

CITY OF TUKWILA
REQUEST FOR QUALIFICATIONS AND PROPOSALS
FOR COMPREHENSIVE FINANCIAL SUSTAINABILITY PLAN

Due June 2, 2023 by 5:00 p.m. (Pacific Daylight Time)

The City of Tukwila is requesting proposals from qualified firms interested in preparing a comprehensive financial sustainability plan and utility rate study for the City of Tukwila.

This Request for Proposals (RFP) is not a competitive bid based on price only. The RFP allows the City to select the consultant(s) which, in its sole discretion, best meets the needs of the City, taking into consideration price, qualifications, and service capabilities and other factors relevant to the City's policies, programs, resources, and budget.

The successful consultant(s) ("Proposer") will contract with the City as an independent contractor and shall not be entitled to City benefits. The consultant(s) will be responsible for the performance of all of the obligations under the contract in conformance with state and federal law. The work is expected to commence in July of 2023 and be completed no later than April 1, 2024

Please review the full RFP following this notice

All materials should be submitted by **email** to:

Vicky Carlsen, Finance Director

vicky.carlsen@tukwilawa.gov

Subject: RFP for Comprehensive Financial Sustainability Plan

Questions regarding the proposal will be accepted by **email** to Vicky Carlsen, Finance Director at vicky.carlsen@tukwilawa.gov

Materials are due by 5:00 p.m. (Pacific Daylight Time) on June 2, 2023. No submittals will be accepted after this date and time.

Published Seattle Times – May 16, 2023 and May 23, 2023

Published Daily Journal of Commerce – May 16, 2023 and May 23, 2023

City of Tukwila

Request for Proposal

Comprehensive Financial Sustainability Plan and Utility Rate Study

Issue Date: May 16, 2023
Due Date: June 2, 2023 5:00 p.m. PDT

REQUEST FOR PROPOSALS

Notice is hereby given that proposals will be received by the City of Tukwila, Washington, for:

Comprehensive Financial Sustainability Plan and Utility Rate Study

Proposals received later than **5:00 p.m., PDT June 2, 2023**

A copy of this Request for Proposal (RFP) may be obtained from City's web site at <http://www.Tukwilawa.gov/>. Click on the Business tab at the top of the page and then click on the Request for Proposals link found under "Doing Business with the City."

The City of Tukwila reserves the right to reject any and all proposals, and to waive irregularities and informalities in the submittal and evaluation process. This RFP does not obligate the City to pay any costs incurred by respondents in the preparation and submission of a proposal. Furthermore, the RFP does not obligate the City to accept or contract for any expressed or implied services. Further, the City reserves the right to select one consultant for the comprehensive financial sustainability plan and another for the utility rate study, if the City determines it is in the best interest of the City.

A consultant response that indicates that any of the requested information in this RFP will only be provided if and when the supplier is selected as the successful supplier is not acceptable, and, at the City's sole discretion, may disqualify the proposal from consideration.

The City of Tukwila assures that no person shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. The City of Tukwila further assures that every effort will be made to ensure non-discrimination in all of its programs and activities, whether those programs are federally funded or not.

In addition to nondiscrimination compliance requirements, the Supplier(s) ultimately awarded a contract shall comply with federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, protection of public and employee safety and health; environmental protection; waste reduction and recycling; the protection of natural resources; permits; fees; taxes; and similar subjects.

Dated this 16th Day of May 2023

Vicky Carlsen
Finance Director

SECTION I: INTRODUCTION

The City of Tukwila (“City”) is requesting interested municipal advisory firms to submit a proposal to develop:

1. a Comprehensive Financial Sustainability Plan (“Plan”) and,
2. a utility rate study for the City’s three utilities: water, sewer, and surface water (“Study”).

