

REQUEST FOR PROPOSAL  
INVESTMENT ADVISORY SERVICES | PACKAGE A: CITY INVESTMENT  
PORTFOLIO | PACKAGE B: SECTION 115 TRUST  
26-262



Issued By:  
City of Milpitas  
Purchasing Division  
455 E. Calaveras Blvd.  
Milpitas, CA 95035-5411

[City of Milpitas Purchasing Website](#)

RELEASE DATE: August 20, 2026  
DEADLINE FOR QUESTIONS: September 3, 2026  
RESPONSE DEADLINE: September 24, 2026, 12:00 pm

RESPONSES MAY BE SUBMITTED ELECTRONICALLY TO:  
<https://procurement.opengov.com/portal/milpitas-ca>

The City of Milpitas

REQUEST FOR PROPOSAL

Investment Advisory Services | Package A: City Investment Portfolio |  
Package B: Section 115 Trust

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## I. Notice of Request For Proposals

Notice is hereby given that proposals will be received on the City of Milpitas eProcurement website OpenGov, until Thursday, September 24, 2026 for: Investment Advisory Services | Package A: City Investment Portfolio | Package B: Section 115 Trust.

The scope of work, content of the proposal, and the selection process are described in the Request for Proposals ("RFP"). Interested parties may obtain copies of the RFP through the Milpitas purchasing website at <https://www.milpitas.gov/264/Bid-Opportunities> or directly through OpenGov at <https://procurement.opengov.com/portal/milpitas-ca>.

**SUBMITTING THE PROPOSAL:** The City requires that proposals be submitted electronically through its eProcurement website on OpenGov. Electronic proposals must be submitted through OpenGov by the Submittal Deadline noted above. It is the sole responsibility of the Proposer to ensure that its proposal is submitted through OpenGov before the RFP closing date and time.

Electronic proposal submittals require uploading electronic attachments. All uploaded documents must be attached as separate Microsoft Word, Excel, or Adobe PDF files only. Submission of attachments containing embedded documents is prohibited. It is the responsibility of the Proposer to familiarize itself with the OpenGov eProcurement system, and the City does not assume any liability or responsibility for late proposals.

Registration. Proposers must register on OpenGov to submit proposal responses. If you are not already registered, please go to <https://procurement.opengov.com/portal/milpitas-ca> and click on **+Subscribe**. There is no cost to register for or participate in City of Milpitas solicitations.

License and Bonding. Proposer shall be licensed and bonded in accordance with industry practices, laws, rules, and regulations governing the performance of services required in this RFP.

For more information regarding the RFP, please contact:

Jennifer Cheng

Senior Special Project Associate

[jcheng@milpitas.gov](mailto:jcheng@milpitas.gov)



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REQUEST FOR PROPOSAL

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## II. Introduction

### II.A Summary

Through this Request for Proposal (RFP), the City is soliciting investment advisory services for two separate areas: City Investment Portfolio and Section 115 Trust. This RFP consists of one main section and two separate packages. Proposers are directed to review and respond to the information contained in **this main RFP**, which includes general terms, conditions, attachments and requirements that are applicable to both packages.

Proposers must submit any package-specific responses in the respective Package A and/or Package B. Each package will be evaluated and awarded separately, resulting in two contracts.

**Note:** Proposers must navigate to **Project Documents, Section 3** of this main RFP to access the live links for both Package A and Package B.

#### Package A – City Investment Portfolio

The selected proposer will provide comprehensive review, analysis, reporting and portfolio management of the City's investment portfolio in accordance with the City's Adopted Investment Policy.

**Term:** The estimated start date for the contract is January 1, 2027 for a five-year initial term, with two one-year options, to be exercised at the City's sole discretion, to extend the Agreement for a total of seven years.

**How to Access:** Please reference Package A for background, scope of services and vendor questionnaire. Go to Project Documents, Section 3 for the active link to Package A.

#### Package B – Section 115 Trust Portfolio

The selected proposer will provide Internal Revenue Service (IRS) Code Section 115 Retirement Trust (hereinafter referred to as "Trust") services to California local government agencies. The services include providing Section 115 trust service investment and administrative services.

**Term:** The estimated start date for this contract is April 1, 2027 for a five-year initial term, with two one-year options, to be exercised at the City's sole discretion, to extend the Agreement for a total of seven years.

**How to Access:** Please reference Package B for background, scope of services and vendor questionnaire. Go to Project Documents, Section 3 for active link to Package B.

