



9/09/19

**GENERAL CONTRACTOR
PRE-QUALIFICATION QUESTIONNAIRE
FOR THE
BURLINGAME COMMUNITY CENTER**

Located at:

850 Burlingame Ave.
Burlingame Ca.
94010

Deadline for Submissions: 2:00 p.m., Wednesday October 16th, 2019



**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

The City of Burlingame seeks to pre-qualify General Contractors for the construction of Burlingame Community Center ("Project"), and hereby invites sealed pre-qualification submittals from licensed Contractors.

Notice is hereby given that the City of Burlingame has determined that General Contractor bidders on this Project must be pre-qualified prior to submitting a bid on this Project. The pre-qualification evaluation is solely for the purpose of determining which General Building Contractors are deemed qualified to successfully construct the Project.

Only Contractors in possession of a valid Class A or B Contractors license are allowed to bid on the Project.

It is **mandatory** that all Contractors who intend to submit a bid, fully complete the pre-qualification questionnaire, provide all requested materials, and be approved by the City of Burlingame to be on the final qualified bidders list.

FILING OF SUBMITTALS: On or before 2:00 pm, October 16th, 2019.

All submittals must be filed in a sealed package labeled:

"Burlingame Community Center Contractor Prequalification"

**To: City Clerk
City of Burlingame
501 Primrose Rd.
Burlingame, Ca.
94010**

Pre-Qualification submittal packages may be obtained at:

www.burlingame.org/burlingamecommunitycenter

Or by contacting:

Jon Hughes, Construction Manager
Griffin Structures
jhughes@griffinstructures.com
949-444-1615

It is the sole responsibility of the Contractor to see that the Pre-Qualification Submittal is received before the stated deadline.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

PROJECT TEAM

OWNER

CITY OF BURLINGAME
850 Burlingame Ave
Burlingame, Ca. 94010
Margarete Glomstad: (650) 558-7307
mglomstad@burlingame.org

CONSTRUCTION MANAGER

GRIFFIN STRUCTURES
2 Technology Dr.
Irvine, Ca. 92618
Jon Hughes (949) 444-1615
jhughes@griffinstructures.com

ARCHITECT OF RECORD

GROUP 4 ARCHITECTURE
211 Linden Ave
South San Francisco, Ca. 94080
Teresa Rom (650) 871-0709
trrom@g4arch.com

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

TABLE OF CONTENTS

Project Description and Submittal Instructions4

Statement of Understanding.....9

Questionnaire

 Part I: Essential Requirements for Qualification11

 Part II: Questionnaire

 Section A: Current Organization and Structure13

 Section B: History of Business and Performance.....16

 Section C: Compliance with Regulatory Requirements.....21

 Part III: Similar Project Experience Questionnaire.....23

 Part IV: Organizational Resources.....28

Questionnaire Scoring.....29

Attachments

 Attachment A: Project Renderings.....37

 Attachment B: Insurance Requirements.....40

 Attachment C: Sample Agreement.....43

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

PROJECT DESCRIPTION

Package 1: To provide uninterrupted community access to the playground, the project team developed an early site package. The early site package includes the construction of the relocated children's playground, sports court and a new picnic area. Please see Attachment A for the package boundaries. Construction for the early site package began on June 17 and is scheduled to be completed by the end of December 2019, before the start of construction of Package 2 for the new Community Center and parking package. This prequalification effort does NOT include Package 1. The bidders are advised that construction of Package 1 will be completed prior to the start of construction of Package 2 which the successful contractor will need to protect in place.

Package 2: The Burlingame Community Center, located near the heart of downtown Burlingame in Washington Park, is a beloved and well-used community asset, serving residents for over 70 years with a diverse range of enrichment and recreational programs for all ages. Unfortunately, the current facility is well beyond capacity, greatly limiting the Parks and Recreation Department from adequately serving the needs and the demand of the community. The severe lack of space, combined with ADA inaccessibility, limited parking, and aged building systems, have led the City to plan for a new community center that meets both the community's needs today and has the flexibility to evolve for the ever-changing needs of tomorrow.

The scope of work includes: 1) the demolition of the existing single-story recreation center and site work and 2) the construction of the new two story above ground community center building, adjacent surface parking, a single level underground parking garage which is partially under the community center building and surface parking lot, as well as associated sitework including the outdoor terraces, fencing, pedestrian and vehicular hardscape, softscape and trash/stair enclosure structure.

The new two-story 36,000 sf community center building is designed in a "Pavilions in the Park style" which arose out of the community's desire to create a community landmark that celebrates its beautiful and natural setting and serves as a gateway and connection to Washington Park.

The engineer's estimate for this project is \$40,000,000

For additional information regarding this project please see **Attachment A "Project Renderings"**

PROJECT SCHEDULE

The current tentative **Project Schedule** is as follows:

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

Pre-Qualification of Contractors:September 2019 – November 2019
Project Bidding:January 2020 – February 2020
Award Project:February 2020
Start Construction:March 2020

PRE-QUALIFICATION SCHEDULE

Advertisement Inviting Pre-Qualification Submittals:.....Monday, 09/16/19
Final Date for Submission of Bidder Questions:.....Friday, 10/04/19
Submissions Due:.....2:00 pm, Wednesday, 10/16/19
Selection Notification.....on or about 11/18/19

GENERAL

The City is seeking qualified Class “A” or “B” General Contractors with construction experience of at least four (4) projects demonstrating comparable experience. Please see Part III Similar Project Experience (page 23) for a definition of “comparable experience.”

Each prospective Contractor must successfully complete the pre-qualification questionnaire, provide all requested materials in the required form, and be approved by the City of Burlingame to be on the final qualified bidders list. The City of Burlingame will not accept submission of incomplete or late documentation. Incomplete documentation will result in the rejection of the prospective Contractor.

Answers to all questions contained in the attached questionnaire, information about current bonding capacity, notarized statement from surety, and the most recent reviewed or audited financial statements, with accompanying notes and supplemental information, are required.

The City of Burlingame reserves the right to unilaterally adjust, increase, limit, suspend, or rescind the pre-qualification rating based on subsequently learned information. Contractors whose rating changes significantly after pre-qualification that disqualifies them will be notified and given an opportunity for a hearing consistent with the hearing procedures described below to appeal a pre-qualification rating.

