



**CITY OF TORONTO**

**Request for Quotations for  
the non-exclusive supply of all materials, labour, supplies, and equipment  
required for the repair and maintenance of locking systems for the City's Toronto  
Shelter & Support Services Division**

**RFQ No.: Doc5595966583**

## TABLE OF CONTENTS

Page

**PART 1 – RFQ PROCESS****SECTION 1 - RFQ SPECIFIC PROCESS AND SUBMISSION INSTRUCTIONS ..... 4**

1.1	Introduction .....	4
1.2	Procurement Contact.....	4
1.3	RFQ Documents .....	5
1.4	Responding to the RFQ and Prohibited Communications .....	5
1.5	RFQ Timetable.....	7
1.6	Information Meetings .....	8
1.7	Addenda .....	8
1.8	Questions.....	9
1.9	Submission of Bids.....	9
1.10	Amendment of Bids .....	11
1.11	Withdrawal of Bids .....	12
1.12	Bid Validity Period .....	12

**SECTION 2 - EVALUATION, ACCEPTANCE AND EXECUTION ..... 13**

2.1	Evaluation .....	13
2.2	Rights of the City .....	14
2.3	Contract Execution or Purchase Order.....	16
2.4	Notification to Other Suppliers .....	16
2.5	Offers to Agencies and Corporations.....	17
2.6	Debriefing .....	17

**SECTION 3 - GENERAL RFQ TERMS AND CONDITIONS ..... 18**

3.1	General Process Terms and Conditions .....	18
3.2	Suppliers Shall Bear Their Own Costs .....	18
3.3	Limitation of Liability .....	18
3.4	Joint Venture Bids .....	19
3.5	Participation in Multiple Bids .....	19
3.6	City Materials .....	19
3.7	Ownership of Bid Materials.....	20
3.8	Failure or Default of Supplier .....	21
3.9	Trade Agreements .....	22
3.10	No Guarantee of Volume of Work or Exclusivity of Contract.....	22
3.11	Bid Dispute Procedure.....	22
3.12	Supplier Code of Conduct .....	22
3.13	Governing Law and Enforceability .....	22

**TABLE OF CONTENTS**

Page

3.14	RFQ Definitions and Interpretation.....	22
------	---	----

**PART 2 – FORM OF AGREEMENT**

**PART 3 – SPECIFICATIONS AND REQUIREMENTS FOR DELIVERABLES**

**PART 4 – SUBMISSION FORMS**

**FORM A – SUBMISSION FORM**

**FORM B – EXPERIENCE AND QUALIFICATIONS FORM**

**PART 5 – PRICING FORM**

## SECTION 1 - RFQ SPECIFIC PROCESS AND SUBMISSION INSTRUCTIONS

### 1.1 Introduction

- .1 This Request for Quotation (the “RFQ”) is an invitation by the City of Toronto (the “City”) to prospective Suppliers to submit bids for **non-exclusive supply of all materials, labour, supplies, and equipment required for the repair and maintenance of locking systems at various City of Toronto shelter locations**, as further described in Part 3 and the Contract (the “Deliverables”).
- .2 The Successful Supplier will be required to either (i) execute a Contract, or (ii) acknowledge the Contract as contained in the City's purchase order for the provision of the Deliverables. Suppliers should review the terms and conditions set out in Part 2 (FORM OF AGREEMENT) to understand the Contract being entered into with the City. It is the City's intention to enter into a Contract with only one (1) legal entity. The term of the Contract is to be for a period of one year from date of award, with an option in favour of the City to extend the agreement on the same terms and conditions for an additional term of up to four (4) additional separate one (1) year periods.
- .3 The City reserves the right, at its sole and absolute discretion, to not award some or all of the Optional Extension Years as part of the award of the contract to the successful Supplier, in the event that the cumulative cost of such Optional Extension Years combined with the cost of the original contract term exceeds the monetary thresholds established by the Canada European Union Comprehensive Economic and Trade Agreement (CETA).
- .4 This RFQ shall be interpreted in accordance with Section 3.14 (Definitions and Interpretation) and the City's Policies and Legislation.
- .5 Invitation to submit a Bid, including participation in any pre-qualification, request for information or other similar process or exchange of information prior to the RFQ, does not imply that a Supplier is automatically prequalified to meet the requirements of the RFQ or that the factors which were examined during such process or exchange may not be re-examined or re-evaluated by the City during the consideration and selection process for this RFQ. It will still be necessary for the Supplier to demonstrate its qualifications through the RFQ process.