### II.B Background

The City of Milpitas is located in Santa Clara County near the southern tip of San Francisco Bay, 45 miles south of San Francisco with a current population of approximately 82,000. Milpitas is a general law city of the State of California. The city was incorporated in 1954 and operates under a Council-Manager form of government. The City's political and legislative body is the City



Council and is empowered by the general laws of the State of California to formulate citywide policy, including a fiscal program, City services, and appointment of the City Manager and City Attorney. There are four City Council members who are elected at-large for staggered four-year terms, and the Mayor is selected every two years in a separate citywide election. The Director of Finance, hired by the City Manager, serves as the City Treasurer.

Refer to Background sections in each package for additional details.

## II.C Timeline

**Schedule of Activities.** The City reserves the right to amend the schedule below as necessary. All times referenced are in Pacific Time.

|                                     |                             |
|-------------------------------------|-----------------------------|
| <b>Release Date</b>                 | August 20, 2026             |
| <b>Question Submission Deadline</b> | September 3, 2026, 12:00pm  |
| <b>Proposal Submission Deadline</b> | September 24, 2026, 12:00pm |

## III. Package A & B: Scope of Services, Vendor Questionnaire, Evaluation Criteria

### III.A Package A & B: Scope of Services, Vendor Questionnaire, Evaluation Criteria

Each package under this Request for Proposal contains its own **Scope of Services, Vendor Questionnaire, and Evaluation Criteria (see links below)**. Proposer shall submit a complete response, including the Vendor Questionnaire, for each Package they wish to be considered for.

Package A: **City Investment Portfolio** (<https://procurement.opengov.com/portal/milpitas-ca/projects/287267>)

Package B: **Section 115 Trust** (<https://procurement.opengov.com/portal/milpitas-ca/projects/288379>)

Failure to provide all required information to the main RFP and each Package for which you intend to submit a proposal may result in disqualification of your submittal without further consideration.



### III.B Questions Submission Instructions

All questions shall be submitted in this main RFP through the Questions and Answers portal. Clearly identify and label each question with one of three categories: **General** (overall RFP requirements or applies to both packages), **Package A**, or **Package B**.

The City shall post responses to questions received prior to the specified Questions Submittal Deadline and any required RFP addenda in this main RFP.

## IV. Vendor Questionnaire (Main)

In order to be fully compliant with the requirements of the RFP, please follow this format exactly siting each heading (Cover Letter, Company Profile, etc.). Proposer may include any additional information they feel is relevant to the RFP, but at a minimum include each and every numbered and lettered item below in the proposal.

Once submitted, the Proposal and any supplementary documents become the property of the City.

### IV.A Proposer Contact Information\*

Please provide your firm's name and your full name, title, direct phone number, and email address.

\*Response required

### IV.B Package Submission\*

Indicate the package(s) for which your firm is submitting a proposal(s).

By checking the below, you confirm that you have completed and submitted the corresponding Vendor Questionnaire, and required response documents, for each selected package.

**Proposers who fail to submit the package-specific vendor questionnaire(s) will be deemed non-responsive.**

*Select all that apply*

☐ Package A: City Investment Portfolio

☐ Package B: Section 115 Trust

\*Response required

### IV.C Time is of the Essence\*

Time is of the essence for each and every provision of this Agreement/Contract. Vendor confirms that it has thoroughly reviewed every requirement of this solicitation and the accompanying sample Agreement/Contract and will furnish all necessary documents outlined in either this



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solicitation or the attached Agreement/Contract. By confirming this question, vendor understands that failure to provide any and all documents, including but not limited to, forms, subcontractor information, bonds, insurance, and quotes when requested by the City may result in the disqualification of their bid/proposal.

☐ Please confirm

\*Response required

#### **IV.D Acknowledgement of Addenda\***

Any proposal submitted that does not acknowledge each and every addenda issued may be considered non-responsive. By confirming this prompt, you agree and confirm that you have seen and responded to all addenda to the RFP.

☐ Please confirm

\*Response required

#### **IV.E Acknowledgement of Questions and Responses\***

Any Proposal submitted that does not acknowledge questions and the City's corresponding answers may be considered non-responsive. By confirming this prompt, you agree and confirm that you have seen all questions and answers related to the RFP.

☐ Please confirm

\*Response required

#### **IV.F Current W-9\***

Please upload your firm's current W-9 form.

\*Response required

#### **IV.G Prior Contract Failure\***

Proposer **MUST** disclose any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the Proposer or in which the Proposer has been judged guilty or liable.

