



City of Pacific Grove
COMMUNITY DEVELOPMENT DEPARTMENT

Memo

To: Planning Commission
From: Community Development Department
Subject: Pacific Grove Public Library Expansion Project
Date: July 14, 2005

A copy of the Notice of Request for Proposal for Library Architect Services for the Library Expansion Project is attached as per the request of the Planning Commission at the July 7, 2005 meeting.



Notice of Request for Proposal for Library Architect Services

The City of Pacific Grove invites qualified independent professional architects to submit proposals for a contract to develop building designs and prepare construction drawings for an expansion to the existing Pacific Grove Public Library building. The scope of services includes the development of preschematic and building designs, and construction oversight, for a Community Room addition. The work is to be accomplished in phases, with each phase of work approved by the City prior to proceeding to the next phase.

Interested qualified parties are encouraged to obtain a proposal package for the project, which includes: description of project, specific scope of services sought, submittal requirements, a sample contract agreement form, proposal evaluation criteria, and description of the proposal review process. Proposal packages may be obtained at the Library at the corner of Central and Fountain in Pacific Grove, or at City Hall at 300 Forest Avenue in Pacific Grove. For more information on the project and to request proposal packages to be sent by mail, contact the Library Director, Barbara Morrison, at (831) 648-5760.

Proposals must be received at City Hall by **3:00 PM on Tuesday, April 16, 2002**. Late proposals will not be considered. Send six (6) copies of the proposal to:

Attn.: Peter Woodruff
Administrative Services Director
City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950

Date: March 7, 2002

CITY OF PACIFIC GROVE
LIBRARY
COMMUNITY ROOM

REQUEST FOR PROPOSAL
SUBMITTAL FORM

Please complete this form. This information may be duplicated and elaborated upon in your supporting documents, but specific information requested must be included below for your proposal to be considered. Please see p. 7-8 of the Request for Proposal for all Submittal Requirements.

Description of Firm: A brief description of the prime architectural firm and all sub-consultant firms, indicating the following:

A. Names, addresses and telephone numbers of the firms:

B. Size of each firm, indicating the number of principals, associates, technical staff and clerical staff members:

C. The role of each firm in this project:

Key Project Personnel: The names and qualifications of the principal, associate, and project manager in charge for both the prime and sub-consultants:

Fee & Schedule: Provide the following:

A. A fee schedule showing the hourly rates for the services performed by the prime and sub-consultants:

B. An estimated range of fees for each phase of the scope of work and your firm's assessment of proposed design schedule required for the completion of each phase:

Phase 1: Conceptual Design _____

Phase 2: Design Development _____

Phase 3: Final Construction Documents _____

Phase 4: Bidding & Evaluation _____

Phase 5: Construction Support Services _____

C. A list of reimbursable expenses together with the terms for reimbursement:

D. A "not to exceed" figure for all the work to be performed:

Actual fee will be negotiated after the final selection process.

**CITY OF PACIFIC GROVE
LIBRARY
COMMUNITY ROOM**

I. INTRODUCTION

The City of Pacific Grove invites proposals from professional architects for the development of preschematic and building designs, and construction oversight, for a Community Room to be added to the Pacific Grove Public Library.

The selected architect will be required to coordinate all work with the Library Director.

II. PROJECT DESCRIPTION

Project name:

Pacific Grove Public Library Community Room — Architectural Design Services

Project location:

550 Central Ave., Pacific Grove, CA 93950

Project background:

The Pacific Grove Public Library is located one block from the central business district, at 550 Central Avenue. Like many other libraries of its era, the original structure was built with funds provided by Andrew Carnegie. The original Carnegie structure, completed in 1908, is still in use as part of the current facility, although four additions have been made to the building. The library's website may be found at www.pacificgrove.lib.ca.us

The 12,000 sq. ft. of the existing one-story library occupy almost the entire block bounded by Central Avenue, Grand Avenue, Park Place and Fountain Avenue. The most recent addition to the library, completed in 1978, expanded the building south toward Central Avenue. The addition included a new entrance (altered in 1996), a circulation area, a large public stack and reading area for adults, and a separate room for children's books and activities.

The library is open 62 hrs/week, seven days a week, including four evenings each week. It currently has 10 full-time staff and 7 part-time staff. Average attendance is currently 470 people a day or approximately 164,500 people per year.

