



REQUEST FOR PROPOSALS

INVESTMENT MANAGEMENT SERVICES PENSION TRUST FUND

RFP #2017-111-VT

September 13, 2017



**PROPOSALS DUE:
October 11, 2017**

**City of Walnut Creek
1666 North Main Street,
Walnut Creek, CA 94596**

REQUEST FOR PROPOSALS

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I. INTRODUCTION

The City of Walnut Creek (City) is accepting proposals from qualified and capable firms who offer Internal Revenue Service (IRS) Code Section 115 Irrevocable Retirement Trust (“Section 115 Trust”) services to California local government agencies. The City hopes to establish an irrevocable pension trust program for the purposes of managing and investing the City’s pension reserve funds separately from the City’s pooled operational portfolio and to reduce the City’s future unfunded pension liability and pension costs.

II. CITY INFORMATION

Nestled at the foot of Mt. Diablo, in Contra Costa County, Walnut Creek is a thriving suburban community located 25 miles east of San Francisco. Walnut Creek is the cultural and retail center of the region, boasting premier shopping, a robust culinary selection, and a vibrant community. The City’s 70,000 residents enjoy an exceptional quality of life that has become a hallmark of the City. Attractive neighborhoods, excellent schools, premier health care facilities, and Bay Area Rapid Transit (BART), have established Walnut Creek as one of the area’s most desirable cities in which to live, work, and visit. The City’s infrastructure, services, and amenities keep pace with development and promote an excellent quality of life.

As a general law city, the City of Walnut Creek operates under a Council-Manager form of government with five City Council members elected at large, serving staggered four-year terms. Walnut Creek is widely recognized for being a well-managed, fiscally sound city and for its innovative programs that benefit its citizens and provide a dynamic, stimulating work climate for City employees. The City employs approximately 363 regular employees and has a biennial operating budget of over \$134 million for 2016-2018.

The City contributes to the California Public Employees Retirement System (CalPERS) for both an agent multiple-employer public employee defined benefit plan for Miscellaneous employees and a cost sharing multiple-employer public employee defined benefit plan for Safety employees. On June 30, 2016, the City’s pension liability amounted to approximately \$83 million in unfunded pension costs and is expected to grow each year pursuant to current actuarial analyses.

III. SCOPE OF SERVICES

- a. Implement the trust program within 90 days of executing contract.
- b. With City staff, develop an Investment Policy for the Section 115 Pension Trust Fund.
- c. Offer an IRS-approved irrevocable funding vehicle to protect the City’s assets.
- d. Provide a full-service program that includes trust administration, trustee and investment management services.
- e. Work directly with City staff to prepare asset allocation guidelines for the trust based on the City’s investment objectives and risk tolerance and compliance with the City’s Investment Policy.
- f. Provide education/presentations regarding the pension trust program to other City staff.

- g. Provide quarterly and annual comparative performance analyses and evaluation reports of the investments of the trust.
- h. Coordinate all contributions into the trust and process requests for appropriate distribution.

IV. PROPOSAL INFORMATION/FORMAT

A. Information

Four (4) hard copies and one (1) electronic copy of the proposal are due **by 4:00 p.m. on Friday, October 11, 2017**. Proposers assume the risk of the method of delivery chosen. The City assumes no responsibility for delays caused by any delivery service. A proposer's failure to submit a proposal as required before the deadline may cause the proposal to be disqualified.

The proposals can be delivered or mailed/emailed to:

City of Walnut Creek
Attn: Tracy Vesely, Interim Administrative Services Director
1666 North Main Street
Walnut Creek, CA 94596
Email: Vesely@walnut-creek.org

The contractor selected pursuant to this request for proposal will be required to comply with the following requirements:

- Provide a City of Walnut Creek business license number (or the temporary business license number issued to new applicants). All contractors must possess a City of Walnut Creek business license and must have paid all outstanding business taxes, if any. Please contact the Business License counter at (925) 943-5821 for additional information or to request a business license application.
- Must be able to satisfy all City requirements pertaining to insurance.