### 1.2 Procurement Contact

- .1 The contact Person at the City for all matters related to the RFQ process (the “**Procurement Contact**”) is set out below:

Name and Title
Name: Vladislav Gorskiy Title: Corporate Buyer

- .2 All communications relating to this RFQ must be submitted to the Procurement Contact using the internal messaging function of the City Online Procurement System.

- .3 Only communications received by the Procurement Contact in the manner permitted by this Section 1.2 (Procurement Contact) will be considered in the RFQ process.
- .4 All permitted communications with the Procurement Contact will be deemed as having been received by the Procurement Contact on the dates and times indicated by the City Online Procurement System.

### **1.3 RFQ Documents**

- .1 This RFQ is comprised of the following documents:  
  
Part 1 – RFQ Process;  
Part 2 – Form of Agreement;  
Part 3 – Specifications and Requirements for Deliverables;  
Part 4 – Submission Forms, consisting of:
  - Form A - Bid Submission Form;
  - Form B - Experience and Qualifications Form;Part 5 – Pricing Form; and any Addenda to the above Parts.
- .2 Prior to submitting a Bid, Suppliers shall examine all components of the RFQ (including all reference documents, appendices, forms and Addenda) and, in accordance with Section 1.8 (Questions) promptly notify the Procurement Contact of any perceived errors, omissions, conflicts, ambiguities or discrepancies in the RFQ.
- .3 For clarity, no prequalification documents issued by the City or prequalification submissions delivered by the Suppliers to the City shall form a part of the RFQ or the Contract.
- .4 It shall be the responsibility of each Supplier to acquire, from online or other sources or in person from the Procurement Contact, as specified in the RFQ, any document that is referenced or mentioned in this RFQ which is not included herein.
- .5 The failure of any Supplier to acquire, receive or examine any document, form, Addendum, or policy shall not relieve the Supplier of any obligation with respect to its Bid or the Contract. The City is not responsible for any misunderstanding on the part of any Supplier concerning this RFQ or its processes.

### **1.4 Responding to the RFQ and Prohibited Communications**

#### **City Online Procurement System**

- .1 The RFQ is available only through the City's online procurement system supplied by SAP Ariba ("**City Online Procurement System**"). For further information about the City Online Procurement System, visit the City Online Procurement System website at: <https://www.toronto.ca/business-economy/doing-business-with-the-city/searching-bidding-on-city-contracts/>.

- .2 Suppliers that intend to respond to the RFQ must ensure that they have the necessary hardware and software to access the RFQ through the City Online Procurement System. Suppliers that intend to respond to the RFQ must check the City Online Procurement System from time to time for the addition, deletion or amendment of any documents related to the RFQ, Addenda and the posting of responses to Questions. Suppliers at all times must keep themselves informed of and take into account the most current version of the RFQ and other City Materials available on the City Online Procurement System.
- .3 It is recommended that Suppliers monitor their spam/ clutter/ junk filters to ensure they do not miss automatically generated messages sent by the City Online Procurement System that relate to this RFQ.
- .4 If a Supplier experiences any difficulties with the City Online Procurement System during the RFQ process, the Supplier must notify the helpdesk of the supplier of the City Online Procurement System and the Procurement Contact immediately. Please use the following information to contact the Help Center of the City Online Procurement System for technical and product support:

While on a SAP Ariba webpage, select:

Help (?) → Support → Get Support → Contact Support

Suppliers shall not contact the City for such technical and product support.

- .5 The City will not assume any risk, responsibility or liability whatsoever to any Supplier for ensuring that the City Online Procurement System is in good working order or that the Suppliers are able to download or upload documents or other material from or to such system, including delays caused by the supplier of the City Online Procurement System or the City Online Procurement System when responding to Suppliers' requests for technical and product support. The City makes no representation, warranty or condition that the City Online Procurement System will be uninterrupted, timely, secure, or error-free.
- .6 Each Supplier is solely responsible for accessing the RFQ through the City Online Procurement System in sufficient time prior to the Submission Deadline to enable the Supplier to submit a Bid.