The Plan will review the City’s operating and Capital Improvement Program expenditures, revenues, and multi-year projections with a focus on the City’s general fund and capital project funds. The goal is to provide short-term (2-5 years), a long-range (6-10 years) plan for the City that considers current and future programs, projects, and services the City offers, and future finances and the impact of limited revenue growth in the future of City services, infrastructure, and capital project needs. The Plan will be informed by an advisory group made up of community members and business representatives from Tukwila. It should include prioritized recommendations and implementation framework. Additionally, the Plan should also take into consideration the current and changing needs for programs and services offered as our residential and business communities grow and change.

The Study should include a cost-of-service rate study, proposed rate design, and a comprehensive plan for financing major infrastructure maintenance and improvement projects.

The City will consider long-term financial analysis and budget strategies developed by the selected firm or firms to continue to deliver the City’s services and capital projects and goals during a process that includes internal and external stakeholder outreach including presentations to the City Council.

The Plan and Study are anticipated to be valuable tools to ensure that the City’s finances remain on a strong footing and provide the resources necessary to achieve the operational programs and services and capital improvements desired by our residential and business communities. The City’s goal is to have the selected firm or firms present their report (Plan and Study) no later than Spring of 2024 so that the short-term and long-range financial analysis and budget strategies can be presented and discussed by the City Council and incorporated into the next budgetary cycle.

The Request for Proposal (RFP) provides information on the City of Tukwila, the City’s budget, future major capital and infrastructure initiatives (along with their proposed funding mechanisms), current revenue sources, utilities information and future budget challenges. The RFP describes the Plan project, the required scope of services, the consultant selection process, and the minimum information that must be included in the RFP Response.

A. Background

Tukwila was incorporated as a city in 1908 and encompasses 9.7 square miles. It is a Mayor-Council form of government, administered by a full-time independently elected Mayor, a seven-member City Council, and a City Administrator. The November 2024 General Election will include the election/re-election of up to four potential City Council positions as well as the Mayor.

The city continues to grow and flourish as a center of commerce for South King County. As the

crossroad of two interstate highways – I-5 and I-405 – and within five minutes of an international airport, Tukwila is a local leader in retail/commercial sales, warehousing, and distribution of goods and manufacturing. The city has the largest retail mall in the pacific northwest: Southcenter Mall.

While over 22,000 people reside in the city- the 18th largest city in King County- daytime population swells to 150,000 to 170,000 to work, shop and recreate. This creates unique demands and service challenges for the City.

Nestled in the hills surrounding the major commerce corridors are quiet residential neighborhoods. Police, fire, schools, libraries, and other vital services engage with residents to provide a desirable quality of life. Residents of the City enjoy small-town warmth, involvement and caring, while having the benefits of quality services and goods associated with larger cities.

The City of Tukwila includes both single- and multi-family residences, heavy and light manufacturing, and service-oriented companies, as well as the Northwest's largest concentration of retail businesses. The City prides itself on its well-established economic base, relatively low debt burden, and strong financial management.

The City is a full-service city with nine departments including Police, Parks and Recreation, Public Works, Community Development, Municipal Court, Administrative Services, Finance, Mayor, and City Council. Fire services are currently contracted out to the Puget Sound Regional Fire Authority (“RFA”) with plans to ask voters to approve an annexation to the RFA effective January 1, 2024. The City currently has 294 full-time regular employees, where approximately 85% are represented (union) employees, as well as seasonal and part-time employees.

Other taxing authorities with jurisdiction within the City of Tukwila include Valley View Sewer District, Water District #125, Tukwila School District, Highline School District, Tukwila Pool Metropolitan Park District, to name a few.

B. City Budget

The City has a 2-year operating budget and 6-year Capital Improvement Program budget. The City’s 2023-2024 adopted general fund budget is as follows:

	2023	2024	Total
Personnel	\$ 38,419,625	\$ 41,069,075	\$ 79,488,700
Supplies & Services	14,412,259	13,214,225	27,626,484
Intergovernmental	16,798,306	17,623,796	34,422,102
Capital	420,000	320,000	740,000
Transfers for Debt Service	4,749,828	4,206,345	8,956,173
Other Transfers Out	956,250	1,559,000	2,515,250
Total	\$ 75,756,268	\$ 77,992,441	\$ 153,748,709

The City’s adopted Capital Improvement Program (CIP) budget for the 2023-2028 cycle totals over \$221 million in capital projects, with \$141 million in general government projects. Almost all of the funding for the general government projects comes from dedicated revenue sources including impact fees, grants, LGTO debt, and real estate excise tax.