Building maintenance is provided by the City.

An assessment of the existing building and a building program for enlarging the library have been prepared by the library consulting firm of Carol Brown Associates (1997), copies of which are available at the Library. The project described therein includes a 6,000-8,000 sq. ft. addition, however funding is currently only available to add a community room. Because of the lack of available land in Pacific Grove the existing library building will be expanded which may necessitate closure of Grand Avenue. Closure has not been authorized to date, as we await a viable design from the architect. Ultimately it is possible a mezzanine could be added to the 1978 addition for the 6,000-8,000 sq. ft. addition, however for the addition of the community room, the existing building will remain a single-story structure. The architect will consider the library's plans for future expansion when designing the community room.

Goals and Objectives:

Develop a plan and options for meeting the needs of the City of Pacific Grove Public Library Community Room. This means providing a facility large enough to gather 200 children (floor seating) or 100 chairs for programs sponsored by the Library, flexible enough for use by smaller groups, with good sound and visual projection systems; display area for exhibits; appropriate lighting; energy efficient heating, ventilation and lights; adequate, lockable storage facility for the furniture and equipment used in the room; and one which incorporates the space into the existing facility in a functional and complementary manner.

Facility description: Community Room with related foyer, storage and restrooms

The community room is needed to allow the library to provide activities that traditionally support the library's basic informational, educational, and recreational mission. The community room will not only allow for library activities, but can be used by other groups in the city who might benefit from the space. In addition to using the community room for library programs, it will be used to support lifelong learning, provide programs of interest to adults (book discussion groups, lectures, film/slide presentations, etc.), offer a meeting space for the Library Board and Friends of the Library, and offer an opportunity for public art and history exhibits. In addition, with existing and future technology the room can function as an extension to other public presentations, for instance a place for an overflow audience attending a program at the Museum of Natural History.

The recommended location for the community room is on the southwest corner of the existing building, with the entrance foyer to the library and the community room in a location compatible with current use. A relocated entry for the planned expansion may be considered in the design. The new entrance and relocated public restrooms will be constructed adjacent to the community room to

allow for use of the room when the rest of the library is closed. The new space should not be viewed or designed to be an extension of the children's area; it will be a space to be used by people of all ages for a variety of purposes.

<u>Use</u>	<u>No. Square Feet</u>
Entrance foyer to allow use of room when library proper is closed	400
New public restrooms off entrance foyer	400
Meeting room, seating in stacking chairs, 100 seats, @ 10 sq. ft.	1,000
Storage for stacking chairs, folding tables, & A/V equipment	.200
Kitchenette off meeting room	<u>100</u>
TOTAL	2,100

Lockable doors to the community room and doors to the main part of the library will open off the entrance foyer. Access to the new (relocated) public restrooms will be off the foyer. The foyer will also contain a public phone, water fountains, an announcement board for library events, and possibly, a glass-front, lighted built-in display case. There should also be a secure slot for return of library materials when the library is closed for holidays. If possible, major donors should be recognized near the entrance (wall plaque, special window or display, and/or brick/tile work are possibilities).

Because audiovisual presentations and computer training will occur in the room, any windows placed in the room will have to be supplied with blackout curtains and/or blinds. The room should be wired for distance learning and teleconferencing. Electrical and data outlets around the perimeter of the room should allow for the use of 20-24 PCs that can be plugged into the library's network. Electrical and data outlets should also be placed at three locations in the center of the floor. The room should be equipped with an electrically operated, ceiling-mounted screen and ceiling-mounted speakers. Tackable wall surfaces and/or a picture rail should allow for mounting exhibits. The use of carpet or hard-surface floor will be decided in consultation with the Library Director. One wall of the community room should hold a kitchen unit for the preparation of light refreshments. The kitchen should be behind closed doors. The unit should

include a refrigerator with icemaker, sink, microwave oven, food preparation counter and cupboards. A storage area adjacent to the meeting room will be used to store 100 stacking chairs on dollies, 8-10 folding tables on a dolly, and two or three pieces of audiovisual equipment on carts.¹

Other considerations

Parking is a serious problem in downtown Pacific Grove and around the library. The architect for the library project is expected to consider the problem and make some recommendations about ways to improve parking conditions and traffic flow around the library and in relation to the proposed Lighthouse Avenue Design Charette work.