If there are none to disclose, you **MUST** state the following in response to this question:

**“Proposer has no prior or ongoing contract failures, civil or criminal litigation or pending investigation.”**

Failure to comply with this provision will disqualify any proposal.

\*Response required

#### **IV.H Certification of Proposer\***

Complete, sign, and upload your Certification of Proposer form here. **See Attachment A - RFP Submittal Forms to Complete.**



\*Response required

#### **IV.I Non-Collusion Declaration\***

Complete, sign, and upload your Non-Collusion Declaration form here. **See Attachment A - RFP Submittal Forms to Complete.**

\*Response required

#### **IV.J Nondiscriminatory Employment Certificate\***

Complete, sign, and upload your Nondiscriminatory Employment Certificate form here. **See Attachment A - RFP Submittal Forms to Complete.**

\*Response required

#### **IV.K Wage Theft Certification\***

Complete, sign, and upload your Wage Theft Certification form here. **See Attachment A - RFP Submittal Forms to Complete.**

\*Response required

#### **IV.L Proposer's Statement Regarding Insurance Coverage\***

Complete, sign, and upload your Proposer's Statement Regarding Insurance Coverage form here. **See Attachment A - RFP Submittal Forms to Complete.**

\*Response required

#### **IV.M Worker's Compensation Insurance Certification\***

Complete, sign, and upload your Worker's Compensation Insurance Certification form here. **See Attachment A - RFP Submittal Forms to Complete.**

\*Response required

#### **IV.N Compliance with or deviation from RFP and Agreement\***

Complete, sign, and upload your RFP and/or Agreement Exceptions form here. **See Attachment A - RFP Submittal Forms to Complete.**

\*Response required

## **V. Submission Instructions**

### **V.A Proposal Submittal**

- A. Proposals must be submitted electronically through the City's eProcurement website <https://procurement.opengov.com/portal/milpitas-ca>.



- B. **Submittal Deadline.** Proposals must be uploaded to and submitted on the OpenGov website by the specified Submittal Deadline.
- C. **Responsibility.** Proposer is solely responsible for ensuring its proposal is successfully uploaded and submitted in accordance with the RFP requirements before the Submittal Deadline. The City shall not be responsible for any delays in transmission or errors in your submitted response. Proposals must be uploaded in Microsoft Word, Excel or Adobe PDF format only, using as few files as possible. **Do not wait until the last minute to upload files and submit your proposal response as delays can occur.** In the event that there is a problem uploading documents or submitting your proposal, please contact OpenGov support for assistance at <https://opengov.my.site.com/support/s/contactsupport>, Chat: <http://support.opengov.com>, Email: [support@opengov.com](mailto:support@opengov.com), or Phone: (650) 336-7167.
- D. **Extension of Submittal Deadline.** The City reserves the right to extend the Submittal Deadline when it is in the best interest of the City to do so.
- E. **Forms.** To be considered for award, each proposal shall be made on forms furnished by the City in this RFP.
- F. **Late Proposals.** The Submittal Deadline is absolute. Proposals will not be accepted after the Submittal Deadline.
- G. **Signature.** To be considered for award, each proposal shall be signed by an authorized representative of the Proposer.

## V.B Proposal Modifications

Any Proposer wishing to make modifications to a proposal that has already been electronically submitted may utilize the "unsubmit response" option on their submitted proposal, make their modifications, and then submit their response again prior to the specified Submittal Deadline. Proposers are solely responsible for ensuring that their final responses are submitted prior to the Submittal Deadline. **The eProcurement system will not allow submittal of proposal after the Submittal Deadline.**

## V.C Authorized Signatures

Every proposal must be signed by the person or persons legally authorized to bind the Proposer to a contract. Upon request of the City, any agent submitting a proposal on behalf of a Proposer shall provide a current power of attorney certifying the agent's authority to bind the Proposer. If an individual submits a proposal, their signature and post office address must be listed in the proposal. If a firm or partnership submits a proposal, the name and post office address of the firm or partnership and the signature of at least one of the general partners must be provided in the proposal. If a corporation submits a proposal, the proposal shall show the name of the state under the laws of which the corporation is chartered, the name and post office address of the corporation and the title of the person signing on behalf of the corporation. Upon request of the



City, the corporation shall provide a certified copy of the bylaws or resolution of the board of directors showing the authority of the officer signing the proposal to execute contracts on behalf of the corporation.