Summary of Capital Improvement Program Projects Included in the 2023 - 2028 CIP							
	2023	2024	2025	2026	2027	2028	Total
Residential Streets	\$ 5,175,000	\$ 3,145,000	\$ 3,750,000	\$ 650,000	\$ 650,000	\$ 650,000	\$ 14,020,000
Bridges & Arterial Streets	5,987,000	18,780,000	15,644,000	4,676,000	4,990,000	4,607,000	54,684,000
Parks	931,000	1,179,000	2,505,000	1,495,000	2,470,000	940,000	9,520,000
Urban Renewal	-	-	-	-	-	-	-
General Government	2,340,000	-	-	-	-	-	2,340,000
Public Safety	-	-	-	-	-	-	-
City Facilities	2,944,000	3,000,000	14,000,000	41,000,000	-	-	60,944,000
Water Utility	1,997,000	2,825,000	3,275,000	3,600,000	5,455,000	2,600,000	19,752,000
Sewer Utility	2,592,000	3,325,000	2,725,000	2,725,000	3,075,000	1,975,000	16,417,000
Surface Water Utility	7,316,000	6,305,000	12,995,000	7,340,000	1,965,000	6,673,000	42,594,000
Foster Golf Course	230,000	190,000	167,000	168,000	150,000	19,000	924,000
Total	\$29,512,000	\$38,749,000	\$55,061,000	\$61,654,000	\$18,755,000	\$17,464,000	\$221,195,000

As part of the City's 2023-2024 budget, the City is beginning a full facilities study that will include capital needs as well as significant maintenance costs that will inform future budgets. The timeline for completing this study is expected to fit within the timeline for this project.

Additionally, a Business and Occupation (B&O) tax was added as a new revenue source effective January 1, 2024. This new revenue stream is expected to bring in \$3 million in new revenue each year.

The 2023-2024 biennial budget is considered a "bridge budget" in that the City is using one-time sources to fund ongoing operations. The decision was made to allow the use of one-time funds during this biennium only until voters either approve or reject a full annexation to the RFA. If the vote for annexation is positive, levy capacity with property taxes will be gained and could be a tool for funding currently reduced levels of service, should the City Council want to maintain service levels. If the ballot measure does not pass, then the City will be faced with exceedingly tough decisions as revenues are not keeping up with the cost of providing current levels of services.

C. FUTURE CHALLENGES

The City has had a financial structural imbalance for several years with costs escalating faster than revenues and a continued desire to maintain, and even increase service levels. Expenditure budgets are still lower than pre-pandemic levels and all departments have need for additional staff.

As previously mentioned, the City did implement a new revenue source, a B&O tax. When this tax was implemented, the City did not lower the business license fee. One challenge that the City has been tasked with is determining a fair mix of taxes for businesses with a possible outcome of lowering the business license fee for those businesses that will be paying the B&O tax.

In addition to operational challenges, there is lack of adequate funding for infrastructure maintenance and several city facilities need to be either replaced or significantly upgraded.

The Streamlined Sales and Use Tax Agreement (SSUTA) of 2008 allows Washington State to cooperate with multiple states and the business community to create a more uniform sales and use tax structure. Under SSUTA, sales tax sourcing changed from being based on origin of sales to being based on destination of goods purchased. In 2000, sales tax revenues of \$18.5 million were the largest revenue source for Tukwila, generally over 40% of total revenue. In 2012, sales

tax of \$15.0 million accounts for 23% of total revenues. The State established a mitigation fund to compensate localities that lost revenue from implementation of SSUTA, but it does not compensate for 100% of the loss and will disappear entirely in 2026. Since 2009 the City has received about \$1.2 million in compensation for lost sales tax revenues, which – prior to SSUTA – would range from a high of \$19.4 million in 2007 to a low of \$14.4 million in 2009.

