Nissen Swim Center, RE Merritt Building, and additional deferred maintenance)
3. Recreation Programs and Services
4. Trails and Open Space

C. Ten-Year Plan for Management and Growth:

1. Master Plan Priorities and Recommendations
2. Existing and Future Park Facility Expansion and Improvement Priorities and Recommendations
3. Regional Open Space and Trails Acquisition, Connectivity, Management Priorities and Recommendations
4. Budgeting and Funding Priorities and Recommendations with a methodology accounting for deferred maintenance and capital improvements and their effects on services.

The Master Plan will provide a 10-year vision for parks, recreation, open space, and trails, as well as an action plan for implementing this vision. The plan needs to be financially sustainable and

include realistic goals for implementation. The plan will include research, public involvement, and the development of recommendations for all aspects of the Livermore Area Recreation and Park District.

The selected consultant/consulting team will work closely with the District staff, elected LARPD Board members and will have proven experience and knowledge in park and recreation planning, project management, and effective public engagement.

District Background



Livermore Area Recreation and Park District is an Independent Special District providing the people of the Livermore area with outstanding recreation programs and a system of parks, trails, and facilities that enhance the quality of life. LARPD was created in 1947 by a vote of the public. The District is governed by an elected, five-person Board of Directors.

The District provides recreation and park services for the 243.5-square-mile area formed by Livermore and bounded by Contra Costa County to the north, San Joaquin County to the east, Santa Clara County to the south, and the cities of Pleasanton and Dublin to the west.

Some of the program areas offered by Livermore Area Recreation and Park District include Adult and Senior Programs, Adult Sports, Aquatics, Camps, Open Space, Preschool, Volunteers, Youth Sports, Youth and Teen Classes, and before and after school care.

The District maintains a rich set of 57 facilities and parks, including community and neighborhood parks, sports fields, open space parks, trails, dog parks, and areas for hikers, bikers, and equestrians.

Project Goals & Objectives

The goal of this project is to provide professional services and expertise for managing, facilitating, and preparing a comprehensive evaluation of the District's parks, recreation, open space, and funding system. The evaluation will assess the current and future recreational needs of the District, as they relate to the mission of the agency, to better plan, fund, manage, and develop parks, facilities, open space, trails, and recreational programs.

- A. *Identify and serve current and future park and recreational needs through an integrated park system that provides adequate open space, facilities, trails, and stewardship of the District's resources:*
 - 1) Identify the future quantities and locations of open space acreage needed to satisfy the current and future recreation needs of the Livermore area.
 - 2) Ensure the long-term protection, preservation, and sustainability of park resources.
 - 3) Promote the conservation of natural and cultural resources through parkland acquisition, stewardship, and environmentally sensitive planning.
 - 4) Provide facilities that promote sustainability goals.

- B. *Provide an accessible and diverse offering of park and recreation facilities and programs to all residents of Livermore and the District:*
 - 1) Define the role of the District in contributing towards quality of life in Livermore and Alameda County.
 - 2) Identify and prioritize recreation facilities needed at existing and future parks.
 - 3) Provide for current and future park and recreational needs through funding, deferred maintenance, and facility expansion at new and existing sites, and through optimizing use of all existing facilities.
 - 4) Identify and prioritize recreation programs and special events desired throughout the park system by conducting a comprehensive review of current District programming. Deficiencies or gaps, as well as strengths, in programming should be identified.

- C. *Identify and recommend existing trails and opportunities for future trails for recreational use within park facilities, as well as recommend greenway corridors and linkages to areas surrounding Livermore:*
 - 1) Identify the existing and potential future network of regional pedestrian and bicycle paths, nature trails, greenways, and linear linkages that connect parks, open spaces, and popular destinations within Livermore and the surrounding region.
 - 2) Identify stakeholders and encourage cooperative agreements and partnerships with other governmental jurisdictions and regional open space agencies to achieve a connected area-wide trail system and preserve regional open spaces.
 - 3) Provide a conceptual plan that will develop a framework for building an integrated system of pathways, regional trails, and open spaces to link

residents to local parks, regional recreational areas, and natural open spaces.

D. *Develop an action plan with realistic implementation goals, strategies, and benchmarking—a plan for prioritizing, phasing, funding, and accomplishing the identified needs:*

- 1) Identify a funding strategy or strategies for ongoing growth and improvements to the park, open space, and trails system.
- 2) Identify and recommend funding options that outlines projects, anticipated costs, and operation and maintenance implications.
- 3) Provide conceptual illustrations/visualizations to articulate possible future visions for selected parks, regional open spaces, and trail networks.
- 4) Identify alternative revenue models, potential efficiencies, available grants, and fundraising opportunities.