PRE-QUALIFICATION GUIDELINES

Each prospective Contractor must successfully complete the pre-qualification process outlined in this document. No other pre-qualification process completed for the City of Burlingame or any other agency will meet these requirements.

Prospective Contractors must submit “Statements of Qualifications” (SOQ) by completing the Pre-Qualification Submittal Questionnaire package. The City will not accept information or documents from other parties. Submission of incomplete and/or unclear

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

Pre-Qualification Submittal Questionnaire or other required materials will result in rejection of the prospective contractor.

Any questions or requests for information must be submitted in writing to:

Jon Hughes
Construction Manager
Griffin Structures, Inc.
Email: jhughes@griffinstructures.com

PREPARATION OF PRE-QUALIFICATION SUBMITTALS

The submittal information should be presented in a binder and separated by section dividers. Oversize drawings (larger than 11"x17"), if provided, should be folded and inserted into plastic carriers. **Three (3) hard copies and one (1) electronic copy in *.PDF format** of the Pre-Qualification Submittal shall be delivered to the City of Burlingame. The completed Pre-Qualification Submittal should not exceed 50 pages. The City of Burlingame reserves the right to waive minor irregularities and omissions in the information contained in the pre-qualification application submitted.

EVALUATION AND ANALYSIS

Pre-qualification of prospective contractors will be determined from the information submitted in each Pre-Qualification Questionnaire Submittal. The City of Burlingame reserves the right to verify from other available sources the information provided by the Contractor and to rely upon such information gathered during the verification process. The City of Burlingame's decision will be based on objective evaluation criteria. Further consideration of a prospective contractor's qualifications will be made only if the prospective contractor meets all of the following minimum requirements:

1. Submission of a properly completed and signed Declaration
2. Possession of the valid California Contractors "A" or "B" License in good standing
3. Meet bonding capacity requirements
4. Meet insurance requirements
5. Demonstration of General Contractor's Similar Project Experience
6. Contractor's Project Manager/Field Superintendent Comparable Experience
7. No completion of work by surety in the last 10 years
8. Satisfactory History with the Department of Industrial Relations
9. Meet financial requirements

In addition to the minimum requirements listed above, the City will allocate 5 additional points to the scoresheet below for applicants who are signatory to a trade union or whose place of Business is within the limits of the City of Burlingame.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

Note: this project is subject to Prevailing Wage requirements per DIR requirements. Any contract that is subsequently bid and awarded must include prevailing wage labor. This project is not part of a Project Labor Agreement (PLA) but is attempting to encourage union participation by offering 5 additional points to union and local applicants.

The Pre-Qualification Questionnaire Submittal Analysis Form that will be used to verify minimum qualifications is included. The City of Burlingame will screen each responding prospective Contractor's statement for minimum qualifications and develop a list of Pre-Qualified Contractors.

City of Burlingame reserves the right to reject any or all responses to pre-qualification questionnaires and any or all subsequent bids for construction projects, and to waive any irregularities in any response to the pre-qualification application.

While it is the intent of the pre-qualification questionnaire and required documents to assist the City in determining bidder responsibility prior to bid and to aid the City in selecting the lowest responsible bidder, neither the fact of pre-qualification, nor any pre-qualification rating, will preclude the City of Burlingame from a post-bid consideration and determination of whether a bidder has the quality, fitness, capacity and experience to satisfactorily perform the proposed work on the Community Center project.

All financial and proprietary information provided by prospective contractors will be kept confidential to the extent permitted by law. However, by submitting the pre-qualification packet, the Contractor agrees that the contents of the submittal may be disclosed to third parties for the purpose of verification, investigation of substantial allegations, or in any appeal hearing. Also, the names of prospective contractors applying for pre-qualification status will be subject to disclosure.

APPEALS PROCEDURE

Any contractor who the City determines to not pass the pre-qualification process shall have the right to request review of the determination. The contractor shall request review by delivering to the Director of the City's Department of Parks and Recreation a written notice requesting a review. The contractor shall deliver such written notice to the Director within five (5) business days of being notified that the Contractor has been determined not to be qualified and the basis for the determination. The Contractor waives its right to challenge the City's decision if it fails to deliver the notice within the five (5) business days.

The Director or their designee shall conduct an appeals hearing no later than ten (10) business days following receipt of the contractor's written notice. The hearing conducted by the Director shall be informal but will be an evidentiary hearing. At the hearing, the Contractor will be given the opportunity to present information and present reasons in opposition to the determination. The Director shall consider all evidence, information and arguments submitted by the contractor relevant to the City's determination, the City's

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

response to such evidence, information and arguments, and any other information the Director deems relevant. Promptly following the hearing, the Director shall issue a written decision whether regarding the matter.

Following the hearing, the contractor may further have the opportunity to appeal to the City Manager of the City of Burlingame a decision by the Director regarding the Contractor's qualification. The Contractor must request a hearing before the City Manager by delivering to the City Clerk, with a copy to the Director, a written notice of appeal. The contractor must deliver the written notice of appeal within five (5) business days of the date of the Director's notice that the contractor is not qualified. The contractor waives its right to challenge the Director's decision if it fails to deliver the notice within the five (5) business days.

The City Manager shall hold a de novo hearing within ten (10) days of receipt of Contractor's written notice of appeal. The City Manager shall uphold or reverse the Director's decision based on the entire record, including the information and evidence presented to the Director and any additional information and evidence received by the City Manager at the hearing.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

STATEMENT OF UNDERSTANDING

The undersigned certifies that the statements and information contained in this submittal are complete and accurate and that the submittal contains no false or deliberately misleading information. The undersigned hereby agrees and declares that receipt of this submittal by the City of Burlingame does not constitute either a direct or implied guarantee to the Contractor that pre-qualification is or will be granted and also agrees to the procedures and conditions of the pre-qualification requirements described in the Pre-Qualification Document.