Valid cost estimates need to be determined based upon the design, and adjustments to the design may be required if cost estimates exceed funds available.

Renovation of the existing structure and construction of additional space will be planned to allow the library to remain open to the public except for short periods of time when books are moved and furnishings are installed. The architect will be responsible for planning the construction in a manner that will permit the continued use of the facility to provide basic services and the collection storage at all times.

Project Timetable:

- A. March 2002 — Request for Proposals (RFP) of the Pacific Grove Library Community Room
- B. April 2002 — Award (RFP) and Preliminary consultation
- C. May 2002 — Design feasibility and review and diagrammatic plans
- D. June 2002 — Perspective presentation drawings prepared and complete schematic design
- E. July 2002 — Design development
- F. September 2002 — Submit design to City Council to approve

A project schedule will then be submitted to proceed with final construction documents, bidding and construction administration services.

III. SCOPE OF SERVICES

The Professional Services as outlined below are to be performed by the Architect during the following five phases of the Project. The City Manager shall authorize each Phase, in writing, prior to the start of work any Phase of this Scope of Services.

¹ "Needs Assessment and Recommendations for Pacific Grove Public Library, Pacific Grove, California. November 3, 1997," pp. 39-41. Prepared by Carol Brown Associates.

Phase 1: Conceptual Design

Based on the program and agreed upon budget and schedule, develop at least two (2) Diagrammatic Plan alternatives for community room. Plans at this stage would consist of bubble diagrams with scale that establish the basic relationships of the project components along with a material board, an outline specification, and a code analysis.

Develop a Schematic Design Budget Estimate based on unit costs from comparable projects.

Presentation materials will be developed that can be used for approvals and meetings with the Staff, Library Board, Architectural Review Board, Commissions, and City Council. An allowance will be included to assist Staff with up to six (6) public meetings and presentations.

Phase 2 – Design Development

Refine the design of community room based on the approved Schematic Design Documents and any adjustments authorized by Staff in the program, schedule or construction budget.

Refine the materials selection, develop interior elevations and color choices.

The Architect will work with the Library Director to achieve compatibility in the site design features with the surrounding areas.

Update the construction cost estimates and confirm the construction schedule.

If necessary, presentation materials will be developed that can be used for approvals and meetings with the Staff, Library Board, Architectural Review Board, Commissions, and City Council. An allowance will be included to assist city staff with up to four (4) public meetings and presentations.

Phase 3 – Final Construction Documents

Develop and prepare the working drawings (including electrical and mechanical details) and specifications necessary for construction of the Project. Included with the Construction Documents will be a list of furniture, fixtures, and equipment, a revised cost estimate, a final construction sequencing/schedule and instructions setting forth the requirements for the construction of the Project and the duties and responsibilities of the Architect, the City, and the Contractor(s).

The Architect will be expected to work with staff from the planning, site development, and building departments to develop the drawings and specifications to the extent necessary to secure approvals and permits.

In addition, an allowance will be made for up to two (2) formal approval presentations and meetings.

Phase 4 – Bidding and Evaluation

Following the approval of the Construction Documents, assist the Staff in preparing the bid documents, obtaining bids and proposals, evaluating the bids and bidders, in the preparing and awarding a contract(s) for the construction of the Project.

The bid documents will include the preparation of alternative bid items for work as determined by the final cost estimates which may be deleted or added in order to meet the maximum budget.

The Architect will be available to answer questions from the bidders regarding the intent of the Construction Documents and shall assist in the preparation of addenda as may be required.

The Architect shall attend one (1) Pre-bid Conference.

Phase 5 – Construction Support Services

The Architect shall visit the site at intervals appropriate to the stage of construction (at least bi-weekly) to become generally familiar with the progress and quality of work completed and to determine in general if the Project is proceeding in accordance with the Contract Documents.

Services will include: responding to requests for information from the contractor; the interpretation of plans and specifications for the correctness of workmanship and materials, and the appearance of the final product, but without assuming any responsibility for the Contractor's means and methods; review and approval of contractor submittals; review and certification of contractor applications for payment; preparation of change orders; and, preparing a set of reproducible record drawings showing significant changes in the work made during construction based on marked-up prints furnished by the contractor.

Services to be Provided by Consultants

All Services required to accomplish the above work are to be included in the Architect's scope of work. The following disciplines are anticipated to be required: building architect, structural engineer, civil engineer (Drainage and Utilities), mechanical engineer, electrical engineer, sound engineer, interior designer, lighting designer.