Project Scope of Work

The selected Consultant will work with District staff and Board of Directors. The consultant will also work with a group of internal and external stakeholders, municipal partners, and other local and regional organizations. The following scope of work outlined below is to be used as a general guide and is not intended to be a complete list of tasks necessary to complete the Master Plan.

The District is open to alternative approaches that may deviate from this scope to better meet project objectives.

1. Project Administration

- The consultant is expected to conduct meetings and communicate with District staff on a regular basis throughout all phases of the project, to ensure the Updated Master Plan reflects the vision and priorities of the District and its citizens.
 - Project Initiation
 - Finalize scope of work
 - Finalize project goals and objectives.
 - Project Administration
 - Meet staff committee
 - Finalize work plan
 - The consultant will provide regular progress updates to the Board of Directors through District staff to ensure the Board is informed of key developments and can provide direction at critical milestones.
- *Deliverables should include: Final work plan, process flowchart, timeline, staff committee meeting schedules, Board of Directors update schedule, agendas, handouts, meeting reports, recommended website update(s) (and/or a separate project specific site option if consultant chooses to include in the scope of work of the total project cost).*

2. Evaluation, Research and Analysis of Existing Conditions and Plans

The consultant will conduct research and analysis, review existing documents, and

evaluate the park and recreation systems based on established standards and criteria for an objective basis of identification of deficiencies and recommendations.

- Demographics research
- Review applicable studies, plans, and policies:
- Existing documents review, to include but not limited to:
 - 2016 Parks, Recreation, and Trails Master Plan
 - Population and demographic data
 - 2024 LARPD Municipal Service Review
 - 2024 LARPD Board of Directors Strategic Plan
 - City Livermore General Plan Update
 - Recreation trends research that will impact the Master Plan
 - Level of service standards and criteria
- Complete an inventory and evaluation of existing District park facilities:
 - Review the condition of amenities, structures, wayfinding, furnishings, accessibility, and overall maintenance of existing community parks, neighborhood parks, aquatic facilities, parks maintenance support facility, and special use facilities. The analysis should consider the capacity of the amenity as well as its functionality, accessibility, condition, convenience, and useful life.
 - Recreation Facilities inventory and evaluation
 - Recreation Programs inventory and evaluation
 - Parks, Trails and Open Space inventory and evaluation
- Compare LARPD facilities with those of other peer cities or Districts based on population.
- Complete an analysis of the District Programs and Services:
 - Opportunities, strengths, and weaknesses of current recreational programs.
 - Summarize current marketing efforts used to share and promote information on our plans, events, projects, and programs.
 - Opportunities, strengths, and weaknesses of current public-private partnerships, volunteer opportunities, and Foundation development.
- Periodic reports of key findings will be presented to the Board of Directors for input during the research phase, ensuring alignment with Board priorities and direction.
- *Deliverables will include: maps, tables and reports reflecting all inventories and evaluations compiled into a manageable, editable format to be used as a primary data source for facilities and programming.*

3. Community Outreach, Engagement and Needs Assessment

The consultant is expected to develop and conduct a public involvement process using various media and forums to reach as many citizens as possible. The strategy should identify current facility use, awareness of current facilities and programs, gathers preferences for future parks, facilities and amenities, and shapes goals and recommendations to guide park, facility, and program development.

Results of this process should be delivered in an easily digestible and clear format that

can be shared on multiple digital platforms as this information will be shared with the public during the master planning process, included within the comprehensive master plan document, and used to inform strategies and recommendations.

- A. Public Involvement
 - a. Stakeholder Interviews
 - b. Focus Groups
 - c. Public Workshops
 - d. Pop-Up Events
 - e. Community Survey
- B. Public Information
 - a. Public Information Displays
 - b. Press Releases
 - c. Web materials, social media
 - d. Public Presentations
- C. Needs Assessment
 - a. Recreation Facilities
 - b. Recreation Programs
 - c. Parks
 - d. Trails and Open Space
- *Deliverables will include community involvement plan, agendas, handouts, graphics, survey instruments, survey report, workshop reports, interview instruments, PowerPoint presentations; reports of findings from meetings, workshops, interviews; public information plan, graphic and text materials for distribution and website update(s).*

4. Recommendations and Action Plan

The consultant will provide a draft report, making recommendations in all areas for review. This report should be a strategic plan that will help guide policies and plans for the District for the next 10 years.