(1) Legal Name of Applicant (Contractor) _____

(2) Address of Applicant (Contractor) _____

(3) Phone Number _____ Fax _____

Email _____

(4) Applicant is a () Corporation () Partnership () Sole Proprietorship () Joint Venture

(5) If Contractor is a Corporation, name the State of Incorporation _____

(6) Total number of years the Contractor has been contracting _____

(7) Total number of years the Contractor has been in construction _____

(8) Banking institution authorized to provide corroboration of applicant's financial stability:

Name: _____

Address: _____

Contact: _____ Telephone _____

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

(9) Is the Contractor signatory to any union (Yes or No). If yes please provide affiliate information: _____

(10) Execution: _____

The undersigned is a legally authorized representative of the Contractor. The legal name of the Contractor is _____

State of California

Contractor's License Number: _____ Type: _____

Expiration: _____

_____, being first duly sworn, says that all statements and information contained in this Submittal are complete and accurate and that this Submittal contains no false or deliberately misleading information.

Contractor

Printed Name

Signature

Title

Subscribed and sworn to before me this _____ day of _____, 20 _____

Notary Public in and for the State of _____

Residing at _____

Expiration Date: _____

END OF FORM

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

PART I: ESSENTIAL REQUIREMENTS FOR QUALIFICATION

IMPORTANT NOTE:

Contractor may be immediately disqualified if the answer to any of questions 1 through 7 is “no.”

Contractor will be immediately disqualified if the answer to any of questions 8 through 12 is “yes.” If the answer to question 10 is “yes,” and if debarment would be the sole reason for denial of pre-qualification, any pre-qualification issued will exclude the debarment period.

1. Contractor possesses a valid and current California Class “A” or “B” General Contractor’s License in good standing for this project for which it intends to submit a bid.
☐ Yes ☐ No
2. Contractor has (or can provide proof that they can obtain within ten (10) business days prior to award) an insurance policy(ies) consistent with Attachment B “City of Burlingame Insurance Requirements”.
☐ Yes ☐ No
3. Contractor has current workers’ compensation insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code section 3700 et. seq.
☐ Yes ☐ No
4. Have you attached your latest copy of a reviewed or audited financial statement with accompanying notes and supplemental information?
☐ Yes ☐ No

NOTE: A financial statement that is not either reviewed or audited by a Certified Public Accountant (CPA) is not acceptable. A letter verifying availability of a line of credit may also be attached; however, it will be considered as supplemental information only, and is not a substitute for the required financial statement.

5. Have you attached a notarized statement from an admitted surety insurer (approved by the California Department of Insurance and authorized to issue bonds in the State of California), which states that your current bonding capacity is at least \$50,000,000 for a single project, and \$100,000,000 aggregate, should you be selected?¹
☐ Yes ☐ No

¹ An additional notarized statement from the surety may be requested by the City of Burlingame at the time of submission of a bid, if this pre-qualification package is submitted more than 60 days prior to submission of the bid.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

NOTE: Notarized statement must be from Surety Company, not an agent or broker.

6. Contractor has completed at least five (4) comparable projects in the last ten (7) years? See Part III: Similar Project Experience Questionnaire for criteria.
☐ Yes ☐ No

7. Contractor has (or can provide proof that they can obtain within ten (10) business days prior to award) insurance policy with a policy limits consistent with the sample contract insurance requirements in Attachment B.
☐ Yes ☐ No

8. Has your contractor's license been revoked at any time in the last ten (10) years?
☐ Yes ☐ No

If yes, please explain why: _____

9. Has a surety firm completed, or is in the process of completing, a contract on your behalf, or has paid for completion because your firm was default terminated by the project owner within the last ten (10) years?
☐ Yes ☐ No

10. At the time of submitting this pre-qualification form, is your firm ineligible to bid on or be awarded any local, state or federal public works contracts, or perform as a subcontractor on any such public works contract, pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7 or any other local, state or federal law or regulation?
☐ Yes ☐ No

If the answer is "Yes," state the beginning and ending dates of the period of debarment:

Starting _____ Ending _____

11. At any time during the last ten (10) years, has your firm or any of its owners or officers been convicted of a crime involving the awarding of a contract of a government construction project, or the bidding or performance of a government contract?
☐ Yes ☐ No

12. In the last ten (10) years has your firm been denied an award of a public works contract based on a finding by a public agency that your company was not a responsible bidder?
☐ Yes ☐ No

If "yes," explain on a separate signed page. Identify the year of the event, the owner, the project and the basis for the finding by the public agency.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

PART II: QUESTIONNAIRE

Section A. Current Organization and Structure of the Business

For Firms That Are Corporations:

- 1a. Date incorporated: _____
- 1b. Under the laws of what state: _____
- 1c. Provide all the following information for each person who is either (a) an officer of the corporation (president, vice president, secretary, treasurer), or (b) the owner of at least ten percent (10%) of the corporation's stock.

Name	Position	Years with Co.	% Ownership	Social Security #

- 1d. Identify every construction firm that any person listed above has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

NOTE: For this question, "owner" and "partner" refer to ownership of ten percent (10%) or more of the business, or ten percent (10%) or more of its stock, if the business is a corporation.

Person's Name	Construction Firm	Dates of Person's Participation with Firm

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

For Firms That Are Partnerships:

- 1a. Date of formation: _____
- 1b. Under the laws of what state: _____
- 1c. Provide all the following information for each partner who owns ten percent (10%) or more of the firm.

Name	Position	Years with Co.	% Ownership	Social Security #

- 1d. Identify every construction company that any partner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

NOTE: For this question, “owner” and “partner” refer to ownership of ten percent (10%) or more of the business, or ten percent (10%) or more of its stock, if the business is a corporation.

Person's Name	Construction Company	Dates of Person's Participation with Company

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

For Firms That Are Sole Proprietorships:

- 1a. Date of commencement of business: _____
- 1b. Social security number of company owner: _____
- 1c. Identify every construction firm that the business owner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five (5) years.

NOTE: For this question, "owner" and "partner" refer to ownership of ten percent (10%) or more of the business, or ten percent (10%) or more of its stock, if the business is a corporation.

Person's Name	Construction Company	Dates of Person's Participation with Company

For Firms That Intend to Make a Bid as Part of a Joint Venture:

- 1a. Date of commencement of joint venture: _____
- 1b. Provide all of the following information for each firm that is a member of the joint venture that expects to bid on one (1) or more projects:

Name of firm	% Ownership of Joint Venture

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

Section B. History of the Business and Performance

1. Has there been any change in ownership of the firm at any time during the last ten (10) years?

NOTE: A corporation whose shares are publicly traded is not required to answer this question.