IV. CITY'S RESPONSIBILITIES

The City will provide the necessary services and documents to meet any outside agency requirements. This includes any environmental consulting services, additional topographic surveys, soils tests, any special reports, permit fees, city or agency approval fees.

The City will also compile and distribute the bid packages and provide the final front end of the specification, including the bid forms, general conditions and special conditions. The City will provide for construction testing services and costs, bid document reproduction, and related bidding and advertising costs.

V. SUBMITTAL REQUIREMENTS

The proposal shall consist of six (6) bound sets of 8-1/2" x 11" pages for text and 11" x 17" pages for any foldout drawings. The proposal shall include the following information

Description of Firm: A brief description of the prime architectural firm and all sub-consultant firms, indicating the following:

- A. Names, addresses and telephone numbers of the firms.
- B. Years established.
- C. Size of each firm, indicating the number of principals, associates, technical staff and clerical staff members.
- D. The role of each firm in this project.

Key Project Personnel: The names and qualifications of the principal, associate, and project manager in charge for both the prime and sub-consultants.

Design Experience: A brief narrative, graphic and/or photographic description of those project(s) which the prime and/or sub-consultants have performed that is (are) most similar to this project. The project description should include the following:

- A. Project name and location, and the names of the firms involved.
- B. Summary of the project.
- C. Approximate budget.
- D. Role and level of involvement of the firms and the key project personnel proposed for this project.

- E. Design and/or construction dates of completion.
- F. Key contracts and client references with addresses and phone numbers.

Other Supportive Materials: Any other descriptive materials in support of the proposal, including articles, drawings, photographs, brochures, and other media that would be helpful in evaluating the proposals. You may wish to provide a plan of one of your recent projects.

Workload: Provide a list of all projects for which your firm is currently responsible, percent of design completion and/or construction completion.

Schedule: Submit in graphic or narrative form your firm's assessment of proposed design schedule, including time and identification of major "milestones" in the process.

Fee: Provide the following:

- A. A fee schedule showing the hourly rates for the services performed by the prime and sub-consultants.
- B. An estimated range of fees for each phase of the scope of work.
- C. A list of reimbursable expenses, together with the terms for reimbursement.
- D. A "not to exceed" figure for all the work to be performed.

Actual fee will be negotiated after the final selection process.

Contractual Provisions: The consultant selected by the City will be required to enter into a written agreement with the City prior to commencement of any work. The form of the agreement shall be substantially similar to the sample agreement attached hereto as Exhibit "A". For illustrative purposes, among the contractual provisions which shall be contained in the final consultant agreement are the following:

Insurance and Indemnification Requirements: Following are the insurance and indemnification requirements generally requested by the City for Architectural Design Services contracts. Provide a statement outlining your company's ability to meet those requirements and/or your insurance and indemnification capabilities.

A. *Insurance*

The consultant shall provide and maintain:

1. Commercial General Liability Insurance - occurrence form, with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply

separately to this Agreement or be no less than two (2) times the occurrence limit.

2. Automobile Liability Insurance - occurrence form with a limit of not less than \$500,000 each occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles.
3. Errors and Omissions Insurance - in the minimum amount of \$1,000,000 aggregate.
4. Workers Compensation Insurance - in at least the minimum statutory limits.
5. General Provisions - All insurance shall:
 - a) Include the City of Pacific Grove, its elected and appointed officers, employees and volunteers as additional insureds with respect to this Agreement and the performance of this Agreement. The coverage shall contain no special limitations on the scope of its protection to the above designated insureds.
 - b) Be primary with respect to any insurance or self-insurance programs of the City, its officers, employees, and volunteers.
 - c) Be evidenced, prior to commencement of services, by properly executed policy endorsements in addition to a certificate of insurance.
 - d) Acknowledge that no changes in insurance coverage levels or conditions may be made without the written approval of the City Attorney's Office.
 - e) Contain no self-insured retentions or other deductibles without the prior approval of the City Attorney.

