

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ADOPTING A COMMUNICATION AND INTEGRITY POLICY FOR THE SOLID WASTE REQUEST FOR PROPOSAL PROCESS**

**WHEREAS**, the City of Milpitas (“City”) and Republic Waste Services of North America, LLC, have a written agreement for solid waste services that will expire on September 5, 2017; and

**WHEREAS**, on April 7, 2015, the Milpitas City Council authorized staff to issue a Request For Proposal (“RFP”) for solid waste services; and

**WHEREAS**, the City has retained HF&H Consultants, LLC, to assist in the procurement of a solid waste services vendor; and

**WHEREAS**, HF&H Consultants, LLC, has assisted other cities with similar services and recommends that the City Council adopt a Communication and Integrity Policy; and

**WHEREAS**, the purpose of the policy is to provide a fair opportunity for all potential respondents and to create an impartial climate during the proposal process; and

**WHEREAS**, the proposed policy addresses topics such as communications between the Councilmembers, City staff and consultant and potential proposers, conduct during the competitive process, campaign contributions, and gifts.

**NOW, THEREFORE**, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council hereby adopts the Communications and Integrity Policy for the Solid Waste Request for Proposal Process as attached hereto as **Exhibit A** and incorporated fully herein.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2015, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

## **EXHIBIT A COMMUNICATION AND INTEGRITY POLICY**

### **Purpose**

The City of Milpitas (“City”) is engaged in developing and conducting a Solid Waste Services Competitive Request For Proposal (“RFP”) Process. The intent of the City’s Communication and Integrity Policy (“Communication Policy”) is to provide a fair opportunity for all potential respondents and to create an impartial climate during the competitive solicitation process.

### **Communication Policy**

This Communication Policy is intended to apply to communications between Council members, City employees and consultants, and representatives of firms which may intend to, or are participating in the ongoing process for the City to procure solid waste, recycling and organics services after the conclusion of the current franchise and contractual agreements (“prospective respondents”). It is further limited to only those conversations that relate in any way to the procurement process or provision of future solid waste, recycling or organics services. It is not intended to apply to casual social communications or other communications unrelated to provision of future services or the procurement process.

Beginning with City Council adoption of this Communication Policy, all prospective respondents shall be instructed to communicate on matters which concern a matter relating to the City’s RFP solicitation, only through a person or persons designated by the City as the point of contact. Prospective respondents may also communicate with the City Council during any open and noticed public meeting. Prospective respondents may also communicate with staff members during any open and noticed public meeting, or with staff members at any organized staff meetings for prospective respondents to attend and ask questions and clarifications. Nothing herein precludes designated City staff or consultant to seek additional information or clarification of any proposal submitted through the RFP process or to conduct outreach to solicit proposals through the RFP process.

Questions or comments regarding the process, and requests for clarification, objections to the structure or content of the RFP, and other inquiries from prospective respondents shall be made to the City designated point of contact in writing. The RFP procurement documents may provide additional detail with regard to communications with prospective respondents during the RFP process. The City or its consultant will respond via written addenda to the RFP.

### **Respondents Code of Conduct**

By requesting a RFP package from the City or its consultant, potential respondents agree to adhere to this Communication Policy, and are responsible for ensuring compliance with this Communication Policy on behalf of respondent’s employees, agents, consultants, lobbyists, or other parties or individuals engaged for purposes of developing or supporting a proposal. Any evidence that indicates a respondent, including its employees, agents, consultants, lobbyists or other parties or individuals engaged for purposes of developing or supporting a proposal, has failed to adhere to any section of this Communication Policy may result in the City disqualifying the respondent from the RFP process at the City’s sole discretion.

### **Prohibition on Campaign Contributions**

Milpitas Municipal Code, Title I, Chapter 210 prohibits campaign contributions over \$250 to candidates or controlled committee of candidates, as those terms are defined in the Milpitas Municipal Code and State law. All potential respondents and City Council members should be familiar with the prohibition on campaign contributions as set forth in Milpitas Municipal Code Title I, Chapter 210.

Additionally, Milpitas Municipal Code Title 1, Chapter 310 entitled “Open Government Ordinance” sets forth requirements relating to lobbyists, solicitation of donations, and other issues. All potential respondents and City Council members should be familiar with the Open Government Ordinance including the requirement for lobbyist to register with the City Clerk and prohibition of making any payments to influence local legislative or administrative action as set forth in Milpitas Municipal Code Title I, Chapter 210.

**Gifts – Statement of Political Reform Act Restrictions**

The Political Reform Act prohibits public officials from accepting gifts from a single source with a cumulative value of over \$460 in a single calendar year. In addition, an official who has received a gift or gifts totaling over \$460 within 12 months of a decision involving the source of gifts is disqualified from all participation in that decision. Any gifts from a single source with a cumulative value of over \$50 in a calendar year must be reported on a Form 700. Note that the \$460 limit may increase as of January 1, 2017.

A gift is anything of value provided to the official for which the official has not provided approximately equal consideration. Gifts can include food, beverages, travel, tickets, lodging, a round of golf, a discount or rebate, and a variety of other tangible or intangible items.

From the date of City Council action to adopt this Communication Policy through the date of full execution of a written agreement, no City staff member shall accept gifts of any value from any prospective respondents.

**Restrictions Affecting Consultants**

From the date of City Council action to adopt this Communication Policy until the consultant is no longer working for the City on the franchise procurement, no City consultant will accept gifts of any value from any prospective respondents.

From the date of City Council action to adopt this Communication Policy until the consultant is no longer working for the City on the franchise procurement, no City consultant will do any work for any respondents or prospective respondents.

**Acknowledgement of the City’s Communication and Integrity Policy**

By signing and submitting this form, \_\_\_\_\_ {insert company name}, a potential respondent to the City’s RFP, has reviewed the City’s Communication and Integrity Policy and acknowledges its willingness to adhere to the guidelines as the policy applies to the Solid Waste Services RFP process.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY, that I am duly authorized to legally bind the company to this Acknowledgement, which is made under the laws of the State of California.

\_\_\_\_\_ (Company)

By: \_\_\_\_\_ (Signature)

Name: \_\_\_\_\_ (Printed Name)

Title: \_\_\_\_\_

Date: \_\_\_\_\_