☐ Yes ☐ No

If "yes," explain on a separate signed page.

2. Is the firm a subsidiary, parent, holding company, or affiliate of another construction firm?

NOTE: Include descriptive and background information about other firms if one firm owns fifty percent (50%) or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.

☐ Yes ☐ No

If "yes," explain on a separate signed page.

3. Are any corporate officers, partners or owners connected to any other construction firms?

NOTE: Include descriptive and background information about other firms if an owner, partner, or officer of your firm holds a similar position in another firm.

☐ Yes ☐ No

If "yes," explain on a separate signed page.

4. State your firm's gross revenue for each of the last three (3) years:

2016

2017

2018

5. How many years has your organization been in business in California as a contractor under your present business name and license number? _____ Years

6. Was your firm in bankruptcy at any time during the last ten (10) years?

☐ Yes ☐ No

If "yes," please attach a copy of the bankruptcy petition, showing the case number and the date on which, the petition was filed, and a copy of the Bankruptcy Court's discharge order, or any other document that ended the case, if no discharge order was issued.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

Licenses

7. List all California construction license numbers, classifications and expiration dates of the California Contractor Licenses held by your firm:

8. If any of your firm's license(s) are held in the name of a corporation or partnership, list below the names of the qualifying individual(s) listed on the California Contractors State License Board (CSLB) records who meet(s) the experience and examination requirements for each license.

9. Has your firm changed names or license number in the past ten (10) years?

☐ Yes ☐ No

If "yes," explain on a separate signed page, including the reason for the change.

10. Has any owner, partner, or (for corporations) officer of your firm operated a construction firm under any other name in the last ten (10) years?

☐ Yes ☐ No

If "yes," explain on a separate signed page, including the reason for the change.

11. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last ten (10) years?

☐ Yes ☐ No

If "yes," please explain on a separate signed sheet.

Disputes

12. At any time in the last ten (10) years has your firm been assessed and paid liquidated damages after completion of a project under a construction contract with either a public or private owner?

☐ Yes ☐ No

If yes, explain on a separate signed page, identifying all such projects by owner, owner's address, the date of completion of the project, amount of liquidated damages assessed and all other information necessary to fully explain the assessment of liquidated damages.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

13. In the last ten (10) years has your firm, or any firm with which any of your company's owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public works project for any reason?

NOTE: "Associated with" refers to another construction firm in which an owner, partner or officer of your firm held a similar position, and which is listed in response to question 1c or 1d on this form.

☐ Yes ☐ No

If "yes," explain on a separate signed page. State whether the firm involved was the firm applying for pre-qualification here or another firm. Identify by name of the company, the name of the person within your firm who was associated with that company, the year of the event, the owner of the project, the project and the basis for the action.

* * * * *

NOTE: The following two (2) questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about "pass-through" disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than \$10,000.

14. In the past ten (10) years has any claim against your firm concerning your firm's work on a construction project been filed in court or arbitration?

☐ Yes ☐ No

If "yes," on separate signed sheets of paper identify the claim(s) by providing the project name, date of the claim, name of the claimant, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending or, if resolved, a brief description of the resolution).

15. In the past ten (10) years has your firm made any claim against a project owner concerning work on a project or payment for a contract and filed that claim in court or arbitration?

☐ Yes ☐ No

If "yes," on separate signed sheets of paper identify the claim by providing the project name, date of the claim, name of the entity (or entities) against whom the claim was filed, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending, or if resolved, a brief description of the resolution).

* * * * *

16. At any time during the past ten (10) years, has any surety company made any payments on your firm's behalf as a result of a default, to satisfy any claims made

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

against a performance or payment bond issued on your firm's behalf, in connection with a construction project, either public or private?

☐ Yes ☐ No

If "yes," explain on a separate signed page the amount of each such claim, the name and telephone number of the claimant, the date of the claim, the grounds for the claim, the present status of the claim, the date of resolution of such claim if resolved, the method by which such was resolved if resolved, the nature of the resolution and the amount, if any, at which the claim was resolved.

17. In the last ten (10) years has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

☐ Yes ☐ No

If "yes," explain on a separate signed page. Name the insurance carrier, the form of insurance and the year of the refusal.

Criminal Matters and Related Civil Suits

18. Has your firm or any of its owners, officers or partners ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public agency or entity?

☐ Yes ☐ No

If "yes," explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the investigation and the grounds for the finding.

19. Has your firm or any of its owners, officers or partners ever been convicted of a crime involving any federal, state, or local law related to construction?

☐ Yes ☐ No

If "yes," explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the conviction and the grounds for the conviction.

20. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?

☐ Yes ☐ No

If "yes," identify on a separate signed page the person or persons convicted, the court (the county if a state court, the district or location of the federal court), the year and the criminal conduct.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

Bonding

21. Bonding capacity: _____

Provide documentation from your surety identifying the following:

Name of bonding company/surety: _____

Name of surety agent, address and telephone number:

22. If your firm was required to pay a premium of more than one percent (1%) for a performance and payment bond on any project(s) on which your firm worked at any time during the last five (5) years, state the percentage that your firm was required to pay. You may provide an explanation for a percentage rate higher than one percent (1%), if you wish to do so.

23. List all other sureties (name and full address) that have written bonds for your firm during the last five (5) years, including the dates during which each wrote the bonds:

24. During the last ten (10) years, has your firm ever been denied bond coverage by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a public construction project when one was required?

☐ Yes ☐ No

If yes, provide details on a separate signed sheet indicating the date when your firm was denied coverage and the name of the company or companies which denied coverage; and the period during which you had no surety bond in place.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

Section C. Compliance with Regulatory Requirements

25. Has CAL OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past ten (10) years?

NOTE: If you have filed an appeal of a citation, and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.

☐ Yes ☐ No

If “yes,” attach a separate signed page describing the citations, including information about the dates of the citations, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed to the Occupational Safety and Health Appeals Board and a decision has been issued, state the case number and the date of the decision.

26. Has the Federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past ten (10) years?

NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

☐ Yes ☐ No

If “yes,” attach a separate signed page describing each citation.

27. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past ten (10) years?

NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

☐ Yes ☐ No

If “yes,” attach a separate signed page describing each citation.