B. *Indemnification*

The Consultant shall be required to indemnify, defend, protect and hold harmless the City, its elected and appointed officials, officers, agents, employees and volunteers, from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements which the City may suffer or incur arising out of any injury to or death of any person(s),

damage to property, loss of use of property, economic loss or otherwise occurring as a result of or allegedly caused by the performance or failure to perform by the Consultant of Consultant's services under the agreement for services, or the negligent or willful acts of omissions of Consultant, its agents, officers, director or employees, in performing any of the services under the agreement for services. The Consultant's indemnification will not extend to claims occurring as a result of the City's sole negligence or City's willful acts or omissions.

VI. PROPOSAL EVALUATION CRITERIA

The City will review and evaluate proposals according to the following criteria:

- A. Firm's design experience with similar projects and clients.
- B. Qualifications of the personnel to be directly involved with this project.
- C. Working relationship of design firm with previous clients.
- D. Thoroughness and responsiveness of proposal.
- E. Current and projected workloads that might affect ability to meet time schedules.
- F. Past record in meeting time schedules.
- G. Experience working with selected sub-consultants.
- H. Proximity of firm and sub-consultants to City of Pacific Grove.
- I. Past record of designing within construction budget.
- J. Fee.

The right is reserved, as the interest of the City may require and in City's sole discretion, to reject any or all proposals and to waive any informality in proposals.

VII. SELECTION PROCESS

All proposals will be reviewed on the above criteria with, at City's option, the three or five highest ranking firms being invited to participate in an oral interview. The final selection will be based on the City's assessment of the criteria listed in the Project Description, Scope of Services and the results of the interview.

The City will invite the top-ranked firm to negotiate an agreement which will include the compensation schedule and the nature and extent of the technical services to be performed. If the City and the top-ranked firm are unable to negotiate a contract, the next highest rated firm will be requested to negotiate an agreement. All contracts must be approved by the Pacific Grove City Council and signed by the Mayor before becoming effective.

VIII. CITY PROVIDED INFORMATION

The City will provide firms with all available existing reports, studies, soil tests, maps, and other available information upon request. These items shall not necessarily be considered complete, up-to-date, or consistent with actual field conditions. Firms should verify existing conditions by reasonable investigation.

AGREEMENT
FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this _____ day of _____, 2002, between the CITY OF PACIFIC GROVE, a municipal corporation, hereinafter referred to as "City" and _____ hereinafter referred to as "Consultant". In consideration of the mutual covenants and conditions set forth here, the parties agree as follows:

1. **SCOPE OF SERVICES** Consultant agrees to perform the services set forth in Exhibit A "SCOPE OF SERVICES" and made a part hereof. To the extent there is a conflict in the terms of this Agreement and the terms set forth in "Exhibit A", this Agreement shall prevail. Consultant represents and warrants that it has the qualifications, experience and facilities to properly perform said services in a thorough, competent and professional manner and shall, at all times during the term of this Agreement, have in full force and effect, all licenses required of it by law. Consultant shall complete each of the services set forth in Exhibit A to the City's satisfaction. If the City is not satisfied with any such services, the Consultant shall work on such matter until the City approves of the service. Further, Consultant shall complete the services set forth in Exhibit A strictly according to the schedule provided therein.

2. **STATUS OF CONSULTANT**

(a) Consultant is and shall at all times remain as to the City a wholly independent contractor. Accordingly, Consultant shall be responsible for payment of all taxes including Federal, State and local taxes arising out of Consultant's activities in accordance with this Agreement, including by way of illustration but not limitation, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, and any other taxes or business license

fee as required. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. In the performance of this Agreement, Consultant shall not discriminate in its recruiting, hiring, promotion, demotion, or termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, physical or mental disability, or on any basis otherwise prohibited by law. Consultant will perform most services in accordance with this Agreement at a location of Consultant's discretion, except as may be directed in the Scope of Services. In addition the Consultant will perform services on the telephone and at such other places as necessary to perform the Scope of Services in accordance with this Agreement.

(b) Neither City nor any of its elected and appointed officials, officers, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant agrees to devote the hours necessary to perform the services set forth in this Agreement in an efficient and effective manner. Consultant may represent, perform services for and be employed by additional individuals or entities in Consultant's sole discretion, as long as the performance of these extra-contractual services does not interfere with or present a conflict with City's business or Consultant's ability to perform the Scope of Services.

(c) Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner. Consultant shall not disseminate any information or reports gathered or created pursuant to this Agreement without the prior written approval of City except information or reports required by government agencies to enable Consultant to perform its duties under this Agreement.