The final report will incorporate the following:

- A. Draft recommendations
 - 1) District Mission and Goals
 - a) Identify and provide recommendations based on an assessment of the District's approach to facility and park maintenance.
 - b) Provide a facilities maintenance strategy for improved quality standards of current and future facilities for all facility types.
 - c) Identify and prioritize recommended modifications to existing parks, facilities, open space, and trails including Bothwell Recreation Center, R.E. Merritt Building, and May Nissen Swim Center.
 - d) Identify and prioritize opportunities, goals, and policy recommendations for development, planning and/or acquisition of new and future parks, facilities, open space, and trails, which incorporate Level of Service Standards

recommendations.

- e) Trails and Open Space evaluation and recommendations.
 - f) Provide a process to optimize strategic partnerships with other public and private entities.
 - g) The draft report will be shared with the Board of Directors for review and discussion prior to finalizing recommendations. The consultant will adjust based on the Board's feedback.
 - h) Provide departmental staffing needs to fulfill current needs and respond to future growth.
 - i) Develop a process to achieve social and geographic equity with current and future recreation facilities and programming.
 - j) Provide an implementation action plan for recommendations.
- 2) Community Demand, Supply, and Needs Assessment Report
 - 3) Ten-Year Plan for Growth:
 - a) New Comprehensive Park Master Plan Priorities and Recommendations
 - b) Existing and Future Park Facility Expansion Priorities and Recommendations
 - c) Recreation Program Expansion Priorities and Recommendations
 - d) Trails and Open Space Expansion Priorities and Recommendations
 - e) Budgeting and Funding Priorities and Recommendations
- B. Final Comprehensive Master Plan Report
 - C. Presentation to District Staff and District Board of Directors

5. Presentations and meetings

- Facilitate a Board of Directors workshop to shape long-term goals and vision that will guide the Master Plan.
- Attend a minimum of four (4) meetings with staff to review and discuss project administration, draft recommendations, and priorities.
- Attend a minimum of three (3) community meetings to discuss community needs and parks design preferences and receive public input.
- Prepare and present a presentation to: Facilities Committee and District Board of Directors for final Plan approval.

Submission Requirements

Interested proposers must submit five (5) copies, plus one electronic version (PDF format) of the proposal on or before the deadline containing the following information to the District to be considered a viable candidate for this contract. Electronic copies should be sent to Marc Roberts at mroberts@larpd.org. Proposals shall not exceed 25 pages including any attachments (staff resumes do not count toward the page limit). Font size shall be no less than 11 pt. Any proposal that does not contain the information outlined below shall not be considered.

1. Cover Letter to the Selection Committee

- a. The proposal must contain a transmittal letter, signed by an official authorized to commit the firm to the representations, commitments and statements contained in both the proposal and contracts. This should include the name, mailing address, email address, and phone number of the firm's primary contact person

for the proposal. Firm advertising, brochures, and other promotional material should not be included.

2. Description and Qualifications of the Firm

- a. A description of the firm's organizational structure, the jurisdiction in which the firm is organized and date of such organization. In addition, provide a description of the firm's qualifications and experience.

The District desires a team who ideally brings the following experience:

1. Describe the firm's methods for collaborating with your teams, stakeholders, community, and District staff.
2. Past design of public use facilities to include accessibility improvements in parks or public spaces.
3. Discuss any innovative or creative approaches the firm has used to address challenges in previous projects.
4. Share past design for projects of similar size, scope, or complexity to this Project.
5. Provide your firm's strategies for engaging the public in park-related projects.

3. Staffing

- a. Provide an organizational chart identifying:
 1. the project manager for the work; 2) each key person who would be assigned to carry out the work, and their respective roles in performing the work, and a summary of experience on similar projects to those described in this proposal. Resumes should be included for all key individuals as an appendix to the submittal.
 2. The District must approve changes to key personnel committed to work on the project subsequent to award of contract.