B. Proposal Format

- a. Transmittal Letter/Cover Letter that includes
 - 1) the signature of an officer of the firm authorized to bind the firm to the terms of the proposal;
 - 2) a statement indicating the proposal is valid for 120 days and a statement of whether any potential conflict of interest exists;
 - 3) the name, email, and telephone numbers of the proposed Project Manager, serving as the primary contact for the company.
- b. Table of Contents – All pages are to be numbered
- c. Executive Summary (no more than two pages)
- d. Questionnaire Responses
- e. Attachments (if any)

V. GENERAL REQUIREMENTS AND INFORMATION

The contract award will be based on a combination of factors that represent the best overall value for completing the work scope as determined by the City, including the consultant's qualifications and experience, understanding of the project's Scope of Work, appropriateness of work proposed, innovation and ingenuity applied to the project, prior experience with similar projects for government entities, and cost. The City reserves the right to reject any and all proposals. The final selection will not be based on the lowest bid, but rather the best value.

Minimum Qualifications:

- a. Be a registered Investment Advisor as defined and regulated by the Securities and Exchange Commission (SEC) and provide any other documentation to legally perform the services specified. The firm must share the City's Fiduciary Duty and must not act as a broker/dealer.
- b. Have a minimum of five years of experience in providing the services requested to public agencies in an investment advisor capacity.
- c. Be independent of any financial institution or securities brokerage firm or shall fully disclose any relationships with such financial institution and/or securities brokerage firm relevant to the firm's relationship with the entity.
- d. Have consulting liability (errors and omissions) coverage with a limit of \$1 million per claim and \$2 million annual aggregate.
- e. Have no record of unsatisfactory performance as evidenced by complaints filed with the SEC or any federal or state agency with jurisdiction over the services provided by the firm.

VI. SELECTION PROCESS

The Evaluation Committee will evaluate each respondent's relevant experience and expertise. Firms will be evaluated on the information presented in response to the RFP as well as any supplemental information requested by the Evaluation Committee or obtained through any interviews. The following criteria will be considered, although not exclusively, in determining which proposers are invited for an informal interview with the selection team. The selection team will review and rank the received proposals.

Criteria	Maximum Points (100)
Completeness of Proposal	Pass/Fail
Qualifications and experience with Section 115 Trust	30
Qualifications of key personnel & customer service	10
Responses to Questionnaire	40
Fee Proposal	20

VII. CRITICAL DATES

The anticipated proposal process schedule is as follows:

City releases RFP	September 13, 2017
City responds to all questions	September 27
Proposals due	October 11
City Evaluation of RFPs	October 12 -16
Interviews (tentative – if required)	October 19 - 20
Selection Committee selects and notifies best qualified firm	October 25
Council Finance Committee Review	November 7
City Council awards contract	December 19, 2017

VIII. STANDARD CITY CONSULTANT AGREEMENT

The City intends to negotiate and execute an agreement with the selected firm. The City's standard consultant agreement is provided as Attachment 1 for information. All proposers should review this document and state in the proposal any changes or objections to the terms of the agreement. All work performed, all charges billed by the selected consultant, and all insurance and other requirements will be in accordance with the terms of the agreement.

IX. QUESTIONS/CITY CONTACT

Questions regarding this RFP should be submitted in writing and directed to Tracy Vesely, Interim Administrative Services Director, via e-mail at vesely@walnut-creek.org, no later than **September 22, 2017**. As necessary, responses to questions will be issued via an addendum. The City reserves the right to reject any and all proposals.

This RFP, subsequent addendums, and all attachments are available online at the City of Walnut Creek's website at www.walnut-creek.org. Go to the "Doing Business" and select "Bid on a Project."

X. QUESTIONNAIRE

A. Firm Background and Organization

- a. A brief overview and history of your firm, including length of time providing investment advisory services; length of time providing Section 115 Trusts, and list of California local government clients (including contact information) you currently are contracted with to provide Section 115 Trusts.
- b. A summary overview of the proposed project team structure, including resume of the individual assigned to coordinate services for the City (Account Executive), and qualifications of all team members.
- c. If you will utilize any subcontractors for the servicing of the trust, please describe your relationship and provide background and experience of all services providers for the trust program (trust administration, trustee and investment management services), including number of years the subcontractor has provided investment advisory services.

- d. Describe any SEC, FINRA, or regulatory censure or litigation involving your firm, subcontractor, or its employees in last three years.

B. Section 115 Trust and Custody Services

- a. State whether your Section 115 trust program has approval from the IRS in the form of a Private Letter Ruling.
- b. State whether your firm requires a minimum investment amount to open a Section 115 Trust – and if so, the amount.
- c. Describe the full scope of consulting services you can provide in analyzing funding options and designing a funding program – including investment advisory services that you offer with respect to the Section 115 trust.
- d. Describe the level of assistance your firm offers regarding investment strategy selection and investment policy development.

C. Fees

- a. Provide all fees for the proposed investment services, including administration, trustee and investment management services. Fees for consulting, trustee and investment services should be all broken down separately.
- b. Please detail any start-up fees.
- c. State the kind of expense structure that the investments in your investment platform include (i.e., no load, low-load, proprietary funds, institutional shares, etc.). Describe any additional fees to be netted from investment performance.
- d. Describe in detail any surrender, withdrawal, or deferred sales charges within your products.
- e. Describe any fee related to transfer of assets and restrictions or costs related to termination of a contract with your firm.
- f. Describe in detail and revenue sharing agreements you have with insurance providers, investment managers and/or subcontractors and any remuneration you derive for providing services to such entities. Include any 12b-1, service, distributor, or platform fees you derive from investment managers and/or subadvisors.

XI. RESERVATIONS

Additional information regarding RFP submittal, content, processes, and procedures is listed below:

- a. All proposals will become the property of the City of Walnut Creek and will not be returned to consultants. Consultants are advised that all documents submitted with their proposals are public records open to inspection without redaction, and are directed to California Government Code Section 6250 (Public Records Act), which is available on the State Internet site (www.ca.gov).

- b. The City of Walnut Creek reserves the right to reject any and all proposals, whether or not minimum qualifications are met, and to modify, postpone, or cancel this Request for Proposal, in whole or in part, or decide to award a contract to perform only some of the services outlined in this Request For Proposal, without liability, obligation, or commitment to any party, firm, or organization.
- c. In addition, the City reserves the right to request and obtain additional information from any candidate submitting a proposal, and to negotiate the final scope of services with the selected consultant. The City is not liable for any costs incurred by respondents prior to execution of an agreement, contract, or purchase order. Costs of developing the proposals, oral presentations, or any other such expenses incurred by the consultant in responding to the RFP are entirely the responsibility of the consultant, and shall not be reimbursed in any manner by the City of Walnut Creek. No materials or labor will be furnished by the City.
- d. Only the City Council of Walnut Creek can legally commit to the expenditure of funds in connection with this proposed procurement. Only the City Manager, or his designee, after being duly authorized by the City Council, may execute the Agreement with the successful firm. Further, it is understood that respondents must independently evaluate the information in this RFP and that the City makes no guarantee of data accuracy.
- e. The City reserves the right to waive or permit cure of minor informalities and/or insignificant mistakes such as matters of form rather than substance and to conduct discussions and negotiations with any qualified respondent in any manner deemed necessary by the City to serve its best interests. The City also reserves the right, based on its sole judgment and discretion, to award a contract based upon the written proposals it receives without conducting discussions, interviews, or negotiations.
- f. If, in the opinion of the City, a proposal contains false or misleading statements or references, it may be rejected.
- g. The City reserves the right to obtain written clarification of any point in a consultant's proposal or to obtain additional information necessary to properly evaluate a particular proposal. Failure of a consultant to respond to such a request for additional information or clarification may result in rejection of the consultant's proposal.
- h. Failure to comply with these instructions, and the other specific provisions of the RFP, may result in the consultant's proposal not being reviewed.
- i. The City reserves the right, without qualification, to select a consultant for further discussions based solely on the content of the RFPs and relevant information obtained from others concerning the respondent's respective records of past performance.
- j. Elaborate brochures, sales literature, and other presentations beyond that which is sufficient to present a complete and effective response are not desired.

- k. In the event that it becomes necessary for the City to revise any part of this RFP due to inquiries raised, an email notifying an addendum, supplement or amendment to this RFP will be provided to consultants who received an original invitation to bid via email OR responded to us with their contact information as described on the cover letter of this RFP. Changes to the RFP shall be accomplished by an amended page or pages.
- l. Consultant agrees that any response submitted to this RFP will remain current and valid for a period of not less than 120 calendar days from the proposal due date.

XII. ATTACHMENTS

A. Standard City of Walnut Creek Consultant Agreement

**City of Walnut Creek
CONSULTANT SERVICES AGREEMENT**

THIS CONSULTANT SERVICES AGREEMENT (“Agreement”) is entered into on _____, 2017, between the City of Walnut Creek, a California municipal corporation (“City”), and _____ (“Consultant”).

RECITALS

- A. The City wishes to contract for professional consulting services.
- B. Consultant has the skill, experience, ability, background, certification and knowledge to provide the services. The City has reviewed and accepted Consultant’s qualifications.
- C. Consultant wishes to perform such professional services under agreement with the City.

NOW, THEREFORE, in consideration of the terms in this Agreement, the City and Consultant agree as follows:

AGREEMENT

- 1. **Services.** Consultant shall provide the professional services described in Exhibit A. The time of performance of the services under this Agreement is important to the City, and the time deadlines identified in Exhibit A shall be strictly construed.
- 2. **Compensation and Payment.**
 - a. **Compensation.** As full consideration for the performance of services under this Agreement, City agrees to pay Consultant, and Consultant agrees to accept from City, an amount not to exceed \$ _____, including an accounting of time and materials expended for the entire project. Time and materials shall be billed at the rates set forth in Exhibit B.
 - b. **Payment.** Consultant shall bill City monthly for work completed, and City agrees to pay the invoice within 30 days of receipt.
 - c. **Additional Services.** Any additional services required beyond those set forth in this Agreement shall be performed only if mutually agreed to in writing by the parties.
- 3. **Term; Termination.**
 - a. **Term.** This Agreement shall begin upon execution by both parties and remain in effect until terminated under subsection (b).
 - b. **Termination.** City may terminate this Agreement without cause at any time and for any reason upon 10 days written notice to the Consultant. Upon receipt of any notice of termination, and if requested to do so by the City, Consultant shall stop work at the stage directed by City and shall deliver all drawings, specifications and documentation developed as of that stage. Consultant shall accept as full payment for services rendered to the date of termination a pro rata share of the total Agreement payment based on the portion of work actually performed.

4. **Professional Efforts.** Consultant shall perform all services required in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices his profession.

5. **Responsible Personnel.** Consultant represents that it is fully qualified to perform the services under this Agreement. Consultant represents and warrants to the City that Consultant has, and at all times during the performance of this Agreement shall, maintain all licenses, permits, qualifications, and approvals that are required for Consultant to practice Consultant's profession. Consultant shall assign only competent personnel to perform services under this Agreement. If the City, in its sole discretion, at any time, wishes the removal of any person(s) assigned by Consultant to perform services, Consultant shall remove any such person immediately upon receiving notice from the City.

6. **Facilities and Equipment.** Consultant shall, at its sole cost, expense, and liability; furnish all facilities and equipment that may be required for providing services under this Agreement.

7. **Independent Contractor.** Consultant, its agents, employees and independent contractors are and shall at all times remain as to the City wholly independent contractors. Neither the City nor any of its officers or employees shall have any control over the manner by which the Consultant performs this Agreement and shall only dictate the results of the performance. Consultant shall not represent that Consultant or its agents, employees or independent contractors are agents or employees of the City. Consultant is responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Consultant shall obtain no rights to retirement benefits or other benefits that accrue to City's employees, and Consultant hereby waives any claim it may have to those rights. Except as the City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of the City or to bind the City to any obligation.

8. **Interest of Consultant.** Consultant (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the geographical areas likely to be covered by this Agreement, or any other source of income, interest in real property or investment that would be affected in any manner or degree by the performance of Consultant's services under this Agreement. Consultant further covenants and represents that, in the performance of its duties; no person having any such interest shall perform any services under this Agreement.

If Consultant is determined to be a "Consultant" or a "designated employee" within the meaning of the Political Reform Act, Consultant will comply with the requirements of that Act by submitting a Statement of Economic Interest Form 700. (2 Cal. Code of Regs. §18701(a)(2).)

9. **Accounting Records.** The Consultant agrees to maintain all records and other evidence pertaining to costs incurred and work performed, and shall make them available at the Consultant's office during the Agreement period and thereafter for a period of three years from the date of receipt of final payment.

10. **Ownership of Documents and Data.** All data, maps, photographs, and other material collected or prepared under this Agreement, and all documents of any type developed or obtained by Consultant in the performance of this Agreement, shall become the property of the City.

11. **Indemnification.** Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the active negligence or willful misconduct of the City.

In this section, “City” means the City, its officials, officers, agents, employees and volunteers; “Consultant” means the Consultant, its employees, agents and subcontractors; “Claims” includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses in connection therein) and any allegations of these; and “Arising out of” includes “pertaining to” and “relating to”.

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

The provisions of this section survive completion of the services or the termination of this contract, and are not limited by the provisions of Section 12 relating to insurance.

12. **Insurance.** Consultant shall procure and maintain at its sole cost for the duration of this Agreement the following insurance:

- a. Minimum Scope of Insurance. Coverage shall be at least as broad as:
 - (1) Insurance Services Office Commercial General Liability coverage (“occurrence” form CG 0001).
 - (2) Insurance Services Office form number CA 0001 covering Automobile Liability, code 1 (any auto).
 - (3) Workers’ Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.
 - (4) Errors and omissions/Professional liability insurance for all design professionals such as architects, landscape architects or engineers.
- b. Minimum Limits of Insurance. Consultant shall maintain policy limits of no less than:
 - (1) General Liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be double the aggregate, with completed operations coverage.
 - (2) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
 - (3) Worker’s Compensation and Employers Liability: Worker’s Compensation limits as required by the Labor Code and Employers Liability limits of \$1,000,000 per accident.
 - (4) Errors and Omissions/Professional Liability: \$1,000,000 per claim and annual aggregate. If Consultant maintains higher limits than the minimum required by this contract, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant.
- c. Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City, its officers, officials,

employees and volunteers; or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

d. Other Insurance Provisions. The policies shall contain, or be endorsed to contain, the following provisions:

(1) General Liability and Automobile Liability Coverage.

(a) The City, its officers, officials, employees, agents and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents or volunteers.

(b) Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of Consultant's insurance and shall not contribute with it.

(c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.

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

(2) Worker's Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by Consultant for the City.

(3) Errors and Omissions/Professional Liability Coverage. Consultant's insurance shall include minimum Extended Reporting Period Coverage of three years.

e. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A: VII.

f. Verification of Coverage. Consultant shall furnish the City with certificates of insurance and with original endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete certified copies of all required insurance policies, at any time.

13. **Miscellaneous Provisions.**

a. Notice. Any notice to be given under this Agreement shall be given by enclosing it in a sealed envelope, first-class postage prepaid, and depositing it in the United States mail, addressed

to the party at the following address. Notice shall be deemed received three business days after mailing, or upon personal delivery.

CITY: City of Walnut Creek
Attn: _____
1666 North Main Street
Walnut Creek, California 94596

CONSULTANT: _____

b. Assignment. This Agreement contemplates the personal services of Consultant and its employees and it is understood by both parties that a substantial inducement to City for entering into this Agreement was, and is, the professional reputation and competence of Consultant. Consultant shall not assign, subcontract or otherwise transfer any rights or obligations under this Agreement without the prior written consent of the City.

c. Business license. Consultant shall obtain a City business license before beginning work under this Agreement.

d. Prohibited Interests. No officer or employee of the City shall have any direct financial interest in this Agreement. This Agreement is voidable at the City’s option if this provision is violated.

e. Governing Law; Venue. California law shall govern this Agreement. Any action to enforce or interpret this Agreement shall be brought in a court of competent jurisdiction in the County of Contra Costa, California.

f. Incorporation. The Preamble, the Recitals, Exhibits and all defined terms set forth in both are incorporated into this Agreement by this reference. If there is a conflict between the body of this Agreement and an exhibit prepared by Consultant, the body of the Agreement shall control.

g. Severability. Should any part of this Agreement be declared unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.

h. Authority. All parties executing this Agreement represent and warrant that they are authorized to do so.

i. Entire Agreement; Amendments. This Agreement is the entire Agreement between the parties and supersedes all prior negotiations, representations, or agreements, whether written or oral. This Agreement may be amended only by written agreement signed by both parties.

j. Non-waiver. A party's waiver of any term shall not be deemed a continuing waiver or a waiver of any other term.

k. Counterparts. This Agreement may be executed in counterparts.

14. **Signatures.**

CITY OF WALNUT CREEK	CONSULTANT
By: _____ City Manager	By: _____
Approved as to Form:	Its: _____
By: _____ City Attorney	City business license # _____

Exhibits:

- A Scope of Services (Agreement Section 1.)
- B Rates for time and materials (Agreement Section 2.a.)

Exhibit A
Scope of Services

Exhibit B
Rates for Time and Materials