3. **CONSULTANTS KNOWLEDGE OF APPLICABLE LAWS** Consultant shall keep itself informed of applicable local, state and federal laws and regulations which may affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. Consultant shall observe and comply with all such laws and regulations affecting its employees.

4. **COMPENSATION AND METHOD OF PAYMENT** Consultant agrees to receive and accept and the City agrees to pay, as full compensation for furnishing all materials and for doing all the work embraced and contemplated in this Agreement and as set forth in the Consultant's proposal submitted to the City on the _____ day of _____, 20____, and the true copy thereof attached; also, for all loss or damage arising out of the nature of said work, or from the action of the elements or from any unforeseen difficulties or obstruction which may arise or be encountered in the prosecution of the risks connected with the work, and for well and faithfully completing the work and the whole thereof, the sum of \$ _____. In no event shall Consultant be paid more than \$ _____ for its professional services, nor shall City be obligated to pay Consultant more than \$ _____ without a written amendment to the Agreement. Payments as to all nondisputed fees shall be made within thirty (30) days after receipt of each invoice from Consultant. If the City disputes any of Consultant's fees it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. The parties shall meet in person to discuss a resolution of any fee disputes within thirty (30) days following City's notice to Consultant that there is a fee dispute.

5. **ADDITIONAL SERVICES OF CONSULTANT** Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement, or otherwise, which are in addition to or different from those set forth herein or listed in

Exhibit A, unless such additional or different services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional or different services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

6. **ASSIGNMENT** City has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant by this Agreement. In recognition of that interest, neither any complete nor partial assignment of this Agreement, nor any monies due hereunder, may be made by Consultant nor changed, substituted for, deleted, or added to without the prior written consent of City Manager. Any attempted assignment or substitution shall be ineffective, null, and void, and constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement. All services required hereunder shall be performed by Consultant, its employees or personnel under the direct control of Consultant.

7. **TERM AND TERMINATION OF AGREEMENT** The initial term of this Agreement shall commence on the execution of this Agreement by the last-executing party, and shall continue until the work in the Scope of Services is completed, unless otherwise terminated earlier as otherwise provided in this Agreement. This Agreement may be terminated by either party upon thirty (30) days written notice. In the event of such termination, Consultant shall be compensated for non-disputed fees under the terms of this Agreement up to the date of termination.

8. **COOPERATION BY CITY** All public information, data, reports, records, and maps as are existing and available to City as public records, and which are

necessary for carrying out the work as outlined in the Scope of Services, shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

9. **OWNERSHIP OF DOCUMENTS** Upon satisfactory completion of, or in the event of termination, suspension or abandonment of, this Agreement, all original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared in the course of providing the services to be performed pursuant to this Agreement and the services contracted for in Exhibit A shall become the sole property of City.

10. **RELEASE OF INFORMATION/CONFLICTS OF INTEREST** (a)
All information gained by Consultant in performance of the Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization excepting that information which is a public record and subject to disclosure pursuant to the California Public Records Act, Government Code § 6250, et seq. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located with the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

If Consultant or any of its officers, employees, consultants or subcontractors does voluntarily provide information in violation of this Agreement, City has the right to

reimbursement and indemnity from Consultant for any damages caused by Consultant's conduct, including the City's attorney's fees.

Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the city. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

(b) Consultant covenants that neither it nor any officer or principal of its firm has any interest in, nor shall they acquire any interest directly or indirectly which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent, or subcontractor without the express written consent of the City Manager.

11. **DEFAULT AND WAIVER** In the event that Consultant is in default of any provision of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and may terminate this Agreement immediately by written notice to the Consultant. City's failure to insist on the strict performance of any provision of this Agreement or to exercise any right, power, or

remedy upon a breach of this Agreement shall not constitute a waiver of any provision of this Agreement. Neither shall such action or inaction limit the City's right to later enforce any provision or exercise any right to the fullest extent allowed under this Agreement. A waiver of any covenant, term or condition contained in this Agreement shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent, authorization or approval by the City of any act shall not be deemed to waive or render unnecessary the consent, authorization or approval of any subsequent similar act.

12. **INDEMNIFICATION** (a) Consultant represents it is skilled in the professional calling necessary to perform the services and duties agreed to hereunder by Consultant, and City relies upon the skills and knowledge of Consultant. Consultant shall perform such services and duties consistent with the standards generally recognized as being employed by professionals performing similar service in the State of California.