The City is also faced with unfunded mandates. Each new unfunded mandate requires the City to redirect funding from established programs and services to the unfunded mandates.

The City also faces periodic significant, unplanned events that drastically alter revenue streams or require significant outlay without a revenue source to fund the outlay. Example include the recent COVID-19 pandemic that reduced City revenues by more than 10% and the Howard Hanson dam event.

A Metropolitan Park District exists within the City of Tukwila, but it is structured to only provide services to a pool, not other parks and recreation functions, and activities as allowable under State law. The Tukwila Pool Metropolitan Park District has begun a feasibility study process to explore potential improvements to the 1960's era community pool as well as developing a destination aquatics facility in the Southcenter mall area. However, the MPD leadership have indicated they will only support using a small portion of their taxing authority, \$.015 per thousand.

The City is also planning the final phase of the Public Safety Plan that voters approved in 2016. The full plan provided funding to replace two aging fire stations, build a justice center to house both the police and the municipal court, and locate all Public Works staff on a central site. All projects with the exception of the final phase of the Public Works Shops have now been completed. However, the final phase includes the construction of a facility to house the utilities' function. Current estimates are up to \$85 million to complete, and a funding source will need to be identified.

Median income in Tukwila is lower than surrounding cities, making it hard to increase fees for services without negatively impacting residents.

The City of Tukwila owns and operates an 18-hole PGA-rated golf course that encompasses seventy-seven acres of green space, a pro shop, restaurant and banquet space and maintenance facility. The City is in the process of renewing a multi-year concessionaire agreement for the restaurant/bar and banquet space, which upon execution will take effect July 1, 2023. While the golf course is operated as an enterprise fund, revenues are insufficient to cover all maintenance, pro shop services and capital costs. An annual General Fund contribution of \$300,000 is presently relied upon for financial sustainability. The City has retained the National Golf Foundation to engage in a comprehensive business planning process that has just gotten underway.

D. SCHEDULE AND CRITICAL PATH

Planned kick-off for the Plan and Study early July 2023 with an expected completion date and final presentation to City Council no later than April 1, 2024.

The City Council has placed a ballot measure before voters for August 1, 2023 to annex to the Puget Sound Regional Fire Authority. The outcome of this vote will have significant impacts on

future budgets. Additionally, the City will have a new mayor in January of next year along with up to four new council members.

2 SCOPE OF WORK

Subject to further discussion with the selected firm or firms, the City anticipates the scope will include the following services:

1) The Plan:

- Review City programs and services as well as existing program and service levels.
- Review City finances and forecasts, operating, and capital budgets.
- Review current and upcoming major capital improvement initiatives, ongoing CIP projects, and infrastructure needs and incorporating into the review the facilities study.
- Meet with each department, review programs and services, annual expenditures, and revenues generated by each department and review established ranking of City programs.
- Analyze historical usage data and projecting future usage based on population and employment projections.
- Develop and facilitate an advisory committee process with employees, labor partners, city advisory board/commission members, business representatives and community members to share initial menu of budget strategies and solicit feedback on the proposed Comprehensive Financial Sustainability Plan.
- Develop a comprehensive set of fiscal sustainability strategies, including pros and cons to address the financial challenges that the City may/will face in the future with a focus on both the short-term (2-5 years) and long-range (6-10 years). This would include ways to fund services and projects over a multi-ear horizon. It should include options including new revenues, expenditure reductions, and expenditure transfers. The fiscal sustainability strategies would be prioritized and include a definition of each strategy, the fiscal benefit of each strategy, and an outline of the implementation steps, challenges, or ease of implementation. As part of this process, it will be critical to identify what services the City is legally required to provide, those that are operationally necessary such as human resources and finance functions.
- Develop tools that the City can use when major, unplanned changes occur like unfunded mandates and significant, unplanned events. This could also include changes to existing reserve policy that would outline when and how reserves should be used.
- Define a process for the City Council to review, consider, and accept the Plan and the selected firm's final report.
- Present findings to the City Council and Tukwila Community.
- Provide a calendar that outlines the steps in the process proposed by the selected firm that meets the City's objective of having the final City Council review of the report and budget strategies by April 2024.