#### **Prohibited Communications**

- .7 Suppliers (including potential Suppliers) shall not, and shall cause their representatives not to discuss, disclose or communicate, directly or indirectly, any details pertaining to or in connection with their Bid or this RFQ to:
  - any employee, official, agent, elected or appointed official or other representative of the City other than the Procurement Contact; or
  - anyone not specifically involved in their Bid (including, without limitation, any other Supplier),

except as may be authorized in writing by the Procurement Contact through the City Online Procurement System.

- .8 Other than the Procurement Contact, no City representative, whether an official, agent or employee, is authorized to speak for the City with respect to this RFQ. Any Supplier who uses or relies on any representation, information, clarification, correspondence or other communication from any other City representative does so entirely at the Supplier's own risk and the City shall not be bound by such representation, information, clarification, correspondence or other communication.
- .9 Notwithstanding anything to the contrary set out in this RFQ, each Supplier shall comply with the obligations with respect to lobbying as set out in the City of Toronto Municipal Code, Chapter 140. The links to the City's Lobbying By-Law and Interpretive Bulletin on Lobbying and Procurement are as follows:
- [http://www.toronto.ca/legdocs/municode/1184\\_140.pdf](http://www.toronto.ca/legdocs/municode/1184_140.pdf)
  - <https://www.toronto.ca/city-government/accountability-operations-customer-service/accountability-officers/lobbyist-registrar/guidelines-regulatory-bulletins/interpretation-and-advisory-bulletins/>
- .10 Communications in relation to this RFQ outside of those permitted by the applicable procurement policies and this RFQ contravene the Lobbying By-law, an offence for which a Person is liable to a maximum fine of \$25,000.00 on a first conviction and \$100,000.00 on each subsequent conviction. In addition, the Supplier Code of Conduct provides that any Supplier found in breach of the provisions therein respecting prohibited communications may be subject to disqualification from this RFQ or suspended from future procurements in the sole and absolute discretion of the City.
- .11 Without limiting any other provision of this Section 1.4. (Responding to the RFQ and Prohibited Communications), any attempt by a Supplier to bypass the RFQ process may be grounds for rejection of its Bid.

## **1.5 RFQ Timetable**

- .1 The City's currently proposed schedule for each step in the RFQ process is set out in below.

<b>Event</b>	<b>Date /Time</b>
Issue Date of RFQ on the City Online Procurement System	As displayed in the City Online Procurement System countdown clock
<b>Site Visit / Pre-Bid Meeting</b>	Optional Virtual Meeting – please see Section 1.6 below.
Deadline for Questions	Five (5) Business days prior to Submission deadline
Submission Deadline	As displayed in the City Online Procurement System countdown clock
Bid Validity Period	One hundred and twenty (120) Days
Anticipated Award Date	Approximately 3 months after RFQ closing date

- .2 The City reserves the right to, in the City's sole and absolute discretion, at any time:

- revise the RFQ schedule, to accelerate, eliminate or postpone any of the dates or times set out in this RFQ, including the Submission Deadline;
  - to add to, delete or re-order any of the milestones set out in this RFQ, at any time; or
  - modify the RFQ process.
- .3 In the event of an inconsistency or a conflict between the Submission Deadline as displayed in the City Online Procurement System and the Submission Deadline as indicated in an Addendum, the SAP Ariba Discovery portal or any other source, document or location maintained by the City (online or otherwise), the Submission Deadline as displayed in the City Online Procurement System countdown clock shall take precedence.

## **1.6 Information Meetings**

### **.1 Optional Meeting**

A virtual meeting link has been included in Part 1, currently scheduled for **Tuesday May 12 @ 12:30pm**  
(<https://teams.microsoft.com/meet/279585728491392?p=t1ykoFqWP1rgK3TibY>).

## **1.7 Addenda**

- .1 The RFQ may only be amended by Addendum in accordance with this Section 1.7 (Addenda). Prior to the Submission Deadline, the City may at any time or times modify the RFQ in whole or in part through the issuance of an Addenda, if deemed necessary by the City. Each Addendum shall form an integral part of this RFQ.
- .2 All Addenda will be posted through the City Online Procurement System. Although the City Online Procurement System may send notices to registered Suppliers of when Addenda are posted, the City is not responsible for any failure of such notice system or for notices not received by Suppliers.
- .3 Suppliers must check the City Online Procurement System frequently to inform themselves of any posted Addendum. Suppliers acknowledge that any information input directly by Suppliers into the interface of the City Online Procurement System (including information in the Pricing Form), which is the subject matter of an Addendum that is issued after such information has been input, will be automatically erased from the City Online Procurement System by the issuance of such Addenda, whether or not the Supplier's Bid has been fully completed or submitted. Suppliers shall be wholly responsible for checking and reviewing any posted Addenda and ensuring the completeness of the RFQ (as amended) and their Bids (as impacted by such Addenda). The City is not responsible for any incomplete or incorrect Bids resulting from the issuance of an Addendum or a Supplier's failure to update its Bid in response to an Addendum.
- .4 The City will make reasonable efforts to issue the final Addendum (if any) in a sufficient time prior to the Submission Deadline to allow Suppliers to submit their Bids. If any Addendum requires substantial amendments to the RFQ, the City may, in its sole and absolute discretion, extend the Submission Deadline.