## **V.D Interpretation of Contract Documents**

If any person is in doubt as to the true meaning of any part of the RFP or finds discrepancies or omissions in the RFP, they may submit a request for an interpretation or correction through the OpenGov Question & Answer portal for this RFP no later than the specified deadline for questions.

The City will respond either by response in the Question & Answer section of the RFP or through a formal addendum. This solicitation and all such responses or addenda shall be incorporated into the resulting Agreement, whether directly or by reference. Oral and other interpretations or clarifications shall be without legal or contractual effect. It is the sole responsibility of each Proposer to check the website for addenda and questions/answers prior to submitting any proposal. In the event that this solicitation is obtained through any means other than the City's e-procurement portal on OpenGov, the City will not be responsible for the completeness, accuracy, or timeliness of the final solicitation document.

To submit questions:

- A. Go to the Milpitas Procurement Portal at <https://procurement.opengov.com/portal/milpitas-ca>;
- B. Click on the title of the solicitation to open the solicitation page;
- C. Click on the "Question & Answer" tab, and then click "Ask Question."

**Responses to questions/requests for clarification will be posted to the solicitation on the OpenGov website.**

**The deadline for submitting questions related to this solicitation is: Thursday, September 3, 2026**

Questions answered on OpenGov are considered to be a part of or clarification to the RFP and are considered to be addenda to be acknowledged by Proposers in their proposal submittals using the form provided. The City may also issue, at its sole discretion, a separate addendum document in response to questions/requests for clarification.

It is the responsibility of each Proposer to ensure that they have registered on OpenGov and subscribed to receive notifications. To register a new account, go to the City's e-procurement website <https://procurement.opengov.com/portal/milpitas-ca> and click + **Subscribe**.

**Any proposal submitted that does not acknowledge each and every question/answer may be considered non-responsive. Questions/answers, if any, must be acknowledged on the provided form in the space provided.**



## **V.E    Addenda**

Addenda issued pursuant to this RFP, if any, will be posted on the City's eProcurement website. However, it is the sole responsibility of the Proposer to check the website to determine whether any addenda have been issued.

**Any proposal submitted that does not acknowledge each and every addendum issued may be considered non-responsive. Addenda, if any, must be acknowledged by answering the question in the Vendor Questionnaire entitled "Acknowledgement of Addenda."**

## **VI.    Evaluation and Award Process**

### **VI.A    Award of Contract**

Award, if made, will be made to the Proposer offering the most advantageous proposal after consideration of all evaluation criteria set forth the section entitled "Evaluation Criteria." An Evaluation Committee will be established by the City. Proposers not meeting the minimum requirements established in this RFP and not submitting all required documents may be deemed non-responsive to the RFP and thus may not be considered by the Evaluation Committee. The Evaluation Committee will evaluate all proposals received in accordance with the Evaluation Criteria. The City shall not be obligated to award to the lowest priced proposal but will make an award in the best interests of the City after all factors have been evaluated.

### **VI.B    References**

The Evaluation Committee may also contact and evaluate the Proposer's and subcontractor's references; contact any Proposer to clarify any response; contact any current users of a Proposer's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process.

### **VI.C    Additional Discussions**

Discussions, such as interviews or system demonstrations, may, at the City's sole option, be conducted with a short-list of responsive and responsible Proposers for the purpose of clarification to assure full understanding of, and responsiveness to, the RFP requirements or to provide the City with a demonstration of the proposer's proposed product or software. Revisions may also be requested by the City, at its sole option, after original submissions and before award for obtaining best and final proposals.

Each Proposer shall be accorded fair and equal treatment throughout this process. The City will not disclose information submitted by competing Proposers.



## **VI.D Contract Negotiations**

A Notice of Intended Award will be posted to the RFP on OpenGov. Final award is contingent upon successful negotiation of a contract based on the City's standard terms and conditions. Negotiations shall be confidential and are not subject to disclosure until after agreement is reached. If contract negotiations cannot be concluded successfully and in a timely manner with the top-ranked Proposer, the City may, in its sole discretion, initiate negotiations with the next highest scoring Proposer.

The City reserves the right to contract in the manner that most benefits the City, including awarding more than one contract if desired. The City also reserves the right to cancel this RFP in its entirety and at its sole discretion.

Once negotiations are successfully completed, the Proposer will be recommended to the City Council for contract approval, and the City Council has the final authority to approve or reject the contract award.