4. References

- a. A list of no more than three (3) references for the proposer and no more than three (3) references for any subconsultants, if proposed, including the names, addresses and telephone numbers of recent clients, preferably other public agencies and a listing of the specific projects and key individuals that have participated in them. Include the dollar amount related to participation. Identify how much experience the firm and subconsultant, if needed, has had with public agencies.
- b. A maximum of four (4) examples of past work completed within the last five (5) years representing the type of work requested in this RFP. Examples can be representative of projects with References or from separate completed projects. Please provide the following information for each project, along with project images and narratives, using the checklist below and organizing the information in the same sequence:
 - i. Project name, location, and current status
 - ii. Population of community
 - iii. Project description (including a description of professional services provided)

- iv. Project owner (reference's current: name, address, telephone number, and email)
- v. Project duration
- vi. Cost of Master Planning effort
- vii. Individual responsible for day-to-day contact with the client.
- viii. Key team members including sub-consultants responsible for the work and the firm they were employed with at the time of the project work. If the firm has multiple offices, indicate which office managed the similar project.

5. Scope of Work

- a. A clear and concise statement of the proposer's understanding of the services required.
- b. Approach to the project, highlighting the methodology and process to be used, components and expected deliverables.
- c. The proposed project timeline includes a schedule that shows how tasks fit within the project timeline and related to appropriate milestones and project deliverables.

6. Project Budget & Other Financial Information

- a. The proposer shall provide the financial information requested below. If submitted by a consortium, a joint venture, a partnership, or by an individual, it shall be signed by an individual authorized to bind the firm making the proposal.
 - i. A firm must include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the firm or in which the firm has been judged guilty or liable within the last five (5) years.
 - ii. If there is no negative history to disclose, the firm must affirmatively state in its proposal that there is no negative history to report.
 - iii. A detailed Scope of Work, including an itemization of all services to be provided and their individual costs. This should include estimated staffing, hours, costs, and a description of each major task and subtask, including public meetings.
 - iv. A schedule of hourly rates to be charged for extra work if required during the course of the contract as well as other cost factors which would be needed to price extra work.
 - v. A total not-to-exceed price for the project.
 - vi. A disclosure of all personal, professional, or financial relationships with any officer and/or employee of the District.

Evaluation Criteria

The objective is to choose the proposal that offers the highest quality services and will achieve the project's goals and objectives within a reasonable budget. While cost is important, other factors are also significant and the District may not select the lowest cost proposal.

All proposals submitted in response to this RFP will be evaluated by a committee in accordance

with the objectives mentioned above and the following criteria.

The strongest candidates may be invited for a final interview.

Selection Criteria—RFP
Understanding of Scope of Work; Recommended Methodology & Process to include High Public Engagement
Project Components, Timeline, and Deliverables
Demonstrated Expertise in Performing Similar Work
Qualifications and Experience of Key Staff
References & Past Project Samples
Demonstrate ability to work with LARPD Board Members, Staff and Community
Proposed Project Cost

The highest ranked firm will enter into negotiations. If the District requests presentations by short-listed firms, committee members may revise rankings based upon additional information and clarification received in this phase. Please note that presentations have not been scheduled and are not anticipated at this time. However, if the District elects to set up interviews and your firm is invited to give a presentation to the committee, notice will be given with a set date.

Firm Selection & Notification

The issuance of this RFP and the selection of the most qualified firm is the first step in the process that will eventually lead to the execution of an agreement with the most qualified firm. Each proposal will be reviewed to determine if it meets the submittal requirements contained within this RFP.

The successful Consultant to whom work is awarded shall enter into a contract with the District for the work in accordance with the specifications and shall furnish all required documents necessary to enter into said contract.

The District reserves the right to enter a contract without further discussion of the submitted proposal. Therefore, the proposal should be initially submitted on the most favorable terms the proposer can offer.

The District reserves the right to accept and or withdraw the RFP in whole or in part, at any time and for any reason and/or request additional information from all proposers. Submission of a proposal confers no rights upon a proposer and does not obligate the District in any manner. The District also reserves the right to modify any aspects or waive any irregularities, terminate, or delay this RFP, the RFP process, and or the program, which is outlined within this RFP at any time if doing so would serve the interest of the District. The contract award will be made at the sole

discretion of the District based on evaluation of all responses.

Each proposer, by submitting a proposal, agrees that if the District accepts its proposal, such proposer will furnish all items and services upon the terms and conditions in this RFP and subsequent contract. Proposals that do not meet the mandatory requirements set forth in this RFP will be considered non-compliant. Proposers may be disqualified, and the proposal may be rejected by the District for any of, but not limited to, the following reasons:

- Failure to properly respond to the RFP;
- Evidence of collusion among the proposers submitting the proposals;
- Failure to comply with the specification requirements of the RFP.