- .5 Other than documents issued as part of the RFQ (including Addenda), the City shall not be responsible for any explanations, instructions or interpretations even if provided by its actual or purported employees, designees or agents at an Information Meeting. No oral or written explanations, instructions or interpretations shall modify any of the requirements or provisions of the RFQ unless in the form of an Addendum.
- .6 Any reference in this RFQ to any document comprising this RFQ includes any amendments to such document made in accordance with this Section 1.7 (Addenda).

## **1.8 Questions**

- .1 Prospective Suppliers finding errors, omissions, conflicts, ambiguities or discrepancies in the RFQ or having questions, comments or concerns regarding this RFQ, its process and related matters (“**Questions**”) may submit such Questions to the Procurement Contact using the internal messaging system of the City Online Procurement System.
- .2 The City will make reasonable efforts to respond to Questions received by the deadline for Questions set out in the RFQ timetable in Section 1.5 (RFQ Timetable). However, the City shall have no obligation to respond to any or all Questions, and the City’s determination as to whether or not it will respond to any Question shall be in the City’s sole and absolute discretion. The onus is on each Supplier to confirm the City has received all correspondence from the Supplier.
- .3 Although it is the City’s practice to make available to all Questions received as well as responses to such Questions: (i) for Questions of an administrative nature; or (ii) where a prospective Supplier’s Question is identified as commercially confidential in nature and where, the City in its sole and absolute discretion deems the Question or response to be commercially confidential, the City may provide a response only to that Supplier. The City reserves the right to edit Questions for clarity and applicability to all Suppliers generally.
- .4 Pursuant to Section 1.7 (Addenda), responses to Questions prepared and circulated by the City are not RFQ documents and do not amend the RFQ, unless such responses form part of an Addendum.

## **1.9 Submission of Bids**

### **.1 General**

- .1 Bids must be submitted through the City Online Procurement System prior to the Submission Deadline. Bids will be rejected as non-compliant if submitted by any other mechanism including, but not limited to, post, courier, fax, e-mail or orally, unless specifically requested by the City Procurement Contact through the City Online Procurement System.
- .2 The City Online Procurement System will not accept any Bids that are attempted to be submitted after the Submission Deadline. The expiry of the Submission Deadline and submission time of a Bid shall be determined by the City Online Procurement System.
- .3 It is the Supplier’s sole responsibility to ensure its Bid is received by the Submission Deadline in accordance with the requirements of this RFQ. The receipt of Bids can be delayed due to a number of factors including “internet traffic”, file transfer size

and transmission speed. The Supplier should allow sufficient time to download, complete and upload, as applicable, the submission forms comprising its Bid and any attachments.

- .4 A Bid will only be considered to be submitted once it has been received by the City in the City Online Procurement System. The time of such receipt is reflected by the time stamped acknowledgement of receipt generated by the City Online Procurement System, regardless of when the Bid was submitted by the Supplier. A Supplier may access such time stamped acknowledgement of receipt using the response history function of the City Online Procurement System to confirm the submission time of its Bid.
- .5 Suppliers must submit their Bids in the format presented, prescribed and compatible with the requirements of the RFQ and the City Online Procurement System and must include all attachments required by the City Online Procurement System. Failure to fully complete the forms presented in this RFQ or to include and submit the required attachments or separate documentation, as applicable, may result in the bid being rejected as non-compliant.
- .6 The forms, documents and other items outlined in this Section 1.9 (Submission of Bids) must be completed in their entirety and submitted in the format presented and prescribed by the City Online Procurement System and in accordance with the requirements of the RFQ. Failure to so submit any such items may result in the Bid being rejected as non-compliant.
- .7 Any documents forming part of a Bid uploaded to the City Online Procurement System by the Supplier must:
  - not have a security password;
  - not be defective, corrupted or blank; and
  - be provided in Word or PDF format and be able to be opened and viewed by the City.
- .8 If there is any discrepancy whatsoever between:
  - the information input directly by Suppliers into the interface of the City Online Procurement System and the electronic copy of any documentation uploaded to the City Online Procurement System, information input directly by Suppliers into the interface of the City Online Procurement System shall govern; or
  - any documentation physically delivered by Suppliers and the electronic version of such documentation uploaded to the City Online Procurement System, such electronic version shall govern.
- .9 All Suppliers should exercise extreme care when completing their Bid submissions, as failure to complete the Bid fully or to comply with the requirements of this RFQ may cause the Bid to be rejected as non-compliant.