## **VI.E Protest Procedure**

Should any Proposer protest the award to the Proposer offering the most advantageous proposal after consideration of all Evaluation Criteria, such protest should be submitted in writing to the designated Purchasing Contact for this solicitation. All protests received will be filed and adjudicated in compliance with the City Municipal Code Section "[1-2-3.19– Protest Procedure](#)".

# **VII. Terms & Conditions**

## **VII.A Term of the Agreement**

The City intends to enter into agreements with the awarded vendor(s) for an initial five (5) year term, with up to two (2) one-year options to extend, for a potential total of seven (7) years. The Agreement for Package A is currently anticipated to begin on or around January 1, 2027. The Agreement for Package B is currently anticipated to begin on or around April 1, 2027. The City reserves the right to review the successful Proposer's performance at any time throughout the term of the Agreement and cancel all or part of the Agreement, with or without cause, in its sole discretion.

## **VII.B Anti-Discrimination**

It is the policy of the City that in connection with all Services performed under the Agreement, there will be no discrimination against any prospective or active employee engaged in the Services because of race, color, ancestry, national origin, religious creed, sex, age, or marital



status. The Proposer agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment Practice Act, beginning with Labor Code Section 1735. In addition, the Proposer agrees to require like compliance by any subcontractor employed to complete any Services under the Agreement.

### **VII.C Background Checks**

All employees of the successful Proposers assigned to perform any services and duties identified in this RFP may be required to undergo a background security check (LifeScan or other background check as required by the City) and must be a minimum of twenty-one (21) years of age.

### **VII.D Attachment Review**

Please review attachments to ensure the proper Sample Contracts and forms are included

### **VII.E California Secretary of State**

The awarded Proposer will be required to have and maintain an active registration and be in good standing with the California Secretary of State throughout the term of the contract. See <https://bizfileonline.sos.ca.gov/search/business> for more information.

### **VII.F Milpitas Business License**

The awarded Proposer will be required to comply with the City's business license registration requirements set forth in its municipal code. See <https://www.milpitas.gov/241/Business-License-Center> for more information.

### **VII.G Communication**

Each Proposer must comply with the communication requirements specified herein. Any Proposer who communicates with parties or via methods not provided for in this RFP, may be subject to disqualification. Such communication includes contact with City elected officials, non-designated staff, or any member of the Evaluation Committee regarding this RFP.

The City is not responsible for any explanation, clarification, interpretation, or approval made or given in any manner, except by addendum or response to questions published to this solicitation in OpenGov.

### **VII.H Offers of More than One Price**

Proposer is NOT allowed to submit more than one proposal.



## **VII.I Proposal Prices and Notations**

Prices shall be stated in units and offers made separately on each item. In case of conflict between unit prices and extended prices, unit prices will govern. Where there is a conflict between words and figures, words will govern.

## **VII.J Price Discrepancies**

In the event that there are unit price items in a compensation proposal and the "amount" indicated for a unit price of an item does not equal the product of the unit price and quantity listed, the unit price shall govern, and the amount will be corrected accordingly. If there is more than one item in a compensation proposal, and the total indicated does not agree with the sum of prices of the individual items, the prices given for the individual items shall govern, and the total will be corrected accordingly. The Proposer will be bound by said corrections.

## **VII.K Conflict of Interest**

Pursuant to Government Code section 1090 and any other laws, rules and regulations that may apply, the Proposer covenants that neither it, its subcontractors, nor employees presently have an interest, and shall not acquire any interest, direct or indirect, financial or otherwise that would conflict in any manner or degree with the contract awarded from this RFP. Proposer certifies that to the best of its knowledge, no one who has or will have any financial interest in the contract awarded from this RFP is an officer or employee of the City. Through its proposal submittal, Proposer acknowledges that it is familiar with Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California and will immediately notify the City if it becomes aware of any facts concerning the contract to be awarded that constitute a violation of said provisions.

## **VII.L Examination of Contract Documents**

It is the responsibility of the Proposer to carefully and thoroughly examine and be familiar with the RFP, all attachments including the Agreement, responses to questions, and addenda, if any, (hereinafter collectively referred to as "Contract Documents"). Proposer shall satisfy themselves as to the character, quantity, and quality of the Services to be performed and materials, labor, supervision, equipment, and appurtenances necessary to perform the Services as specified by the Contract Documents. The failure or neglect of the Proposer to examine the Contract Documents shall in no way relieve them from any obligations with respect to the RFP or Agreement. The submission of a proposal shall constitute an acknowledgment upon which the City may rely that the Proposer has thoroughly examined and is familiar with the Contract Documents. The failure or neglect of a Proposer to receive or examine any of the Contract Documents shall in no way relieve them from any obligations with respect to the proposal. No claim will be allowed for additional compensation that is based upon a lack of knowledge of the Contract Documents.