Contract Requirements

The District plans to use the attached Livermore Area Recreation and Park District Professional Services Agreement. Consultants with significant concerns about the sample agreement should not submit this RFP.

The top-ranked firm will be notified in writing and will be asked to meet and submit their prospective scope of services and refine their fee (to be broken down by tasks). If after negotiation and consideration, the District is unable to reach an acceptable agreement with the top-ranked firm, they will terminate negotiations with the top-ranked firm and, at their sole discretion, may: enter into negotiations with the second-ranked firm; withhold the award for any reason; elect not to proceed with any of the proponents; or re-solicit new Proposals.

Estimated Selection & Approval Schedule

Request for Proposals Open	10/11/2024
Questions/Clarifications Due	11/8/2024
Answers Provided by	11/14/2024
Deadline for Proposals	12/10/2024 by 2:00pm
Evaluation of Proposals	12/11/24-12/20/24
Final Interviews (If Needed)	1/6/24-1/10/24
Notification of Award	1/13/24

**The District reserves the right to revise the above schedule.*

Questions

Upon release of this RFP, all Consultant communications concerning the RFP should be directed to Marc Roberts, Land Agent/ Planner via the contact information listed below. Unauthorized contact regarding this RFP with any other District employees may result in disqualification. Any oral communication will be considered unofficial and non-binding with the District. Consultants should rely only on written statements by Mr. Roberts.

Name: Marc Roberts, Land Agent / Planner
Address: Livermore Area Recreation and Park District
4444 East Ave, Livermore, CA 94550
Email: mroberts@larpd.org

Submittal Instructions

Proposals must be received no later than 2:00 p.m. PDT on Tuesday, December 10, 2024. Proposals shall be mailed to:

Livermore Area Recreation and Park District
Attn: Marc Roberts, Land Agent / Planner
mroberts@larpd.org
4444 East Ave
Livermore, CA 94550

The proposals shall be in a sealed envelope or box and clearly labeled with the Consultant's name, address, and "LARPD Parks, Recreation, and Trails Master Plan RFP."

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is by and between the LIVERMORE AREA RECREATION AND PARK DISTRICT, a California Independent Special District, (hereinafter “LARPD”) and [_____] (hereinafter “Consultant”) for On-Call Professional Services covering the period from [_____].

RECITALS

A. Consultant is a firm whose business address is [Consultant Address] and telephone number is [Consultant telephone number]. The website for Consultant is www.tsgbt.com.

B. LARPD requires a consultant to provide professional services for consulting services to update the LARPD Parks, Recreation, and Trails Master Plan. Consultant represents that it is qualified and competent to provide and is experienced in providing professional services in these areas and is offering LARPD the required professional services during the period of this Agreement.

C. In the judgment of LARPD, it is necessary and advisable to employ the services of Consultant for the purposes provided herein. The scope of these services is to include, but is not necessarily limited to, the services set out in Exhibit A attached hereto.

D. In accordance with applicable State and local law, LARPD issued a Request for Proposal (RFP) for competitive proposals for consulting services to update the LARPD Parks, Recreation, and Trails Master Plan

THEREFORE, FOR VALUABLE CONSIDERATION, THE PARTIES AGREE TO THE FOLLOWING:

I. SCOPE OF AGREEMENT:

A. Term of Agreement: The term of this professional services agreement shall be from [Dates of Agreement]. During this term, Consultant shall provide the services listed in Exhibit A attached hereto and incorporated herein by reference at the time, place, and manner specified therein. In the event of a conflict between the terms of this Agreement and any Exhibit or other document as to the term of services, scope of services, payment(s), or other provisions related to Consultant’s services, the terms in this Agreement shall control.

B. Changes: If the parties choose to make changes to the scope of services, the parties agree that changes may only be made by written amendment to this Agreement that is fully executed prior to the provision of any additional or modified services. The present scope of services will include project administration, evaluation, research, and analysis of existing conditions and plans, community outreach, engagement, and needs assessment, recommendations and action plan, and presentations and meetings.

C. Consultant Services: Consultant warrants that the professional experience, scope of services, and other material matters contained in its proposal are and will remain true during the term of this Agreement. Consultant shall perform all services under this Agreement, including, but not limited to, those described in Exhibit A, in the manner and accordance with the standards currently observed by competent practitioners in the State of California. Should Consultant's ability to diligently and competently render the professional services under this Agreement, Consultant shall provide timely, written notice to LARPD of the changes.