28. How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project?

29. List your firm’s Experience Modification Rate (EMR) (California workers’ compensation insurance) for each of the past three premium years:

NOTE: An Experience Modification Rate is issued to your firm annually by your workers’ compensation insurance carrier.

Current year: _____

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

Previous year: _____

Year prior to previous year: _____

If your EMR for any of these three years is or was 1.00 or higher you may, if you wish, attach a letter of explanation.

30. Within the last ten (10) years has there ever been a period when your firm had employees but was without workers' compensation insurance or state-approved self-insurance?

☐ Yes ☐ No

If "yes," please explain the reason for the absence of workers' compensation insurance on a separate signed page. If "No," please provide a statement by your current workers' compensation insurance carrier that verifies periods of workers' compensation insurance coverage for the last five years. (If your firm has been in the construction business for less than five years, provide a statement by your workers' compensation insurance carrier verifying continuous workers' compensation insurance coverage for the period that your firm has been in the construction business.)

Prevailing Wage Compliance Record

31. Has there been any occasion during the last ten (10) years in which your firm was required to pay either back wages or penalties for your own firm's failure to comply with the **State's** prevailing wage laws?

NOTE: This question refers only to your own firm's violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.

☐ Yes ☐ No

If "yes", attach a separate signed page or pages, describing the nature of each violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid and the amount of back wages and penalties that you were required to pay.

32. During the last ten (10) years, has there been any occasion in which your own firm has been penalized or required to pay back wages for failure to comply with the **Federal** Davis-Bacon prevailing wage requirements?

☐ Yes ☐ No

If "yes," attach a separate signed page or pages describing the nature of the violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid, the amount of back wages you were required to pay along with the amount of any penalty paid.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

PART III SIMILAR PROJECT EXPERIENCE QUESTIONNAIRE

Part III is a verification of the answer provided in Part I Essential Requirements, Question 6. Respondents whose experience is not verifiable according to the following criteria shall be disqualified as failing to meet the Essential Requirements.

Contractor shall provide information about its four (4) most recent comparable projects, all of which must have been successfully completed within the last seven (7) years. All 4 projects must meet the minimum criteria:

1. Minimum project value of \$20,000,000
2. Projects must be similar in size or complexity to any combination of the following project types:
 - A. Public Sector: City Hall, Recreation Facility, Performing Arts Theater, Senior Center, Police Facility, Library, High School or Higher Education facility.
 - B. Private Sector: Community Center, Hotels, Mixed Use Developments, High End Retail.
3. Of the (4) projects listed at least 1 of the projects must have a subterranean structural component similar to the project.
4. Site Improvements including wet and dry utilities, site landscape, parking, and site concrete.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

General Contractor Experience Requirements: Reference 1

Project Name: _____

Location: _____

Owner: _____

Owner Representative, address, email and phone number: _____

Architect or Engineer, address, email and phone number: _____

Description of Project, Scope of Work Performed: _____

Percentage of Base Contract subcontracted: _____

Total Value of Construction breakdown with initial contract award/final contract
sum: _____

Original Scheduled Completion Date: _____

Initial Contract time in days: _____ Time Extensions granted in Days: _____

Days Liquidated damages assessed: _____

Actual Date of Completion: _____

LEED (Yes / No): _____

Union Labor % _____

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

General Contractor Experience Requirements: Reference 2

Project Name: _____

Location: _____

Owner: _____

Owner Representative, address, email and phone number: _____

Architect or Engineer, address, email and phone number: _____

Description of Project, Scope of Work Performed: _____

Percentage of Base Contract subcontracted: _____

Total Value of Construction breakdown with initial contract award/final contract
sum: _____

Original Scheduled Completion Date: _____

Initial Contract time in days: _____ Time Extensions granted in Days: _____

Days Liquidated damages assessed: _____

Actual Date of Completion: _____

LEED (Yes / No): _____

Union Labor % _____

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

General Contractor Experience Requirements: Reference 3

Project Name: _____

Location: _____

Owner: _____

Owner Representative, address, email and phone number: _____

Architect or Engineer, address, email and phone number: _____

Description of Project, Scope of Work Performed: _____

Percentage of Base Contract subcontracted: _____

Total Value of Construction breakdown with initial contract award/final contract
sum: _____

Original Scheduled Completion Date: _____

Initial Contract time in days: _____ Time Extensions granted in Days: _____

Days Liquidated damages assessed: _____

Actual Date of Completion: _____

LEED (Yes / No): _____

Union Labor % _____

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

General Contractor Experience Requirements: Reference 4

Project Name: _____

Location: _____

Owner: _____

Owner Representative, address, email and phone number: _____

Architect or Engineer, address, email and phone number: _____

Description of Project, Scope of Work Performed: _____

Percentage of Base Contract subcontracted: _____

Total Value of Construction breakdown with initial contract award/final contract
sum: _____

Original Scheduled Completion Date: _____

Initial Contract time in days: _____ Time Extensions granted in Days: _____

Days Liquidated damages assessed: _____

Actual Date of Completion: _____

LEED (Yes / No): _____

Union Labor % _____

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

PART IV ORGANIZATIONAL RESOURCES

Staff Roster/Functions

1. Contractor shall furnish an organization chart that includes all supervisory positions anticipated to be assigned to the Project. Indicate therein which ones are full time on site and which are part time.

List key members of your staff whom you consider candidates to be assigned to work as a full-time team member resident on this Project and complete all requested information as shown below.

Key, full-time candidate team members must include, without limitation:

1. Project Manager and 2. Superintendent. Use separate sheets of paper that contain all of the following information:

Name: _____

Job Title: _____

Number of Years with Firm: _____

Proposed Function on the Project: _____

Number of Years in Current Position: _____

Number of Projects (in job function) Completed: _____

Number of Years in Construction Industry: _____

Minimum of two (2) projects, in a supervisory role, of similar type and scale as described in Section III: Similar Project Experience Questionnaire. On separate sheet provide project description, value, dates of construction, references and reference contact information for each project.

I, the undersigned, certify and declare that I have read all the foregoing answers to this pre-qualification questionnaire and know their contents. The matters stated in the questionnaire answers are true of my own knowledge and belief, except as to those matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California, that the foregoing is correct.