## **VII.M Definition of Terms**

For the purposes of this RFP, the following definitions will be used:

- A. Contractor/successful Contractor/successful Proposer. The terms “Contractor,” “successful Contractor” and “successful Proposer” refers to the party selected to enter into a contract with the City as a result of this RFP.
- B. Evaluation Committee. An independent committee established by the City to review, evaluate, and score the proposals, and to recommend award to the Proposer that submitted the proposal determined by the committee to be in the best interest of the City.
- C. May. Indicates something that is not mandatory but permissible.
- D. Must/Shall. Indicates a mandatory requirement. A proposal that fails to meet a mandatory requirement may be deemed non-responsive and not be considered for award.
- E. Proposer. The person or firm making a legally binding offer.
- F. Proposal. The offer submitted by the Proposer.
- G. RFP. Acronym for Request for Proposal; same as Solicitation and Contract Documents.
- H. Should. Indicates something that is recommended but not mandatory. Failure to do what "should" be done will not result in rejection of your proposal but may result in lower scores during evaluation.
- I. Submittal Deadline. The date and time on or before all proposals must be submitted.

## **VII.N Disqualification of Proposer**

If there is reason to believe that collusion exists among the Proposers, the City may refuse to consider proposals from participants in such collusion. No person, firm, or corporation under the same or different name, shall make, file, or be interested in more than one proposal for the same work unless alternate proposals are called for. A person, firm, or corporation who has submitted a sub-proposal to a Proposer, or who has quoted prices on materials to a Proposer, is not thereby disqualified from submitting a sub-proposal or quoting prices to other Proposers. Reasonable grounds for believing that any Proposer is interested in more than one proposal for the same work will cause the rejection of all proposals for the work in which a Proposer is interested. Proposers shall submit as part of their proposal documents the completed Non-Collusion Declaration provided herein.



## **VII.O Documents to be Returned with Proposal**

Failure to completely execute and submit the required documents before the Submittal Deadline may render a proposal nonresponsive. The documents that must be returned by the Submittal Deadline are listed in the Vendor Questionnaire section.

## **VII.P Execution of Agreement**

The Contractor shall execute the Agreement in substantially the form provided in this RFP. A copy of the Agreement is attached hereto as Attachment B and incorporated herein by this reference. The Agreement shall include, among other things, this RFP, any addenda, and the relevant scope and pricing terms under the Contractor's proposal, whether incorporated directly into the Agreement or incorporated by reference. Contractor shall sign all necessary documents and submit all required bonds (if applicable) and evidences of insurance prior to contract execution. In case of failure of the Contractor to negotiate in good faith, provide all required documents, and execute the Agreement within a reasonable timeframe, the City may, at its option, terminate negotiations with the selected Contractor and engage the next highest-ranked Proposer in contract negotiations. After the Agreement has been executed, including the insurance documents, certificates, and bonds, if applicable, Contractor agrees to commence the services/project within ten (10) working days or as otherwise agreed to by the City.

## **VII.Q Experience and Competence**

The successful Proposer shall be skilled and regularly engaged in the general class or type of work called for under the Agreement. Proposer should meet or exceed the minimum years of experience in the magnitude and character of the services/project proposed, as specified for each individual package (Package A/B). It is the intention of the City to award a contract to a Proposer who furnishes satisfactory evidence that he or she has the requisite experience, ability, sufficient capital, and facilities to enable them to prosecute the services/project successfully and properly and to complete it within the time specified in the Agreement. To determine the degree of responsibility to be credited to the Proposer, the City will weigh any evidence that the Proposer has satisfactorily performed other contracts of like nature, magnitude, and comparable difficulty. In selecting the proposal most advantageous to the City, consideration will be given to the general competency of the Proposer for the performance of the work specified in the RFP. To this end, each Proposal shall be supported by a statement of the Proposer's experience on the form entitled "References," which is a part of the RFP.

Contractor's personnel assigned to the contract awarded from this RFP should meet or exceed the training and experience requirements related to services of similar scope, as specified for each individual package (Package A/B). Contractor will ensure that a full-time employee is assigned to the job as project manager for the duration of the Agreement, that he or she speaks English, and that he or she meets the specific experience requirements outlined for their respective package. These experience and competence requirements must be maintained



throughout the term of the resulting contract. Contractor may not substitute assigned Contractor staff without pre-approval by the City.