**.2 Bid Submission Form**

- .1 The Supplier shall complete and submit all information and respond to all items in the Bid submission form set out in Form A to Part 4 (Bid Submission Form) ("**Bid Submission Form**").
- .2 The Bid Submission Form contains confirmatory statements and declarations in respect of the City's Policies and Legislation.
- .3 **Experience and Qualifications Form**
  - 1 Each Supplier shall download, complete, and submit the Experience and Qualifications Form provided in Form B of Part 4 (Experience and Qualifications Form). In submitting such form the Supplier gives the City consent to contact the references therein to confirm the information therein. Failure to provide the required information listed on the Experience and Qualifications Form shall render the Bid non-compliant. If, in the City's sole and absolute discretion, the references do not confirm the Supplier's experience and qualifications as required by the RFQ, the Bid will be declared non-compliant and will not be considered for acceptance.
  - .2 The City reserves the right to verify whether Suppliers are relying upon past experience of an Affiliated Person including the nature of the corporate relationship and its relevance to the Contract. If, in the City's sole and absolute discretion, it is determined that a Supplier is relying on an Affiliated Person's past experience and a transfer of the Affiliated Person's experience cannot be demonstrated as relevant to the Contract then the Bid will be declared non-compliant and not be considered for acceptance.
  - .3 The City reserves the right to verify past performance of the Supplier or its Affiliated Persons with the City's performance records on relevant City projects (including the City's agencies, boards, commissions and corporations).
- .4 **Other Mandatory Submission Requirements**
  - .1 The Successful Supplier must be a certified ASSA ABLOY Security Partner. Please include your certification in Ariba system.

Failure to provide the certificate will result in your bid submission to be declared non-compliant.
- .5 **Pricing Form**
  - .1 Each Supplier shall complete and submit the Pricing Form set out in Part 5 (Pricing Form) according to the instructions contained in such form.
  - .2 In completing the Pricing Form, Suppliers must take into account compliance with all of the requirements of the RFQ, including Part 3 (SPECIFICATIONS AND REQUIREMENTS FOR DELIVERABLES) and the terms of the Contract. The City will assume, in evaluating all Bids, that compliance with such requirements has been accounted for in the completed Pricing Form.

#### **1.10 Amendment of Bids**

- .1 Prior to the Submission Deadline, a Supplier may amend its Bid at any time after submission

of the Bid in the City Online Procurement System by using the revise bid function in the City Online Procurement System. Bids will not be viewed by the City until after the Submission Deadline and a Supplier may amend its Bid one or more times if it so wishes prior to the Submission Deadline.

- .2 If a Supplier amends its Bid, the Supplier must resubmit the Bid using the revise bid function in the City Online Procurement System in accordance with this Section 1.10 (Amendment of Bids). After resubmitting a Bid, the Supplier should check that the City Online Procurement System has generated a time stamp acknowledgment of such resubmission. If a Supplier commences the amendment of a Bid through the revise bid function in the City Online Procurement System, but fails or is unable to resubmit an amended Bid prior to the Submission Deadline through the use of such function, the most recently submitted version of the Bid as recorded in the response history function of the City Online Procurement System shall be considered to be the Supplier's submitted Bid, shall be irrevocable and binding in accordance with the provisions of the RFQ, and may be accepted by the City in its sole and absolute discretion unless such Bid has been properly withdrawn in accordance with Section 1.11 (Withdrawal of Bids).