2) The Study:

- Analyze the City's water supply and demand data to determine the appropriate rates for the water fund.
- Analyze the City's sewer and surface water data to determine the appropriate rates for the sewer and surface water funds.
- Create a 30-year rate model in the form of a flexible spreadsheet that can be adjusted over time.
- Develop a report summarizing the findings of the study and providing recommendations

for rate adjustments, subject to differing bond requirements.

- Develop options to adjust funding as service levels change and grow.
- Include periodic check-ins with the City Council and include workshops, if necessary.

3. PROPOSAL REQUIREMENTS

A. Proposal Response

In developing a response to this request for proposals, proposers should be concise, limiting their response to the specific questions and requirements set forth herein. The proposal should respond to each question or requirement below in consecutive order, as follows:

a. Transmittal letter

The proposal must include a transmittal letter signed by a person within the firm who is authorized to bind the firm, preferably a lead consultant. RFP responses with unsigned transmittal letters will be rejected. The transmittal letter must include a representation by the proposer that, except as disclosed in the proposal, no officer or employee of the proposer is directly or indirectly a part to or in any other manner interested financially or otherwise in this RFP.

b. Executive Summary and Understanding of Required Services

An overview of the proposal (including the firm's relevant experience), a summary of the proposer's understanding of the requested scope of services, and its approach to providing these services. Include high-level approach to stakeholder engagement.

c. Description of Proposer's Firm

A brief description of the firm's background, size, office locations in Washington, and history as it may be relevant to the services required.

Describe experience providing municipal advisory services for other public agencies and authorities, with an emphasis on Washington jurisdictions and agencies and federal authorities, any related projects, and studies on developing strategies to address budgetary and financial challenges and utility rate studies.

Describe experience working with advisory committees made up of multiple stakeholders in a similar process with other public agencies and authorities.

d. Proposer's Personnel

List all professional staff that will be assigned to the engagement and the area(s) of specialization for each person. Describe the role of each person who will be assigned to the engagement.

Identify the lead consultant who will be the primary contact in providing services to the City, and who will be listed as a "key person" in any agreement with the City.

In an appendix, include professional biographies for all professionals who will be assigned to provide services in the proposal.

e. Fees and Charges

Provide the proposed fees for providing the services to complete this assignment. The proposal must state an "hourly" fee structure for the services contemplated and pricing for each of the major tasks outlined under the "Anticipated Scope of Work" section of this RFP. Provide the hourly rates to be billed for work performed and describe how customary reimbursable expenses will be charged, including attendance at meetings.

f. References

Please provide at least three (3) client references for whom your firm has performed similar work to that requested in this RFP during the past five (5) years. For each client, provide the name, street address, telephone number, and email address.

g. Completed Reports

Please provide two (2) completed reports that your firm has previously developed for cities, counties, or local government agencies that are comparable to the project outlined in this RFP.

4. EVALUATION CRITERIA AND CONSULTANT SELECTION

The selection of a Consultant will be based on qualifications to perform the requested services and successful negotiation of an agreement. The Consultant's response to this RFP and subsequent interview, if necessary, will be utilized to select the firm or team of firms most qualified for this project.

The City expects to assess the proposals based on evaluation criteria including the following, which are not necessarily listed in order of importance:

1. Quality of proposal and responses to specific questions included in this RFP.
2. Experience on similar fiscal analyses and reports for local government agencies in Washington.
3. Recommended implementation framework and process, including success of prior clients in implementing similar recommendations.
4. Experience successfully working with community and business stakeholders on a similar project.
5. Relevant qualifications of key personnel assigned to this project.
6. Accessibility of key personnel to the City's staff during the project.
7. Understanding of the City's objectives.
8. Reasonableness of fees and cost proposal.

The City will select a municipal advisory firm based upon the responding firms' qualifications and experience, together with its responses to the requests for information set forth above. It should be noted that none of these factors in and of themselves are determinative, and the City reserves the right to select one or more firms on any basis that are in the best interests of the City. The City may contact firms in response to questions raised in their proposals and the City reserves the right to cancel this solicitation without selecting any firms as well as selecting more than one independent firm to engage in the requested work.

After the submittals are evaluated, the City, at its sole discretion, may elect to interview all, some, or none of the proposers. The interview will help clarify each proposal and the approach and qualifications for the project. Proposers may be asked to submit additional documentation at or after the interview stage. Based upon the interview and evaluation of the proposals, the top-ranked firm(s) will be recommended to the City Council. In addition, the City reserves the right to select (a) proposal(s) without conducting interviews or abandoning this RFP.

5. CONDITIONS OF PROPOSAL ACCEPTANCE

This RFP is not an offer by the City to contract and does not commit the City to award a contract, to pay any costs incurred in the preparation of a proposal for this RFP, or to procure or contract for any services. The City reserves the right to waive any irregularities or informalities contained with the RFP, and/or reject any or all proposals received as a result of this request; negotiate with any qualified source(s) or to cancel the RFP in part or whole. All proposals and material submitted will become the property of the City of Tukwila and public records, and will not be deemed confidential or proprietary.

The City of Tukwila reserves the right to award in whole or in part when such action serves the best interest of the City. The City and Consultant(s) may agree to add additional work to the agreement by mutual agreement at a later date. The City may elect to stop work at any time in the contract and will pay for work completed to that point on a time and material basis.

Potential proposers are advised to become familiar with all conditions, instructions, and specifications of this RFP, including the City's standard Consultant Services Agreement. By submitting a proposal, Consultant represents and warrants that it has thoroughly examined and is familiar with work required under this RFP, that Consultant has conducted such additional investigation as it deems necessary and convenient, that Consultant is capable of providing the services requested by the City in a manner that meets the City's objectives and specifications as outlined in this RFP, and that Consultant(s) have reviewed and inspected all materials submitted in response to this RFP. If and once the Consultant(s) have been selected, a failure to have read the conditions, instructions, and specifications herein shall not be cause to alter the contract or for Consultant(s) to request additional compensation.

6. CITY REQUIREMENTS

If your firm is selected for this work, you will be required to maintain insurance including workers compensation insurance, and liability insurance in the amount of \$2,000,000, with City required endorsements.

Non-Discrimination Requirement

By submitting a proposal, the Consultant represents that it and its subsidiaries do not and will not discriminate against any employee or applicant for employment on the basis of race, religion, sex, color, national origin, sexual orientation, ancestry, marital status, physical condition, pregnancy or pregnancy-related conditions, political affiliations or opinion, age, or medical condition.

7. AGREEMENT

If a proposal is accepted, the consultant is required to enter into a contractual agreement with the City.

8. OFFICIAL CONTACT AND PROPOSAL SUBMISSION ADDRESS

Upon release of this RFP, all communications concerning the RFP should be directed to the City's Finance Director listed below. Unauthorized contact regarding this RFP with any other City employees may result in disqualification. Any oral communications will be considered unofficial and non-binding on the City. Any questions received, along with responses, will be posted on the City's website. consultant(s) should rely only on written statements issued by the Finance Director. The City's Finance Director is:

Name:	Vicky Carlsen
Address:	6200 Southcenter Blvd, Tukwila, WA 98188
E-mail:	vicky.carlsen@Tukwilawa.gov
Phone:	206.433.1839

Proposals must be received at the following address by no later than 5:00 pm PDT on June 2, 2023. Respondents must submit their proposal via email attachment to:

Vicky Carlsen, Finance Director
Vicky.carlsen@tukwilawa.gov

9. OTHER:

Withdrawal of Proposals

Proposals may be withdrawn at any time prior to the submission time specified in this RFP, provided notification is received in writing. Proposals cannot be changed or withdrawn after the time designated for receipt.