#### **VII.R Force Majeure**

If execution of the Agreement shall be delayed or suspended and if such failure arises out of causes beyond the control of and without fault or negligence of the Contractor, the Contractor shall notify the City, in writing, within twenty-four (24) hours, after the delay. Such causes may include, but are not limited to, acts of God, war, acts of a public enemy, and acts of any governmental entity in its sovereign or contractual capacity, fires, floods, epidemics, strikes, and unusually severe weather.

#### **VII.S Formation of Contract**

Proposer's signed proposal and City's acceptance shall constitute a binding contract.

#### **VII.T Informed Proposer**

Each Proposer is expected to fully inform themselves as to the conditions, requirements, and specifications of the RFP before submitting proposals. Failure to do so will be at Proposer's own risk, and they cannot secure relief on the plea of error.

#### **VII.U Insurance Requirements**

The successful Proposer must furnish to the City a Certificate of Insurance and accompany endorsements proving coverage as specified in the Agreement attached as Attachment B. Failure to furnish the required certificates in a timely manner may result in forfeiture of the Agreement.

#### **VII.V License Confirmation**

Proposer represents that it is duly licensed and experienced in providing services similar to those being performed under this RFP, that it and its employees or subcontractors have all necessary licenses and permits to perform these services in the State of California, and that it is familiar with the plans of City.

#### **VII.W Nomenclatures**

The terms successful Proposer, successful Contractor, and Contractor may be used interchangeably in this RFP and shall refer exclusively to the Proposer with whom the City enters into a contract as a result of this RFP.



## **VII.X Non-Collusion Declaration**

Each Proposer is required to submit a signed copy of the Non-Collusion Declaration with its proposal.

## **VII.Y Wage Theft Prevention**

Proposers are required to submit a certification disclosing whether the Proposer or any of its proposed subcontractors has been found by a final court order or administrative action of an investigatory government agency to have violated federal, state or local wage and hour laws, including but not limited to the federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance, within the past five (5) years from the bid submission deadline. A copy of the Wage Theft Certification is attached hereto and must be completed and submitted as part of the proposal.

## **VII.Z Prevailing Wages**

Proposer shall take cognizance of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public work" and "maintenance" projects. If applicable, employees working in these categories at the site must be paid not less than the basic hourly rates of pay and fringe benefits established by the California Department of Industrial Relations. Copies of the State of California wage schedules are available for review at <https://www.dir.ca.gov/oprl/>. The Contractor and all subcontractor(s) under him or her, shall comply with all applicable Prevailing Wage Laws, which include, but are not limited to the payment of not less than the required prevailing rates to all workers employed by them in the execution of the Agreement, the employment of apprentices, the hours of labor and the debarment of contractors and subcontractors. It shall be the Proposer's sole responsibility to evaluate and include the cost of complying with all labor compliance requirements under this RFP and applicable law in its proposal.

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No proposal will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a contract, the Contractor and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project.

## **VII.AA Proposal Content**

(See Vendor Questionnaire) Proposer must describe in detail how they will meet the requirements of this RFP and may provide additional related information with its proposal. **The**



proposal shall be presented in a format that numerically corresponds to the numbered sections outlined in the Vendor Questionnaire. Responses to each section should be labeled to indicate which item is being addressed. Proposals shall be straightforward and concise and provide "layman" explanations of technical terms that are used. Emphasis should be concentrated on conforming to the RFP instructions, responding to the RFP requirements, and providing a complete and clear description of the offer. If a complete response cannot be provided without referencing supporting documentation, you must provide such documentation with the proposal indicating where the supplemental information can be found.

The City is not liable for any costs incurred by Proposers before entering into a formal Agreement. The costs of developing the proposals, presentations, negotiations, interviews, or any other such expenses incurred by any Proposer in responding to the RFP are entirely the responsibility of the Proposer and shall not be reimbursed in any manner by the City.

## **VII.BB Proposal Results**

Proposals will be downloaded from the OpenGov website by the City after the Submittal Deadline. Once evaluation is complete, the City will post a Notice of Intended Award on the website. The City reserves the right to postpone the Submittal Deadline and opening of proposals any time before the date and time announced in the RFP or subsequent addenda. Any updates to the timeline will be made to the solicitation on the OpenGov website.