#### **1.11 Withdrawal of Bids**

- .1 A Bid may be withdrawn at any time prior to the Submission Deadline by delivering written notice of withdrawal to the Procurement Contact by means of the internal messaging function of the City Online Procurement System before the Submission Deadline.
- .2 For clarity, a Bid may only be withdrawn by delivering such notice to the Procurement Contact prior to the Submission Deadline and cannot be withdrawn by any other means. If a Supplier fails to properly withdraw a Bid, the Bid shall be considered to be the Supplier's submitted Bid, shall be irrevocable and binding in accordance with the provisions of the RFQ, and may be accepted by the City in its sole and absolute discretion, notwithstanding such failure.
- .3 Any Bids that are properly withdrawn will not be examined or evaluated for the purpose of the RFQ but shall be retained for the City's record retention purposes.

#### **1.12 Bid Validity Period**

- .1 Upon the Submission Deadline, each submitted Bid shall be irrevocable and binding on Suppliers for the period of time following the Submission Deadline as set out in the RFQ timetable in Section 1.5 (RFQ Timetable) ("**Bid Validity Period**").
- .2 In exceptional circumstances, prior to the expiration of the Bid Validity Period, the City may request Suppliers to extend the validity of their Bids. The request and responses shall be made in writing by the Procurement Contact through the internal messaging function of the City Online Procurement System. A Supplier may refuse the City's request without rendering its Bid non-compliant. A Supplier granting the request shall not be required or permitted to modify its Bid.

## SECTION 2 - EVALUATION, ACCEPTANCE AND EXECUTION

### 2.1 Evaluation

#### .1 Evaluation Process

- .1 The City will conduct the evaluation of Bids in the following two stages.

**Stage 1:** The Bids will be reviewed to determine whether they comply with all of the mandatory requirements of the RFQ, including the requirements of Section 1.9 (Submission of Bids). Bids that are substantially incomplete or do not substantially comply with the requirements of this RFQ will be excluded from consideration in Stage 2.

**Stage 2:** The compliant Bids will be ranked on the basis of the lowest submitted pricing of each Bid in accordance with the Pricing Form.

- .2 Subject to its reserved rights set out in this Part, the City may at any time and from time to time, in its sole and absolute discretion, revisit, revise, confirm or adjust the evaluations of a Bid at any time during the RFQ process.

#### .2 Tied Bids

In the event that the City receives two (2) or more Bids identical in price, the City reserves the right to select one of such Bids as set out in the Tied Bid procedure under the Purchasing Procurement Processes Policy of the City's Policies and Legislation. The Tied Bid procedure allows for the City to first consider whether any of the relevant Suppliers are a Diverse Supplier as defined in the Social Procurement Policy to break the tie. If no such Supplier is a Diverse Supplier, then the tie will be broken by way of coin toss or lottery.

#### .3 Materially Unbalanced or Abnormally Low Bids

- .1 A Bid is materially unbalanced if:

- it is based on prices which are significantly less than cost for some items and prices which are significantly overstated in relation to cost for other items; and
- the City has determined that the Bid may not result in the lowest overall cost to the City even though it may be the lowest submitted Bid; or
- it is so unbalanced as to be tantamount to allowing an advance payment.

- .2 A Bid is abnormally low if the pricing, in combination with other constituent elements of the Bid, appears unreasonably low to the extent that the pricing raises material concerns with the City as to the capability of the Supplier to perform the Contract on the basis of the offered pricing.

- .3 If a materially unbalanced Bid or an abnormally low Bid is identified, the City may seek clarification from the Supplier, including a detailed price analysis of its pricing in relation to the subject matter of the Contract, the scope, the estimated quantities,

the schedule for Contract performance, the allocation of risks and responsibilities and any other requirements of RFQ.

- .4 If after evaluation of the price analysis, the City determines that the Supplier has failed to demonstrate its capability to perform the Contract on the basis of the offered pricing, or that the offered pricing in constitutes a material risk to the City, the City may reject the Bid.

#### **.4 Condition of Award - Attestation**

As a condition of award, the Successful Supplier shall provide a signed Supplier Attestation confirming the Supplier's status in accordance with the definitions of suppliers set out in Part 1 Section 3.14 of the RFQ (i.e. Canadian Supplier, Trade Partner Supplier or None of the Above). The Supplier Attestation shall be signed by an Authorized Signing Officer of the Supplier. The Supplier's failure to provide a signed Supplier Attestation shall constitute sufficient grounds for the City to rescind the award or terminate any resulting contract awarded to the Supplier.

The signed Supplier Attestation must be submitted within five (5) business days of request by the City of Toronto.