Rejection of Proposals – Waiver of Informalities or Irregularities

The City reserves the right to reject any or all proposals, to waive any minor informalities or irregularities contained in any proposal, and to accept any proposal deemed to be in the best interest of the City.

Proposal Validity Period

Submission of the proposal will signify the Consultant's agreement that its proposal and the content thereof are valid for 180 days following the submission deadline and will become part of the contract that is negotiated between the City and the successful consultant r.

City License

The consultant awarded said contract will be required to purchase a City Business License.

Public Disclosure Notice

Under Washington State law, the documents (including but not limited to written, printed, graphic, electronic, photographic or voice mail materials and/or transcriptions, recordings, or reproductions thereof) submitted in response to this request for proposals (the "documents") become a public record upon submission to the City, subject to mandatory disclosure upon request by any person, unless the documents are exempted from public disclosure by a specific provision of law.

Documents identified as confidential or proprietary will not be treated as such if public disclosure laws take precedence.

If the City receives a request for inspection or copying of any documents provided by a consultant marked as confidential in response to this RFP, it will promptly notify the consultant at the address given in response to this RFP that it has received such a request. Such notice will inform the consultant of the date the City intends to disclose the documents requested and affording the consultant a reasonable opportunity to obtain a court order prohibiting or conditioning the release of the documents. The City assumes no contractual obligation to enforce any exemption.

Any information contained in the proposal that the consultant desires to claim as proprietary or confidential, and exempt from disclosure must be clearly designated, including identifying the page and particular exception(s) from disclosure. The City will try to respect all material identified by the Supplier as being Proprietary or Confidential, but requests that consultants be highly selective of what they mark as Confidential. The City will make a decision predicated upon applicable laws and can choose to disclose information despite its being marked as confidential or proprietary.

Marking the entire proposal as proprietary or confidential, and therefore, exempt from disclosure will NOT be accepted or honored and may result in disclosure of the entire proposal or disqualification of the proposal solely at the discretion of the City.

Documents identified as confidential or proprietary will not be treated as such if public disclosure laws take precedence, the information is publicly available, the information is already in the City's

possession, the information is obtained from third parties without restrictions on disclosure or the information was independently developed without reference to the Confidential information.

Contract Award and Execution

- The City reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be initially submitted on the most favorable terms the consultants can offer. It is understood that the proposal will become a part of the official file on this matter without obligation to the City.
- The consultant(s) selected as the successful consultant will be expected to enter into a negotiated contract with the City ("Negotiated Contract").
- The general conditions and specifications of this RFP as proposed by the City and the successful consultant's response, as amended by agreements between the City and the consultant, will become part of the Negotiated contract's documents. Additionally, the City will verify consultant representations that appear in the proposal. Failure of the consultant's products to meet the mandatory specifications may result in elimination of the consultant from competition or in contract cancellation or termination.
- The consultant agrees that this RFP, the consultant's response to this RFP (proposal) and a mutually agreed upon Statement of Work will be included as part of the executed Negotiated Contract.
- If the selected consultant fails to sign a Negotiated Contract with the City within five (5) business days of delivery of the final contract, the City may elect to cancel the award and award the contract to the next-highest-ranked consultant.
- No cost chargeable to the proposed contract may be incurred before receipt of a fully executed Negotiated Contract or unless otherwise agreed to in writing by both parties.
- If mutually agreed upon terms cannot be negotiated, the City, at its sole discretion, may terminate negotiations and begin contract negotiations with the next highest scored RFP response.

Other Compliance Requirements

In addition to nondiscrimination and equal opportunity compliance requirements, the consultant awarded a contract shall comply with federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, protection of public and employee safety and health; environmental protection; waste reduction and recycling; the protection of natural resources; permits; fees; taxes; and similar subjects.

Ownership of Documents

Any reports, studies, conclusions, and summaries prepared by the Proposer shall become the property of the City.

Confidentiality of Information

All information and data furnished to the consultant by the City, and all other documents to which the consultant's employees have access during the term of the contract, shall be treated as confidential to the City. Any oral or written disclosure to unauthorized individuals is prohibited.