Signature

Date

Print Name

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

A LIST OF THE SCORABLE QUESTIONS AND THE SCORING INSTRUCTIONS

The scorable questions are in two sections as follows:

Part II – Section B History of the business and organizational performance;

Part II – Section C Compliance with occupational safety and health laws, workers' compensation and other labor legislation;

Note: This section includes only those questions that are "scorable" from the Part II Questionnaire. The following question numbers correspond to those used in the Part II.

The Scores Needed for Pre-Qualification

To pre-qualify, a contractor would be required to qualify under Part I, then have a passing grade within each of the two large categories in Part II referred to above.

Section B, "History of the business and organizational performance,"

The prospective contractor is required to meet a passing score of 51 on this portion of the questionnaire (of a maximum score of 68 on this portion of the questionnaire).

Section C, "Compliance with occupational safety and health laws, workers' compensation and other labor legislation"

The prospective contractor is required to meet a passing score of 27 on this portion of the questionnaire (of a maximum score of 38 points on this portion of the questionnaire).

Questions about History of the Business and Organizational Performance

Section B

(14 questions)

5. How many years has your organization been in business in California as a contractor under your present business name and license number? _____ Years

3 years or more = 2 points

4 years = 3 points

5 years = 4 points

6 years or more = 5 points

6. Was your firm in bankruptcy at any time during the last ten (10) years?

☐ Yes ☐ No

"No" = 3 points "Yes" = 0 points

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

11. Has any CSLB license held by your firm or its Responsible Managing Employee (“RME”) or Responsible Managing Officer (“RMO”) been suspended within the last ten (10) years?

☐ Yes ☐ No

“No” = 5 points “Yes” = 0 points

12. At any time in the last ten (10) years has your firm been assessed and paid liquidated damages after completion of a project under a construction contract with either a public or private owner?

☐ Yes ☐ No

No projects with liquidated damages of more than \$10,000, or one (1) project with liquidated damages = 5 points

Two (2) projects with liquidated damages of more than \$10,000 = 3 points

Any other answer: 0 points

13. In the last ten (10) years has your firm, or any firm with which any of your company’s owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public works project for any reason?

NOTE: “Associated with” refers to another construction firm in which an owner, partner or officer of your firm held a similar position, and which is listed in response to question 1c or 1d on this form.

☐ Yes ☐ No

“No” = 5 points “Yes” = 0 points

* * * * *

NOTE: The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about “pass-through” disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than \$10,000.

14. In the past ten (10) years has any claim against your firm concerning your firm’s work on a construction project been filed in court or arbitration?

☐ Yes ☐ No

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

If the firm's average gross revenue for the last three (3) years was less than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1 such instance

3 points for "Yes" indicating 2 such instances

0 points for "Yes" if more than 2 such instances

If your firm's average gross revenue for the last three years was more than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating 1, 2, or 3 such instances

3 points for "Yes" indicating either 4 or 5 such instances

0 points for "Yes" if more than 5 such instances

15. In the past ten (10) years has your firm made any claim against a project owner concerning work on a project or payment for a contract and **filed that claim in court or arbitration?**

☐ Yes ☐ No

If your firm's average gross revenue for the last three (3) years was less than \$50 million scoring is as follows:

5 points for either "No" or "Yes" indicating 1 such instance

3 points for "Yes" indicating 2 such instances

0 points for "Yes" if more than 2 such instances

If your firm's average gross revenue for the last three years was more than \$50 million scoring is as follows:

5 points for either "No" or "Yes" indicating 1, 2, or 3 such instances

3 points for "Yes" indicating either 4 or 5 such instances

0 points for "Yes" if more than 5 such instances

16. At any time during the past ten (10) years, has any surety company made any payments on your firm's behalf as a result of a default, to satisfy any claims made against a performance or payment bond issued on your firm's behalf, in connection with a construction project, either public or private?

☐ Yes ☐ No

5 points for either "No" or "Yes" indicating 1 such claim

3 points for "Yes" indicating no more than 2 such claims

Subtract 5 points for "Yes" if more than 2 such claims

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

17. In the last ten (10) years has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

☐ Yes ☐ No

5 points for either “No” or “Yes” indicating 1 such instance

3 points for “Yes” indicating 2 such instances

0 points for “Yes” or if more than 2 such instances

18. Has your firm or any of its owners, officers or partners ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public agency or entity?

☐ Yes ☐ No

“No” = 5 points “Yes” = subtract 5 points

19. Has your firm or any of its owners, officers or partners ever been convicted of a crime involving any federal, state, or local law related to construction?

☐ Yes ☐ No

“No” = 5 points “Yes” = subtract 5 points

20. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?

☐ Yes ☐ No

“No” = 5 points “Yes” = subtract 5 points

22. If your firm was required to pay a premium of more than one per cent for a performance and payment bond on any project(s) on which your firm worked at any time during the last five (5) years, state the percentage that your firm was required to pay. You may provide an explanation for a percentage rate higher than one per cent, if you wish to do so.

_____ %

5 points if the rate is no more than one per cent

3 points if the rate was no higher than 1.10 per cent

0 points for any other answer

24. During the last ten (10) years, has your firm ever been denied bond coverage by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a public construction project when one was required?

☐ Yes ☐ No

“No” = 5 points “Yes” = 0 points

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

**Questions about compliance with safety, workers compensation,
prevailing wage and apprenticeship laws.**

Section C

(8 questions)

25. Has CAL OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past ten (10) years?

NOTE: If you have filed an appeal of a citation, and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.

☐ Yes ☐ No

If the firm’s average gross revenue for the last three years was less than \$50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1 such instance

3 points for “Yes” indicating 2 such instances

0 points for “Yes” if more than 2 such instances

If the firm’s average gross revenue for the last three years was more than \$50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1, 2, or 3 such instances

3 points for “Yes” indicating either 4 or 5 such instances

0 points for “Yes” if more than 5 such instances

26. Has the Federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past ten (10) years?

NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

☐ Yes ☐ No

If the firm’s average gross revenue for the last three years was less than \$50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1 such instance

3 points for “Yes” indicating 2 such instances

0 points for “Yes” or if more than 2 such instances

If the firm’s average gross revenue for the last three years was more than \$50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1, 2, or 3 such instances

3 points for “Yes” indicating either 4 or 5 such instances

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

0 points for “Yes” if more than 5 such instances

27. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past ten (10) years?

NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

☐ Yes ☐ No

If the firm’s average gross revenue for the last three years was less than \$50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1 such instance

3 points for “Yes” indicating 2 such instances

0 points for “Yes” or if more than 2 such instances

If the firm’s average gross revenue for the last three years was more than \$50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1, 2, or 3 such instances

3 points for “Yes” indicating either 4 or 5 such instances

0 points for “Yes” if more than 5 such instances

28. How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project?

3 points for an answer of once each week or more often

0 points for any other answer

29. List your firm’s Experience Modification Rate (EMR) (California workers’ compensation insurance) for each of the past three premium years:

NOTE: An Experience Modification Rate is issued to your firm annually by your workers’ compensation insurance carrier.

Current year: _____

Previous year: _____

Year prior to previous year: _____

NOTE: An Experience Modification Rate is issued to your firm annually by your workers’ compensation insurance carrier.

5 points for three-year average EMR of .95 or less

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

**3 points for three-year average of EMR of more than .95 but no more than 1.00
0 points for any other EMR**

30. Within the last ten (10) years has there ever been a period when your firm had employees but was without workers' compensation insurance or state-approved self-insurance?
☐ Yes ☐ No

5 points for either "No" or "Yes" indicating 1 such instance

0 points for any other answer

31. Has there been any occasion during the last ten (10) years in which your firm was required to pay either back wages or penalties for your own firm's failure to comply with the **State's** prevailing wage laws?
☐ Yes ☐ No

If your firm's average gross revenue for the last three years was less than \$50 million, scoring is as follows:

5 points for either "No," or "Yes" indicating either 1 or 2 such instance

3 points for "Yes" indicating 3 such instances

0 points for "Yes" and more than 3 such instances

If your firm's average gross revenue for the last three years was more than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating no more than 4 such instances

3 points for "Yes" indicating either 5 or 6 such instances

0 points for "Yes" and more than 6 such instances

32. During the last ten (10) years, has there been any occasion in which your own firm has been penalized or required to pay back wages for failure to comply with the **Federal** Davis-Bacon prevailing wage requirements?
☐ Yes ☐ No

If your firm's average gross revenue for the last three years was less than \$50 million, scoring is as follows:

5 points for either "No," or "Yes" indicating either 1 or 2 such instance

3 points for "Yes" indicating 3 such instances

0 points for "Yes" and more than 3 such instances

If your firm's average gross revenue for the last three years was more than \$50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating no more than 4 such instances

3 points for "Yes" indicating either 5 or 6 such instances

0 points for "Yes" and more than 6 such instances

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

ATTACHMENT A
PROJECT RENDERINGS

CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS

BURLINGAME COMMUNITY CENTER PROJECT SCOPE



Entry View from Burlingame Avenue

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BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**



East View from Burlingame Avenue



View from Washington Park

ATTACHMENT B

City of Burlingame Insurance Requirements

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

BIDDERS' ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW AND IN STANDARD SPECIFICATIONS SECTIONS 3-1.07, "INSURANCE POLICIES," and 7-1.06, "INSURANCE."

IT IS HIGHLY RECOMMENDED THAT BIDDERS CONFER WITH THEIR RESPECTIVE INSURANCE CARRIERS OR BROKERS TO DETERMINE IN ADVANCE OF BID SUBMISSION THE AVAILABILITY OF INSURANCE CERTIFICATES AND ENDORSEMENTS AS PRESCRIBED AND PROVIDED HEREIN. IF AN APPARENT LOW BIDDER FAILS TO COMPLY STRICTLY WITH THE INSURANCE REQUIREMENTS, THAT BIDDER MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT OR THE AWARD MAY BE REVOKED AND SUFFER LOSS OF BID BOND.

Contractor shall procure and maintain for the duration of the Contract insurance 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 the Contractor, Contractor's agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid.

Standard Specifications Section 7-1.06, "Insurance," is amended to include the following:

(a) Minimum Scope of Insurance

Coverage shall be at least as broad as:

- (1) Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form GC 0001).
- (2) Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, code 1 "any auto" and endorsement CA 0025.
- (3) Worker's Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

(b) Minimum Limits of Insurance

Contractor shall maintain limits no less than:

- (1) General Liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project/location or the general aggregate limit shall be twice the required occurrence limit.
- (2) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

- (3) Workers' Compensation and Employers Liability: Worker's compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.

(c) Deductibles and Self-insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the 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 officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

(d) Other Insurance Provision

The policies are to contain, or be endorsed to contain the following provision:

(1) General Liability and Automobile Liability Coverages

- (A) The City of Burlingame, its officers, officials, employees and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Contractor, products and completed operations of the Contractor, premises owned, occupied or used by the Contractor, or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Burlingame, its officers, officials, employees, or volunteers. The endorsement providing this additional insured coverage shall be equal to or broader than ISO Form CG 20 10 11 85 and must cover joint negligence, completed operations, and the acts of subcontractors.
- (B) The Contractor's insurance coverage shall be primary insurance as respects the City of Burlingame, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City of Burlingame, its officers, officials, employees, or volunteers shall be excess of the Contractor's Insurance and shall not contribute with it.
- (C) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City of Burlingame, its officers, officials, employees, or volunteers.
- (D) The Contractor'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.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

(2) Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the City of Burlingame, its officers, officials, employees, or volunteers for losses arising from work performed by the Contractor for the City of Burlingame.

(3) All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty days prior written notice by certified mail, return receipt required, has been given to the City of Burlingame.

(e) Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A-:VII and be authorized to conduct business with regard to the proffered lines of insurance in the State of California.

(f) Verification of Coverage

Contractor shall furnish the City with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms approved by the City. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(g) Subcontractors

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

ATTACHMENT C

City of Burlingame Sample Agreement

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

AGREEMENT FOR PUBLIC IMPROVEMENT

{INSERT PROJECT NAME}

CITY PROJECT NO. XXXXX

THIS AGREEMENT, made in duplicate and entered into in the City of Burlingame, County of San Mateo, State of California on _____, 2019 by and between the CITY OF BURLINGAME, a Municipal Corporation, hereinafter called "City", and _____, a [State of incorporation] [Corporation or other form of business], hereinafter called "Contractor."