(b) Consultant is an independent contractor and shall have no authority to bind City nor to create or incur any obligation on behalf of or liability against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. City, its elected and appointed officials, officers, agents, employees and volunteers (individually and collectively, "Indemnitees") shall have no liability to Consultant or to any other person for, and Consultant shall indemnify, defend, protect and hold harmless the Indemnitees from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively "Claims"), which the Indemnitees may suffer or incur or to which the Indemnitees may become subject by reason of or arising out of any injury to or death of any persons(s), damage to property, loss of use of property, economic loss or otherwise occurring as a result of or allegedly caused by the performance or failure to perform by Consultant of

Consultant's services under this Agreement, or the negligent or willful acts of omissions of Consultant, its agents, officers, director or employees, in performing any of the services under this Agreement.

If any action or proceeding is brought against the Indemnitees by reason of any of the Claims as above provided, Consultant, upon notice from the City, shall defend the Indemnitees at Consultant's expense by counsel acceptable to the city. The Indemnitees need not have first paid any of the matters as to which the Indemnitees are entitled to indemnity in order to be so indemnified. The insurance required to be maintained by Consultant under paragraph 13 shall ensure Consultant's obligations under this paragraph 12(b), but the limits of such insurance shall not limit the liability of Consultant hereunder. The provisions of this paragraph 12(b) shall survive the expiration or earlier termination of this Agreement.

The Consultant's indemnification does not extend to Claims occurring as a result of the City's sole negligence or City's willful acts or omissions.

13. INSURANCE

(a) Insurance Requirements. Consultant shall provide and maintain insurance acceptable to the City Attorney in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. Consultant shall provide the following scope and limits of insurance;

1. Commercial General Liability Insurance - occurrence basis, with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit. If insurance is written on a claim-made basis, Consultant agrees to

maintain such insurance in effect for at least three (3) years following completion of performance under this Agreement.

2. Automobile Liability Insurance - occurrence form with a limit of not less than \$500,000 each occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles.
3. Errors and Omissions Insurance - in the minimum amount of \$1,000,000 aggregate. If insurance is written on a claim-made basis, Consultant agrees to maintain such insurance in effect for at least three (3) years following completion of performance under this Agreement.
4. Workers Compensation Insurance - in at least the minimum statutory limits.

(b) City, its elected and appointed officials, officers and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs, products and completed operations of Consultant; premises owned, occupied or used by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its elected and appointed officials, officers, officials, or employees.

(c) Consultant's insurance coverage shall be primary insurance as respect to City, its elected and appointed officials, officers, employees and volunteers. Any insurance or self-insurance maintained by the City, its elected and appointed officials, officers, employees or volunteers shall apply in excess of and not contribute with, Consultant's insurance.

(d) Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(e) Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officials, officers, employees or volunteers.

(f) Consultant agrees to deposit with City at or before the effective date of this contract, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City Attorney may require that Consultant furnish City with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

1. Consultant shall furnish certificates and endorsements from any authorized subcontractor identical to those Consultant provides.

2. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected and appointed officials, officers, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

3. The procuring of such required policy or policies of insurance shall not be construed to limit Consultant's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.

14. **SEVERABILITY** The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of the other provisions of this Agreement.

15. **GOVERNING LAW** The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the Monterey County Superior Court, Monterey, California.

16. **MODIFICATION OF AGREEMENT** The terms of this Agreement can only be modified in writing approved by the City Council and the Consultant. The parties agree that this requirement for written modifications cannot be waived and any attempted waiver shall be void.

17. **AUTHORITY TO EXECUTE** The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of his/her/their corporation and warrants and represents that he/she/they has/have the authority to bind Consultant to the performance of its obligations hereunder. This Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto, but nothing in this Section shall be construed as a consent by City to any assignment of this Agreement or any interest in this Agreement.

18. **NOTICES** Notices shall be given pursuant to this Agreement by personal service on the party to be notified, or by written notice upon such party deposited in the custody of the United States Postal Service addressed as follows:

<u>City:</u>	<u>Consultant:</u>
<p>Attention: Ross Hubbard, City Manager 300 Forest Avenue Pacific Grove, California 93950</p> <p>Telephone: (831) 648-3106 Facsimile: (831) 657-9361</p> <p>With exact copies to: Barbara Morrison City of Pacific Grove 550 Central Ave. Pacific Grove, California 93950</p> <p>Telephone: (831) 648-5761 Facsimile: (831) 373-3268</p>	

The notices shall be deemed to have been given as of the date of personal service, or three (3) days after the date of deposit of the same in the custody of the United States Postal Service.

20. **ENTIRE AGREEMENT** This Agreement is the complete, final, entire and exclusive expression of the Agreement between the parties hereto and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject

matter herein. Each party to this Agreement acknowledges that no representations by any party which are not embodied herein and that no other agreement, statement, or promise not contained in this Agreement shall be valid and binding. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF PACIFIC GROVE

CONSULTANT

By _____
Sandra L. Koffman, Mayor

By _____
Title _____

ATTEST:

Peter Woodruff, City Clerk

APPROVED AS TO FORM:

David M. Fleishman, City Attorney

EXHIBIT "A"

SCOPE OF SERVICES

The Professional Services as outlined below are to be performed by the Architect during the following five phases of the Project. The City Manager shall authorize each Phase, in writing, prior to the start of work any Phase of this Scope of Services.

Phase 1: Conceptual Design

Based on the program and agreed upon budget and schedule, develop at least two (2) Diagrammatic Plan alternatives for community room. Plans at this stage would consist of bubble diagrams with scale that establish the basic relationships of the project components along with a material board, an outline specification, and a code analysis.

Develop a Schematic Design Budget Estimate based on unit costs from comparable projects.

Presentation materials will be developed that can be used for approvals and meetings with the Staff, Library Board, Architectural Review Board, Commissions, and City Council. An allowance will be included to assist Staff with up to six (6) public meetings and presentations.

Phase 2 – Design Development

Refine the design of community room based on the approved Schematic Design Documents and any adjustments authorized by Staff in the program, schedule or construction budget.

Refine the materials selection, develop interior elevations and color choices.

The Architect will work with the Library Director to achieve compatibility in the site design features with the surrounding areas.

Update the construction cost estimates and confirm the construction schedule.

If necessary, presentation materials will be developed that can be used for approvals and meetings with the Staff, Library Board, Architectural Review

Board, Commissions, and City Council. An allowance will be included to assist city staff with up to four (4) public meetings and presentations.

Phase 3 – Final Construction Documents

Develop and prepare the working drawings (including electrical and mechanical details) and specifications necessary for construction of the Project. Included with the Construction Documents will be a list of furniture, fixtures, and equipment, a revised cost estimate, a final construction sequencing/schedule and instructions setting forth the requirements for the construction of the Project and the duties and responsibilities of the Architect, the City, and the Contractor(s).

The Architect will be expected to work with staff from the planning, site development, and building departments to develop the drawings and specifications to the extent necessary to secure approvals and permits.

In addition, an allowance will be made for up to two (2) formal approval presentations and meetings.

Phase 4 – Bidding and Evaluation

Following the approval of the Construction Documents, assist the Staff in preparing the bid documents, obtaining bids and proposals, evaluating the bids and bidders, in the preparing and awarding a contract(s) for the construction of the Project.

The bid documents will include the preparation of alternative bid items for work as determined by the final cost estimates which may be deleted or added in order to meet the maximum budget.

The Architect will be available to answer questions from the bidders regarding the intent of the Construction Documents and shall assist in the preparation of addenda as may be required.

The Architect shall attend one (1) Pre-bid Conference.

Phase 5 – Construction Support Services

The Architect shall visit the site at intervals appropriate to the stage of construction (at least bi-weekly) to become generally familiar with the progress and quality of work

completed and to determine in general if the Project is proceeding in accordance with the Contract Documents.

Services will include: responding to requests for information from the contractor; the interpretation of plans and specifications for the correctness of workmanship and materials, and the appearance of the final product, but without assuming any responsibility for the Contractor's means and methods; review and approval of contractor submittals; review and certification of contractor applications for payment; preparation of change orders; and, preparing a set of reproducible record drawings showing significant changes in the work made during construction based on marked-up prints furnished by the contractor.

Services to be Provided by Consultants

All Services required to accomplish the above work are to be included in the Architect's scope of work. The following disciplines are anticipated to be required: building architect, structural engineer, civil engineer (Drainage and Utilities), mechanical engineer, electrical engineer, sound engineer, interior designer, lighting designer.