II. FEES AND PAYMENT:

For services performed by Consultant in accordance with the Agreement, the fees and payment schedule for furnishing services shall be based on the rate schedule which is attached hereto as Exhibit B and incorporated herein by reference. Said fees shall remain in effect for the entire term of this Agreement. Consultant shall provide LARPD with a Federal Tax I.D. number prior to submitting its first invoice. LARPD will compensate Consultant in accordance with the terms and conditions of the Agreement, in an amount not to exceed \$[Dollar Amount]; in no event will the cost to LARPD for the services provided herein exceed [the maximum sum or maximum monthly sum] of \$[state max].

A. Invoices and Payments: For the services rendered in accordance with this Agreement, LARPD shall pay Consultant based on fee schedule per attached Exhibit B. Invoices submitted to LARPD for payment must contain a itemized description of work performed, percentage of work completed, percentage of contract time used, percentage of contract amount expended and identification of the category/type of service. Invoices are to be submitted at the end of the calendar month. Following review of the invoice for clarity, work completed, charges to date, and related matters, a request for payment of the approved amount will be submitted. Provided there is no need for clarification or additional information, payment shall be made within thirty (30) days of receipt of Consultant's invoice.

B. Reimbursable Expenses: Any reimbursable expenses incurred during the month shall be itemized and accompanied by relevant documentation which shall be included as an attachment to the invoice.

C. Termination/Expiration of Agreement: Upon the end of this Agreement or any extension thereof, whether by termination or expiration, Consultant shall have sixty (60) days in which to submit final invoicing for payment for all services rendered and accepted by LARPD. An extension of time may be granted by LARPD upon receiving a written request thirty (30) days in advance of that said time limitation. LARPD shall have no obligation or liability to pay any invoice for work performed which the Consultant fails or neglects to submit during this period.

III. CONFIDENTIALITY:

Consultant acknowledges and agrees that, in the performance of the services under this Agreement or in the contemplation thereof, Consultant may have access to private or confidential

information which may be owned or controlled by LARPD and that such information may contain proprietary or confidential details, the disclosure of which to third-parties may be damaging to LARPD or those related to LARPD, including, but not limited to, employees, volunteers, and customers/clients. Consultant agrees that all information disclosed by LARPD or discovered by or accessible to Consultant shall be held in strict confidence and used only in performance of the Agreement. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent Consultant would use to protect its own proprietary data and/or the data of its customers/clients.

Consultant agrees to protect all information gained in connection with this Agreement and treat it as confidential. Also, Consultant agrees that it shall not at any time, either directly or indirectly, divulge, disclose, or communicate in any manner information gained in connection with this Agreement to a third-party without the prior written consent of LARPD.

Further, Consultant shall not accept employment where information gained in connection with this Agreement could be used adversely to the LARPD's interest or the interests of its employees, volunteers, or customers/clients. Consultant agrees to notify LARPD immediately in writing if it is requested to disclose any information made known to, discovered by, or accessible to the Consultant during the performance of or in connection with this Agreement. The provisions in this Section shall remain in full effect indefinitely including after termination/expiration of this Agreement.

A violation by Consultant of this section shall be deemed a material violation of this Agreement and shall justify legal and/or equitable relief.

IV. TERMINATION:

A. If Consultant fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, LARPD may terminate this Contract by giving five (5) calendar days written notice to the party involved.

B. Consultant shall be excused for failures to perform services herein if such services are prevented by acts of God or other external forces over which Consultant has no control but only for the period of time such performance is rendered impossible due to a qualifying event. Strikes, labor disputes, and other foreseeable manpower issues shall not excuse Consultant's failure to perform services required under this Agreement.

C. Either party hereto may terminate this Agreement without cause by giving no less than thirty (30) calendar days written notice to the other party. Any written notice of termination shall be sent by registered mail.

D. In the event of termination not the fault of Consultant, Consultant shall be paid for services performed to the date of termination in accordance with the terms of this Agreement so long as proof of any required insurance is provided for the periods covered in the Agreement or extension(s). Consultant shall provide any hardware, software, or other items already invoiced at

time of termination, unless such items can be cancelled and LARPD is provided the option as to whether to cancel the item and all fees and costs associated with the item are refunded and/or credited to LARPD. Under no circumstances shall LARPD be liable for lost profits that might have been made by Consultant had the Agreement not been terminated or had Consultant completed the services required by the Agreement. Consultant shall promptly deliver to LARPD all devices and/or materials owned by LARPD and documents related to the performance of this Agreement in Consultant's possession or control. All such documents shall be the property of LARPD without additional compensation to Consultant.