WITNESSETH:

WHEREAS, City has taken appropriate proceedings to authorize construction of the public work and improvements herein provided for and to authorize execution of this Contract; and

WHEREAS, pursuant to State law and City requirements, a notice was duly published for bids for the contract for the improvement hereinafter described; and

WHEREAS, on _____, after notice duly given, the City Council of Burlingame awarded the contract for the construction of the improvements hereinafter described to Contractor, which the Council found to be the lowest responsive, responsible bidder for these improvements; and

WHEREAS, City and Contractor desire to enter into this Agreement for the construction of said improvements.

NOW, THEREFORE, IT IS AGREED by the parties hereto as follows:

1. Scope of work.

Contractor shall perform the work described in those Contract Documents entitled: {INSERT PROJECT NAME}, CITY PROJECT NO. XXXXX.

2. The Contract Documents.

The complete contract between City and Contractor consists of the following documents: this Agreement; Notice Inviting Sealed Bids, attached hereto as Exhibit A; the accepted Bid Proposal, attached hereto as Exhibit B; the specifications, provisions, addenda, complete plans, profiles, and detailed drawings contained in the bid documents

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

titled “**Project Name**, City Project No. **XXXXXX**” attached as Exhibit C; the State of California Standard Specifications 2010, as promulgated by the California Department of Transportation; prevailing wage rates of the State of California applicable to this project by State law; and all bonds; which are collectively hereinafter referred to as the Contract Documents. All rights and obligations of City and Contractor are fully set forth and described in the Contract Documents, which are hereby incorporated as if fully set forth herein. All of the above described documents are intended to cooperate so that any work called for in one, and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said documents.

3. Contract Price.

The City shall pay, and the Contractor shall accept, in full, payment of the work above agreed to be done, the sum of _____ dollars (\$_____), called the “Contract Price”. This price is determined by the lump sum and unit prices contained in Contractor's Bid. In the event authorized work is performed or materials furnished in addition to those set forth in Contractor's Bid and the Specifications, such work and materials will be paid for at the unit prices therein contained. Said amount shall be paid in progress payments as provided in the Contract Documents.

4. Termination

At any time and with or without cause, the City may suspend the work or any portion of the work for a period of not more than 90 consecutive calendar days by notice in writing to Contractor that will fix the date on which work will be resumed. Contractor will be granted an adjustment to the Contract Price or an extension of the Time for Completion, or both, directly attributable to any such suspension if Contractor makes a claim therefor as provided in the Contract Documents.

The occurrence of any one or more of the following events will justify termination of the contract by the City for cause: (1) Contractor's persistent failure to perform the work in accordance with the Contract Documents; (2) Contractor's disregard of Laws or Regulations of any public body having jurisdiction; (3) Contractor's disregard of the authority of the Engineer; or (4) Contractor's violation in any substantial way of any provision of the Contract Documents. In the case of any one or more of these events, the City, after giving Contractor and Contractor's sureties seven calendar days written notice of the intent to terminate Contractor's services, may initiate termination procedures. Such termination will not affect any rights or remedies of City against Contractor then existing or that accrue thereafter. Any retention or payment of moneys due Contractor will not

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

release Contractor from liability. At the City's sole discretion, Contractor's services may not be terminated if Contractor begins, within seven calendar days of receipt of such notice of intent to terminate, to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 calendar days of such notice.

Upon seven calendar days written notice to Contractor, City may, without cause and without prejudice to any other right or remedy of City, terminate the Contract for City's convenience. In such case, Contractor will be paid for (1) work satisfactorily completed prior the effective date of such termination, (2) furnishing of labor, equipment, and materials in accordance with the Contract Documents in connection with uncompleted work, (3) reasonable expenses directly attributable to termination, and (4) fair and reasonable compensation for associated overhead and profit. No payment will be made on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

5. Provisions Cumulative.

The provisions of this Agreement are cumulative and in addition to and not in limitation of any other rights or remedies available to the City.

6. Notices.

All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

Notices required to be given to the City shall be addressed as follows:

XXXXXXXXX
TITLE
City of Burlingame
XXXXXXXXXXXXX
Burlingame, California 94010

Notices required to be given to Contractor shall be addressed as follows:

Name
Company Name
Address

7. Interpretation

As used herein, any gender includes the other gender and the singular includes the plural and vice versa.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

8. Waiver or Amendment.

No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the City and the Contractor. One or more waivers of any term, condition, or other provision of this Agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other provision.

9. Controlling Law.

This Agreement is to be governed by and interpreted in accordance with the laws of the State of California.

10. Successors and Assignees.

This Agreement is to be binding on the heirs, successors, and assigns of the parties hereto but may not be assigned by either party without first obtaining the written consent of the other party.

11. Severability.

If any term or provision of this Agreement is deemed invalid, void, or unenforceable by any court of lawful jurisdiction, the remaining terms and provisions of the Agreement shall not be affected thereby and shall remain in full force and effect.

12. Indemnification.

Contractor shall indemnify, defend, and hold the City, its directors, officers, employees, agents, and volunteers harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of, pertaining or relating to the actual or alleged negligence, recklessness or willful misconduct of Contractor, its employees, subcontractors, or agents, or on account of the performance or character of the services, except for any such claim arising out of the sole negligence or willful misconduct of the City, its officers, employees, agents, or volunteers. It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in section 2778 of the California Civil Code. Notwithstanding the foregoing, for any design professional services, the duty to defend and indemnify City shall be limited to that allowed by state law. Acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

IN WITNESS WHEREOF, two identical counterparts of this Agreement, consisting of five pages, including this page, each of which counterparts shall for all purposes be deemed an original of this Agreement, have been duly executed by the parties hereinabove named on the day and year first hereinabove written.

**CITY OF BURLINGAME
BURLINGAME COMMUNITY CENTER
PRE-QUALIFICATION OF GENERAL CONTRACTORS**

CITY OF BURLINGAME,
a Municipal Corporation

By _____
Lisa K. Goldman, City Manager

Approved as to form:

Kathleen Kane, City Attorney

ATTEST:

Meaghan Hassel-Shearer, City Clerk

"CONTRACTOR"

By _____
Print Name:
Company Name: