

**MILPITAS UNIFIED SCHOOL DISTRICT**

**RESOLUTION NO. 2019.30**

**ADOPTING PROCEDURES FOR EVALUATING QUALIFICATIONS OF  
LEASE-LEASEBACK CONTRACTORS AND APPROVAL OF THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS FOR  
CONSTRUCTION SERVICES (LEASE-LEASEBACK)**

**WHEREAS**, the Milpitas Unified School District (“District”) desires to utilize the lease-leaseback delivery method for the construction of certain District projects; and

**WHEREAS**, pursuant to Education Code section 17406, school districts must award lease-leaseback contracts based on a competitive solicitation process to the proposer providing the best value to the district; and

**WHEREAS**, before awarding a lease-leaseback contract, the governing board of the school district must adopt and publish required procedures and guidelines for evaluating the qualifications of prospective lease-leaseback contractors (“Evaluation Procedures”) which ensure that the best value selections by the District, if that selection process is used, are conducted in a fair and impartial manner; and

**WHEREAS**, District staff has developed a Qualification Evaluation Criteria, which is attached hereto as **Exhibit A**; and

**WHEREAS**, the District desires to adopt the Evaluation Procedures as required pursuant to Education Code section 17406 (a)(2); and

**WHEREAS**, the District desires to issue a SOQ for prospective contractors for certain District Projects as lease-leaseback projects; and

**WHEREAS**, once the pool of qualified lease-leaseback contractors is established it shall be valid for a minimum of one year and up to a maximum of two years; and

**WHEREAS**, as part of the Evaluation Procedures, the District will issue request for proposal(s) (“RFP(s)”) for some or all of those projects for the pool of qualified lease-leaseback contractors to submit proposals in response to the RFP(s); and

**WHEREAS**, the contractor for each project shall be selected based on a “best value” determination by the District according to the “best value” criteria and scoring for the RFPs attached hereto as **Exhibit B**, which is as part of the Evaluation Procedures; and

**WHEREAS**, as part of the Evaluation Procedures to select a contractor for a project, District staff may conduct interviews with some or all of the contractors that respond to an RFP in order to seek clarification from contractors related to their proposals, but will not use these interviews to allow contractors to substantively revise or change their proposals; and

**WHEREAS**, some of the RFPs as part of the Evaluation Procedures may require the contractors to qualify their subcontractors, which will be through a separate procurement process that shall comply with the District’s requirements for the procurement of subcontractors and Education Code section 17406 as indicated in **Exhibit C** attached hereto.

**NOW, THEREFORE**, the Governing Board of Milpitas Unified School District hereby finds, determines, declares, orders and resolves as follows:

**Section 1.** That the above recitals are true and correct.

**Section 2.** The Board adopts the Evaluation Procedures, attached hereto as **Exhibit A** through **Exhibit C**, as required pursuant to Education Code section 17406 (a)(2).

**Section 3.** That the District's Superintendent, or his/her designee, is authorized to implement the Evaluation Procedures and is authorized to make revisions to the criteria that do not impact the overall fair and impartial solicitation process (for example, changing the size and number of past projects in the prequalification, etc.)

**Section 4.** The Board authorizes the District's Superintendent, or his/her designee to issue a Request to Prequalify and Statement of Qualifications for prospective contractors for certain District projects as a lease-leaseback projects and is authorized to make revisions to the criteria that do not impact the overall fair and impartial solicitation process.

**ADOPTED, SIGNED AND APPROVED** this day of February 12, 2019.

I, Daniel Bobay, Clerk of the Governing Board of the Milpitas Unified School District, do hereby certify that the foregoing Resolution was adopted by the Governing Board of said District at a meeting of said Board on the February 12, 2019, and that it was so adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Clerk of the Governing Board of Milpitas Unified  
School District.

## Exhibit A

### SOQ Evaluation Criteria for (Lease-Leaseback)

1. **Contractors' SOQs.** Contractors' SOQs must be concise, well-organized, and consecutively numbered on each page and must include the following information, using the following outline structure, except as may be otherwise directed. The Contractors' SOQ shall **be no longer than seventy-five (75) single-sided pages, on 8½" x 11" paper**, inclusive of résumés, forms, and pictures, and tabbed according to the numbering system reflected below. Each Contractor's SOQ must demonstrate Contractor's qualifications, and shall include the following items and information:
  - 1.1. **Letter of Interest.** A dated Letter of Interest must be submitted, including the legal name of the Contractor, address, telephone, emails, and the name, title, and signature of the person authorized to submit the SOQ on behalf of the Contractor. The Letter of Interest should provide a brief statement of the Contractor's experience indicating the unique background and qualities of the Contractor, its personnel, and what will make the Contractor a good fit for work in the District. Contractor and its proposed team should have experience working on public school projects (under DSA jurisdiction) with hard stop completion dates and projects that have had high performance /Zero Net Energy standards. (District's goal is both components of the Project will meet ZNE standards, District does not intend to have the projects be LEED certified or attain a CHPS certification but would like to adhere to the principals and guidelines of each program as budget allows.
  - 1.2. **Table of Contents.** A table of contents of the material contained in the SOQ must follow the letter of interest.
  - 1.3. **Executive Summary.** An executive summary that outlines the Contractor's philosophy, along with a brief summary of the Contractor's qualifications.
  - 1.4. **Proposed Personnel/Contractor Team.** Include resumes of key personnel who would be performing Services for the District. Specifically, define the role of each person and outline his or her individual experience and responsibilities. Indicate personnel who will serve as primary contact(s) for the District. Indicate each person's availability to provide the Services.
  - 1.5. **Contractor's History.** Provide a brief history of the Contractor, and, if a joint venture, of each participating entity.
  - 1.6. **Contractor's Approach to Work.** Describe how the Contractor intends to work with the District's administration officials to perform the Services, including assistant superintendents, facilities directors, teachers and site principals, to develop management techniques and responses related to the unique challenges of the District's educational program requirements. Include an overview of the proposed staging and traffic plan during construction including a worker parking/shuttle solution. Also define the type of construction management software the Contractor intends/prefers to use throughout the project and how the Contractor intends to close out the project. Provide references via other School Districts the Contractor has worked with on the performance and satisfaction level of the construction software that was used.
  - 1.7. **Letters of References.** Include letters of reference or testimonials, if available. Contractor should limit letters of references or testimonials to no more than eight (8).
  - 1.8. **Professional Development.** Indicate ongoing commitment to professional education of staff, total number of permanent employees, and any other data that may assist the District in understanding Contractor's qualifications and expertise.
  - 1.9. **Schedule.** Discuss the Contractor's ability to prepare and meet achievable construction schedules for lease-leaseback projects, Contractor's schedule management procedures, and how

the Contractor has successfully handled potential delays. Refer to the attached preliminary construction schedule. Contractor and all subcontractors must have the ability to provide the proper manpower and secure the proper material vendors to adhere to the proposed construction schedule. District would like daily manpower reports for the Contractor and subcontractors.

- 1.10. Budget.** Discuss the Contractor's ability to manage costs and stay within budgets on comparable projects.
- 1.11. Cost Savings / Value Engineering.** The District is seeking a Contractor that has direct experience and/or can demonstrate an aptitude to "value engineer" or analyze a project's plans, components, and features, and find more efficient and cost-effective methods or alternatives. Describe your Contractor's suggestions, recommendations, alternatives or other valuation determinations that the Contractor could implement on the Projects.
- 1.12. Contractor's Current Work Commitments/Project Limitations.**
  - 1.12.1. Specify the current and projected workload of Contractor and proposed MEP subcontractors. District would also like the projected workload of all preferred subcontractors/vendors that will affect the proposed construction schedule's critical path such as and not limited to: site utility/grading, concrete, structural steel, metal stud/drywall, doors/windows, stucco, paint, roof, etc. If applicable, provide a statement of all recent, current, or anticipated contractual obligations that relate in any way to similar work for the District that may have a potential to impede Contractor's ability to provide the Services described herein to the District.
  - 1.12.2. Indicate Contractor's limitation or Surety restrictions related to the size of Project that Contractor can contract for and can effectively perform.
- 1.13. Additional Data.** Provide additional information about the Contractor as it may relate to Contractor's SOQ.
- 1.14. Conflicts of Interest.** If applicable, provide a statement of any recent, current, or anticipated contractual obligations that relate in any way to similar work, the Projects, or the District that may have a potential to conflict with Contractor's ability to provide the Services described herein to the District. Contractors cannot submit, propose, bid, contract, subcontract, consult, or have any other economic interests in the Project to which the Contractor may provide Services. The Contractor selected to provide the Services and any subsidiary, parent, holding company or affiliate of the selected Contractor, may not perform any construction work or submit a bid for the Project.