E. LARPD shall have the right to temporarily suspend Consultant's performance in whole or in part, by giving a written notice of suspension to Consultant. If LARPD gives such notice of suspension, Consultant shall immediately suspend its activities under this Agreement, as specified in such notice.

V. RELATIONSHIP BETWEEN THE PARTIES:

A. Independent Contractor: It is expressly understood that in the performance of the services and obligations set forth in this Agreement, Consultant shall have the status of an independent contractor. Consultant and any and all of its agents, personnel, and employees shall act in an independent capacity and shall not be considered to be an employee of LARPD for any purpose. Consultant shall be solely responsible to pay all required taxes, including but not limited to, all withholding, social security, and workers' compensation.

B. No Agency: Except as LARPD may specify in writing, Consultant and its personnel, employees, and/or agents shall have no authority, expressed or implied, to act on behalf of LARPD in any capacity whatsoever as an agent. Consultant and its personnel, employees, and/or agents shall have no authority, express or implied, to bind LARPD to any obligations whatsoever.

C. No Assignment: Consultant shall not assign, subcontract, or transfer this Agreement or any interest or obligation herein without the prior written consent of LARPD, and then only upon such terms and conditions as LARPD may set forth in writing. Any attempt by the Consultant to so assign this Agreement or any rights, duties or obligation arising herewith shall be void and of no affect. Further, should LARPD provide written consent to any such assignment, subcontract, or transfer of this Agreement, nothing in any such consent may create or constitute an employment or agency relationship between LARPD and Consultant's assignee, subcontractor, transferee, or other replacement.

VI. COMPLIANCE/CONFORMANCE TO APPLICABLE LAWS:

Consultant shall comply with all applicable Federal, State, and Municipal laws, rules, regulations, ordinances, and resolutions in effect during the term of this Agreement and any extension term. Consultant shall conform with the Americans With Disabilities Act of 1990 (42 U.S.C. 12101, *et seq.*) and any regulations and guidelines issued pursuant to that law and Labor Code sections 1720, *et seq.* which require prevailing wages (in accordance with DIR

determinations, *see*, www.dir.ca.gov) be paid to any employee performing work covered by Labor Code sections 1720, *et seq.*

A. Business License: Prior to the LARPD's execution of this Agreement and before Consultant engages in any operation or activity set forth in this Agreement, Consultant shall obtain a City of Livermore business license. Consultant shall keep said business license in full force and effect during the term of this Agreement and any extension term.

B. Anti-Discrimination and Anti-Harassment: Neither Consultant nor any agent, employee, personnel, assignee, subcontractor, or transferee of Consultant shall unlawfully discriminate against or harass any individual including, but not limited to, any employee, volunteer of, client/customer of, or visitor to LARPD based on race, color, religion, nationality, sex, sexual orientation, age, condition of disability, or any other protected class. Consultant and any/all of its agents, employees, personnel, assignees, subcontractors, or transferees understand and agree to be bound by and to comply with the anti-discrimination and anti-harassment mandates of all Federal, State and local statutes, regulations and ordinances.

C. Taxes: Consultant shall pay when due all applicable taxes, including, but not limited to, business and employment taxes.

VII. INSURANCE INCLUDING MINIMUM SCOPE AND LIMITS:

Consultant shall procure and maintain for the duration of this Agreement at its own cost insurance against claims for security breaches, system failures, injuries to persons, damages to software, or damages to property (including computer equipment) which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees. Additionally, Consultant shall procure and maintain for the duration of this Agreement records of insurance claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data, infringement of intellectual property, invasion of privacy and breach of data.

During the term and any extension of this Agreement, Consultant shall maintain in full force and effect at its own cost and expenses the following minimum coverage:

A. Commercial General Liability (CGL): CGL Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

B. Automobile Liability: Automobile Liability Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non- owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

Exhibit A - SAMPLE PROFESSIONAL SERVICES AGREEMENT

C. Workers' Compensation: Worker's Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

D. Errors and Omissions, Professional Liability or Malpractice Insurance:

Consultant may be required to carry errors and omissions, professional liability or malpractice insurance. All policies shall remain in force through the life of this Contract and shall be payable on a "per occurrence" basis unless LARPD specifically consents to a "claims made" basis. The insurer shall supply LARPD adequate proof of insurance and/or a certificate of insurance evidencing coverages and limits prior to approval of this Agreement and commencement of work. Should any of the required insurance policies in this Contract be cancelled or non-renewed, it is the Consultant's duty to notify LARPD immediately upon receipt of the notice of cancellation or non-renewal.