## **VII.CC Proprietary Information**

Pursuant to *Michaelis, Montanari, & Johnson v. Superior Court* (2006) 38 Cal.4th 1065, proposals submitted in response to this RFP shall be held confidential by Authority and shall not be subject to disclosure under the California Public Records Act (Cal. Government Code section 6250 et seq.) until after either City and the successful proposer have completed negotiations and entered into an Agreement or City has rejected all proposals. All correspondence with the City including responses to this RFP will become the exclusive property of the City and will become public records under the California Public Records Act. Furthermore, the City will have no liability to the Proposer or other party as a result of any public disclosure of any proposal or the Agreement.

If a Proposer desires to exclude a portion of its proposal from disclosure under the California Public Records Act, the Proposer must mark it as such and state the specific provision in the California Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. For example, if a Proposer submits trade secret information, the Proposer must plainly mark the information as "Trade Secret" and refer to the appropriate section of the California Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City is not in a position to establish that the information that a Proposer submits is a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the City will



provide Proposers who submitted the information with reasonable notice to seek protection from disclosure by a court of competent jurisdiction.

#### **VII.DD Recycled Product Procurement**

The City is committed to the conservation and protection of state and local resources, therefore:

- A. For all paper materials of any kind delivered to the City, by a contractor, supplier, or consultant, whether in the form of a product such as a cup or a deliverable such as a report, shall use recycled paper that bears an imprint identifying the recycled content of the paper as not less than the 30% post-consumer fiber as specified in Section 12209 of the Public Contract Code. A product such as a cup may have the identifying logo and/or language on the packaging, while a deliverable such as a report shall have the identifying logo on the first page. This shall apply to all paper materials delivered to the city whenever practicable.
- B. Contractors and consultants shall use both sides of paper sheets whenever practicable.

#### **VII.EE Rejection of Proposals and Wavier of Informalities**

Issuance of this RFP and receipt of proposals does not commit the City to make an award of contract. The City reserves the right to waive any immaterial informalities or irregularities and to reject any proposals, all proposals, or any part of any proposal presented and re-advertise for proposals. The City reserves the right to cancel the RFP and make no award. The City reserves the right to reject the proposal of any Proposer who previously failed to perform adequately for the City or any other governmental agency. The City expressly reserves the right to reject the proposal of any Proposer who is in default on the payment of taxes, licenses, or other monies due to the City.

#### **VII.FF Site Examination**

If applicable or otherwise required by City, Proposer may visit the City and its physical facilities and determine the local conditions which may in any way affect the performance of the work as specified herein; familiarize themselves with all federal, state, and local laws, ordinances, rules, regulations, and codes affecting the performance of the work; make such investigations, as it may deem necessary for performance of the work at its proposal price within the terms of RFP; and correlate its observations, investigations, and determinations with the requirements of the RFP.

#### **VII.GG Taxes**

The successful Proposer shall pay all federal, state, and local taxes, levies, duties, and assessments of every nature due in connection with any work provided under the Agreement and shall indemnify and hold harmless the City from any liability on account of any and all such



taxes, levies, duties, assessments, and deductions. Proposal prices shall include all applicable sales tax.

## **VII.HH Terms of the Offer**

The City reserves the right to negotiate final contract terms with any Proposer selected. Proposer understands and acknowledges that the representations above are material and important and will be relied on by the City in the evaluation of the proposal. Proposer misrepresentation shall be treated as fraudulent concealment from the City of the facts relating to the proposal.

## **VII.II Withdrawal of Proposal**

Following the Submittal Deadline, Proposer may not withdraw its proposal for a period of at least ninety (90) calendar days from the date of opening, and the proposal must remain open and firm. At no time may the successful Proposer(s) withdraw their proposal. Proposer's authorized representative may only withdraw proposals through the OpenGov website prior to the Submittal Deadline.

## **VII.JJ Piggyback Clause**

It is intended that any other public agency be permitted to purchase under the terms submitted in response to this procurement. By submitting proposal response to this RFP, Proposer acknowledges and agrees that, to the extent permitted by law, and during the period in which the applicable contract is in effect (including, without limitation any extensions thereto), other public agencies shall be permitted to make purchases under the same terms and conditions set forth in this solicitation and/or the resulting contract.

To the extent other public agencies elect to "piggyback" on this solicitation and/or contract, the City shall have no liability whatsoever in connection with any orders submitted to the successful Proposer by such other public agencies and, in each case, any and all liabilities associated with a piggyback order shall be the sole responsibility of the successful Proposer and the public agency that submitted the order to the successful Proposer.