**Exhibit B**

**SCORING FOR BEST VALUE SELECTION PROCESS**

**STEP 1 – PREQUALIFICATION SCORING**

1. **Confirm Firm has passing answers for the “Pass/Fail Questions.”**
2. **Confirm Firm has submitted the required financial statements.** If not, notify Firm in writing that its Proposal is non-responsive for failing to include the required financial statements.
3. **Score the “Evaluated Questions.”**

<b>Topic/Question</b>	<b>Scoring &amp; Max. Poss. Score</b>		<b>Score</b>
1. Suspended or Revoked License		5	
2. Disbarred/Disqualified from Government Agency/Public Works Projects		5	
3. Denied as Non-Responsible Bidder		5	
4. Claim Against Firm		5	
5. Claim Against Owner		5	
6. Contract Termination for Cause		5	
7. Liable in Civil Suit		5	
8. Convicted of a Crime Related to Construction		5	
9. Convicted of Fraud		5	
10. Denied or Lapse of Bond Coverage within Last Five Years		5	
11. Workman’s Compensation Lapse within Last Five Years		5	
12. Years in Business		5	
13. Current Bankruptcy		5	
14. Bankruptcy within Last Five Years		5	
15. Liquidated Damages within Last Five Years		5	
16. Insurance Refusal to Renew within Last Five Years		5	
17. More Than Three (3) Stop Payment Notices per Contract within Last Three Years		5	
18. Stop Payment Notices Resulting in Claim Against Payment Bond		5	
19. Required to Pay a Premium < 1%		5	
20. CAL OHSA Violations within Last Five Years = Serious, Willful or Repeat		5	
21. Federal OHSA Violations within Last Five Years		5	

22. EPA, Air Quality or Regional Water Quality Control Board Penalties with Last Five Years		5	
23. Safety Meetings		5	
24. Experience Modification Rate		5	
25. Required to Pay Back Wages (States Prevailing Wages)		5	
26. Required to Pay Back Wages (Federal = Davis-Bacon Prevailing Wages)		5	
27. Apprentice Violations		5	
<b>Total Score</b>		<b>135</b>	

## **STEP 2 – PROPOSAL SCORING**

The following scoring will be used in evaluating the Firm's Proposal responses to the following criteria, which will be determined by review all portions of the Proposal, including the "Content of Proposals" section of the RFQ/RFP and the "Contractor Project References" section of the Prequalification Questionnaire.

<b>Item</b>	<b>Description</b>	<b>Maximum Qualification Points</b>	<b>Firm's Qualification Points</b>
1. Personnel / Subconsultants	Firm's team members, especially team leaders, demonstrate applicable experience and expertise to perform Services in response to District's needs.	40	
2. Approach to Work	Firm demonstrates how it intends to work with the District and develop management techniques related to the District's educational program requirements.	40	
3. LLB Projects	Firm demonstrates past experience and expertise with LLB process.	10	
4. Preliminary Services	Firm demonstrates past experience and expertise to perform all Preliminary Services.	10	
5. Cost Savings / Value Engineering	Firm demonstrates past experience and expertise to perform value engineering services for the Projects.	10	
6. Budget	Firm demonstrates past experience and expertise to manage costs and stay within budgets on LLB projects.	20	
7. Schedule	Firm demonstrates ability on LLB projects to prepare and meet achievable construction schedules schedule management procedures, and successful handling of potential delays.	20	
8. Political Environment	Firm demonstrates experience managing projects within political environments including facilitation of community involvement in the construction process.	5	
9. Local Outreach	Firm demonstrates knowledge and understanding of the local environment and describes local outreach plan including local trade Contractors.	5	
10. Local Community	Firm demonstrates involvement in community and efforts at community outreach.	5	
11. Environmental	Firm indicates its past experience performing in an environmentally responsible manner.	5	
12. Firm Education	Firm describes its commitment to ongoing professional education.	5	

13. Conflict of Interest	Any potential or actual conflict of interest.	5	
14. Current Work Commitments	Firm describes current and projected workload.	5	
15. Additional Information	Strength of additional information provided by Firm.	5	
	<b>Total Score MINIMUM POINTS</b>	<b>190</b>	

### **STEP 3 – REFERENCES SCORING**

1. Contact references from the Firm's response to the "**Contractor Project References**" section of the Prequalification Questionnaire and scores those responses.
2. Fill out the information in Section I of the Qualification Evaluation – Reference Form and then call or email the contact person.
3. Ask the questions in Section II of the Qualification Evaluation – Reference Form. Ensure that you obtain the information regarding whether the Firm's performance in that area was "unsatisfactory," "below average," "average" or "above average." Assign the corresponding score for each answer in Section III.
4. Complete Section III of the Qualification Evaluation – Reference Form with the information received during the call or from email.
5. Use a separate Qualification Evaluation – Reference Form for each call or email.
6. Make three (3) complete reference calls or send emails for each Firm.
7. Enter the "Total Score for This Project" of all the Qualification Evaluation – Reference Forms for that Firm into an "Averaging" Worksheet.

<b><u>Sample "Averaging" Worksheet for 3 reference calls/emails per Firm – See next page</u></b>	
"Total Score for This Project" from first call/email	
"Total Score for This Project" from second call/email	
"Total Score for This Project" from third call/email	
<b>Total</b>	
<b>Total divided by three (÷ 3)</b> <b>[DIVIDE SCORE BY NUMBER OF CALLS/EMAILS]</b> This is the score for the Firm for the References Step in the evaluation process.	

### **References – Qualification Evaluation Form**

#### **Section I - General Project Information**

Name of Firm:	Total Contract Costs:
	Contract Start/End Dates:

Project Title:	Actual Completion Date:
Scope of Work:	
Name of Public Agency:	Telephone Number of Contact Person:
Name of Contact Person:	Date and Time of Interview of Contact Person:
Architect Firm:	Principal Architect in Charge of Project:

## Section II – Telephone Interview Questions

- 1. Quality of Work.** Were there quality-related problems on the project? Were these problems attributable to the Firm? Was the Firm cooperative in trying to resolve problems? If not, provide specific examples. **Please rate the Firm with respect to quality of work as either unsatisfactory, below average, average, or above average.**

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- 2. Scheduling.** Rate the Firm's performance with regard to adhering to project schedules. Did the Firm meet the project schedule? If not, was the delay attributable to the Firm? **Please rate the Firm with respect to scheduling as either unsatisfactory, below average, average, or above average.**

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- 3. Subcontractor (Project) Management.** Rate the Firm's ability to manage and coordinate subcontractors (if no subcontractors, rate the Firm's overall project management). Was the Firm able to effectively resolve problems? If not, provide specific examples. **Please rate the Firm with respect to project management as either unsatisfactory, below average, average, or above average.**

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- 4. Change Orders.** Rate the Firm's performance with regard to change orders and extras. Did the Firm unreasonably claim change orders or extras? Were the Firm's prices on change orders and extras reasonable? If not, provide specific examples. **Please rate the Firm with respect to change orders as either unsatisfactory, below average, average, or above average.**

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- 5. Working Relationships.** Rate the Firm's working relationships with other parties (i.e. owner, designer, subcontractors, etc.). Did the Firm relate to other parties in a professional manner? If not, provide specific examples. **Please rate the Firm with respect to working relationships as either unsatisfactory, below average, average, or above average.**



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6. **Responsiveness.** Rate the Firm's responsiveness to telephone calls, emails, meetings, requests for action, etc. Did the Firm respond to inquiries promptly and substantively? If not, provide specific examples. **Please rate the Firm with respect to responsiveness as either unsatisfactory, below average, average, or above average.**

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7. **On-Site Firm Staff.** Rate the Firm's on-site staff relating to their management of the site, communication and interaction with owner's staff, and familiarity with project scope and status. **Please rate the Firm's on-site staff as either unsatisfactory, below average, average, or above average.**

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8. **Paperwork Processing.** Rate the Firm's performance in completing and submitting required project paperwork (i.e. submittals, drawings, requisitions, payrolls, etc.). Did the Firm submit the required paperwork promptly and in proper form? If not, provide specific examples. **Please rate the Firm with respect to paperwork processing as either unsatisfactory, below average, average, or above average.**

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9. **Value Engineering.** Rate the Firm's performance in analyzing designed building features, systems, equipment, and material selections for the purpose of achieving essential functions at the lowest life cycle cost consistent with required performance, quality, reliability, and safety. **Please rate the Firm with respect to providing value engineering services as either unsatisfactory, below average, average, or above average.**

### Section III - Numerical Rating

If the contact person rates the Firm unsatisfactory in any area, please attempt to provide written comments in Section II to explain the rating(s) assigned.

Firm's Name: \_\_\_\_\_

		Unsatisfactory	Below Average	Average	Above Average	Rating
1.	Quality of Work	0	5	15	20	
2.	Scheduling	0	5	10	15	
3.	Subcontractor (Project) Mgt.	0	5	10	15	

4.	Change Orders	0	5	10	15	
5.	Working Relationship	0	5	10	15	
6.	Responsiveness	0	5	10	15	
7.	On-Site Staff	0	5	10	15	
8.	Paperwork Processing	0	2	5	10	
9.	Value Engineering	0	2	5	10	
<b>Total Score for This Project</b>						

#### **STEP 4 – INTERVIEW SCORING**

Firms meeting or exceeding the minimum total qualification points through Step 3 will be invited to interview with the District. The subject matter for the interview will be at the District's discretion but shall include, at a minimum, the following topics.

<b>Item</b>	<b>Maximum Qualification Points</b>	<b>Qualification Points</b>
<b>1. Current Project:</b> Firm's articulation of how it will construct the Project, its ideas related to constructability, and other construction-specific ideas, concerns, or related issues (i.e. schedules, budgets, subcontractor selection, etc.). Explain your Firm's philosophy and approach regarding apportioning contingency when providing a guaranteed maximum price for a project.	<b>45</b>	
<b>2. Past Projects/Experience:</b> Firm's articulation of Firm's history, education, and background; Firm's experiences working with similar, past projects; issues faced and how addressed (i.e. claims, bonding/surety involvement, owner relations, citations, etc.); and questions, concerns, and highlights from Proposal.	<b>35</b>	
<b>3. Overall Ability and General Suitability.</b> Firm's articulation of its overall skills, ability to complete the Project, and general suitability for the District's purposes (i.e. implementation of District policies and procedures, compliance with District Programs, political atmosphere, additional information, etc.)	<b>30</b>	
<b>4. Personnel/Leadership:</b> Firm's articulation of its Project-designated personnel, leadership, subcontractor relations, apprenticeship program, etc.	<b>30</b>	
<b>SUBTOTAL QUALIFICATION POINTS FROM STEP 4</b>	<b>140</b>	

### OVERALL SCORING

The following table indicates how the District will score steps 1 – 4. The scoring and criteria for all steps are included in **Attachment 4** to this RFQ/P. Only Firms that receive the minimum qualification points as required at each step will move to the next step.

<b>STEP 1: Scoring of Prequalification Questionnaire</b>	<b>Minimum qualification points required in STEP 1 for Firms to proceed to STEP 2:</b>  (Total maximum possible points at the end of STEP 1 is <u>135</u> .)	<u>120</u>
	<b>The District will only go to STEPS 2 &amp; 3 for Firms with the required minimum score after STEP 1.</b>	
<b>STEP 2: Scoring of Proposal</b>	<b>Minimum qualification points required in STEP 2 and STEP 3 <u>COMBINED</u> for Firms to proceed to STEP 4:</b>  (Total combined maximum possible points at the end of STEPS 2 & 3 is <u>325</u> .)	<u>250</u>
<b>STEP 3: Scoring of References</b>		
	<b>The District will only interview Firms that have the required minimum score after STEPS 2 &amp; 3.</b>	
<b>STEP 4: Scoring of Interviews</b>	<b>Minimum qualification points required in STEP 4 to be considered for the Project.</b>  (Total maximum possible points from the interview is <u>140</u> .)	<u>100</u>

## Exhibit C

### SUBCONTRACTOR PROCUREMENT PROCESS

**Bidding for Subcontractor Work.** Each RFP that is issued by the District shall require each Contractor to prequalify some or all subcontractors and to comply with the requirements for the procurement of Subcontractors set forth in Education Code section 17406 and as further detailed in each RFP. The Subcontractor procurement process will be adapted by the District as needed for each Project. The Subcontractor procurement process may be one or a combination of the following processes:

- **One Step Process of Low-Bid or Best-Value or Combination of Both.** The RFP may ask for a lump-sum cost for the project and the District will select the Contractor on a low-bid basis, a best-value basis, or a combination of both. All Contractors' subcontractors in excess of one-half of one percent of that lump sum cost shall be identified in the Contractors' proposals and shall be afforded the protections of the Subletting and Subcontracting Fair Practices Act. (Public Contract Code § 4100, et seq.)
- **Two-Step Process of Low Bid or Best Value or Combination of Both.**
  1. The RFP may ask Contractors to provide (1) some initial pricing information (e.g., fee for preliminary services, general conditions, partial construction services, etc.) and (2) some subcontractors be identified in the proposal. The District will select the Contractor on a low-bid basis, a best-value basis, or a combination of both.
  2. The selected Contractor, when directed later by the District, shall provide a final lump sum guaranteed project cost. At that time, the District will inform the Contractor whether the Contractor will award the subcontracts on a low-bid basis, a best-value basis, or a combination of both. Also at that time, the successful Contractor shall provide notice of bidding for all remaining subcontractors "in accordance with the publication requirements applicable to the District's competitive selection process." **The District intends to work with the successful Contractor for each Project to issue an advertisement to solicit Subcontractors in compliance with statutory requirements and the District's process.**

**Best-Value Process for Subcontractor Selection.** If the District directs the selected Contractor to award some or all of its subcontracts on a best value basis, the Contractor shall utilize the following best value criteria and process:

Best Value Criteria for Subcontractors	Required Response for a Subcontractor to Qualify
1. Has the subcontractor performed at least two (2) subcontracts for at least 90% of the value of the current subcontract?	Yes
2. Has the subcontractor been found non-responsible, debarred, disqualified, forbidden, or otherwise prohibited from performing work and/or bidding on work for any public agency within California within the past five (5) years?	No
3. Has the subcontractor defaulted on a contract, been substituted off a project after beginning performance, or been terminated for cause by any prime Contractor or public agency on any project within California during the past five (5) years and has that default, substitution or termination been upheld by a court or an arbitrator?	No
4. Has the subcontractor paid liquidated damages pursuant to a contract for a project with either a public or private owner within the past five (5) years?	No
5. Has the subcontractor's Workers' Compensation Experience Modification Rate exceeded 1.5 at any time for the past five (5) premium years?	No
6. Has the subcontractor failed in its performance of a contract with the Contractor during the past five (5) years and does the Contractor have	No

documentation to support that failed performance? (If so, and if the Contractor does not wish to subcontract with that subcontractor and if it provides to the District with that documentation, the District shall, at its reasonable discretion, permit Contractor to list and contract with the next lowest subcontractor for the project.)	
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