If Consultant is not required to carry a required insurance coverage and/or does not meet the required limits, the coverage limits and deductibles shall be set forth on a waiver, **Exhibit C**, attached hereto.

Failure to provide and maintain the insurance required by this Contract will constitute a material breach of this Contract. In addition to any other available remedies, LARPD may suspend payment to the Consultant for any services provided during any time that insurance was not in effect and until such time as the Consultant provides adequate evidence that Consultant has obtained the required coverage.

Prior to commencing any work hereunder, Consultant shall provide to LARPD proper certificates demonstrating that the types and amounts of insurance coverage specified and any endorsements required hereunder are properly issued and in effect. The certificates shall provide in writing that the insurance afforded by the certificate shall not be suspended, voided, canceled, reduced in coverage or in limits without thirty (30) days prior written notice by certified mail, return receipt requested, has been given to LARPD. In addition, Consultant shall provide thirty (30) days written notice to LARPD of any suspension, cancellation, reduction of coverage or in limits, or voiding of insurance coverage required by this agreement.

VIII. NOTICES:

All notices herein required shall be in writing and shall be sent by certified or registered mail addressed as follows:

TO LARPD:

Mat Fuzie
General Manager
Livermore Area Recreation and Park District
4444 East Avenue
Livermore, California 94550

WITH COPY TO:

LARPD General Counsel
Andrew Shen, Esq.
c/o Renee Public Law Group
350 Sansome Street, Suite 300
San Francisco, CA 94104

TO CONSULTANT:

[Name]
[Title]
[Firm Name]
[Address]

IX. ADDITIONAL PROVISIONS:

A. Indemnification. Consultant hereby agrees to protect, defend, indemnify and hold LARPD and LARPD's officers, directors, partners, shareholders, employees, agents, contractors and subcontractors harmless from and against any and all losses, claims, liabilities, damages, costs and expenses (including reasonable attorney's fees and costs) and injuries (including personal injuries or death) in connection with any third party claim arising from or in connection with the services under this Agreement, except those resulting from the negligence or willful misconduct of LARPD or LARPD's officers, directors, partners, shareholders, employees, agents, contractors or subcontractors. The indemnity provisions of this Paragraph shall survive the termination, cancellation, or expiration of this Agreement

B. Litigation between the Parties. The prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorneys' fees, expert witness fees, and court costs, including appeals, if any. This provision shall not be construed to entitle any party other than Consultant and LARPD to recover their fees and expenses.

C. Applicable Law. This Agreement shall be construed in accordance with the laws of the State of California.

D. Venue. Any legal dispute regarding this Agreement shall be brought in the Superior Court in and for the County of Alameda, State of California or any other appropriate court or tribunal within Alameda County.

E. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements, between the parties with respect to the subject matter and property covered by this Agreement.

F. Severability. If any term of this Agreement is found to be void or invalid, the invalid portion shall be renegotiated to give effect the original intent to the maximum extent permissible under law. If the parties cannot agree, a court or arbitrator shall reinterpret the portion to reflect what it finds to be the original intent as permissible under law. Other provisions shall be unaffected except to the extent modification is necessary for consistency with the renegotiated/reinterpreted term. Complete severance of void or invalid provisions shall only occur if the portion(s) cannot be saved and the remaining terms of this Agreement shall continue in full force and effect.

G. Interpretation. Any questions of particular interpretation shall not be interpreted against the draftsman, but rather in accordance with the fair meaning thereof. Captions are for convenience only and are not to define or limit the construction of the terms and conditions contained therein.

H. Waiver. No provision of this Agreement will be deemed waived by either party unless expressly waived in writing signed by the waiving party. No waiver shall be implied by delay or any other act or omission of either party. No waiver by either party of any provision of this Agreement shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision.

I. Authority. The persons who have executed this Agreement represent and warrant that they are duly authorized to execute this Agreement in their individual or representative capacity as indicated.

J. Counterparts. This Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but when assembled together shall constitute one integrated instrument.

[SIGNATURES APPEAR ON NEXT PAGE]

Exhibit A - SAMPLE PROFESSIONAL SERVICES AGREEMENT

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the Effective Date.

Signature

Mathew Fuzie
Name

LARPD General Manager
Title

Livermore Area Recreation and Park District
Organization

Date

Signature

Name

Title

Organization

Date