If the Attestation is not submitted within the required timeframe, the bid submission will receive no further consideration.

#### **.5 Non-American Supplier Preference**

If the lowest compliant bid was submitted by a USA Based Supplier, and if the lowest compliant bid from a Non-American Supplier is within 20% of the price in the bid submitted by the USA Based Supplier, the City reserves the right, in its sole and absolute discretion, prefer the next highest-ranked Non-American Supplier and award the contract to the Non-American Supplier. The City shall be entitled to exercise or not exercise such right in its sole and absolute discretion and without liability, cost or penalty to any supplier or other person.

## **2.2 Rights of the City**

In addition to, but without limiting any other rights or options of the City under this RFQ, the City may, in its sole and absolute discretion carry out the RFQ process as it determines to be in the best interests of the City and to be the most beneficial to City. The City may, in its sole and absolute discretion, exercise any or all of the following rights and options with respect to this RFQ, at any time:

- .1 The City may waive minor irregularities in any Bid.
- .2 The City may extend any deadline in the RFQ to address unavailability of the City Online Procurement System, in whole or in part, or to address telecommunication system or internet disruption preventing access to the City Online Procurement System.

- .3 The City shall not be obliged to accept or reject any Bid (in whole or in part), including if:
- the Bid contents appear to be incorrect, inaccurate or inappropriate;
  - the Supplier has engaged in conduct prohibited by the RFQ; or
  - the Supplier or any member of a Supplier's Joint Venture is or becomes bankrupt, insolvent, makes an assignment for the benefit of its creditors generally or has a receiver appointed over all or a substantial part of its assets.
- .4 The City may suspend, modify and/or cancel this RFQ (with or without the substitution of another RFQ) or the proposed Contract.
- .5 The lowest quoted price may not necessarily be accepted by the City.
- .6 The City may verify the validity of a Bid including the Supplier's statements, claims, qualifications or capabilities, by whatever means the City deems appropriate including obtaining references other than those offered by the Supplier, and conduct investigations as to the qualifications of each Supplier.
- .7 The City may, at any time during the RFQ process, require (within such time period as set by the City) one, some or all of the Suppliers to:
- .1 submit supplementary information or documentation clarifying any matters contained in their Bid;
  - .2 meet with the City to clarify aspects of their Bid;
  - .3 acknowledge and agree to the City's interpretation of any aspect of a Bid,
- provided, however, that the City is not obliged to seek clarification of any aspect of a Bid and may request clarification from some but not all Suppliers. Such clarification may be in respect of clarification with respect to whether a Bid meets the mandatory requirements of the RFQ or whether the Supplier meets the necessary experience and performance qualifications set out in the RFQ, if any. Any supplementary information and documents submitted by a Supplier which have been accepted by the City and the interpretations prepared by the City which have been acknowledged and agreed to by a Supplier shall be considered to form part of the Bid.
- .8 The City reserves the right to assess the ability of the Supplier to perform the Contract and may reject any Bid where, in the City's sole determination, the personnel and/or resources of the Supplier are insufficient.
- .9 Bids that are improperly prepared, not in compliance with all of the requirements or instructions of the RFQ, incomplete, improperly signed, conditional, qualified, illegible, obscure or contain reservations, additions not called for, arithmetical errors, omissions, erasures, alterations, or irregularities of any kind may, be considered informal or irregular and may be rejected or be retained by the City for consideration and acceptance, subject to the City's Policies and Legislation (Major and Minor Irregularities).

- .10 The City may choose to meet with some or all of the Suppliers in connection with their Bids or the matters provided for in the RFQ. The City may visit the existing place or places of business of some or all Suppliers for purposes of clarification or verification.
- .11 The City may award one or more contracts for portions or all of the Deliverables to as many Suppliers as it deems appropriate, including awarding a contract for Deliverables less than the scope or quantity contemplated in the Successful Supplier's Bid or the RFQ.
- .12 If the RFQ is cancelled, the City may reissue a solicitation to one, some or all of the Suppliers and/or any other person.
- .13 After the Submission Deadline, the City may increase or decrease the quantity of any unit of Deliverables in accordance with the Contract.
- .14 The City may exercise any other right or option provided for in, or in connection with, this RFQ, including the rights and options set out in the City's Policies and Legislation.
- .15 The City may do nothing in relation to the Bids or this RFQ.

### **2.3 Contract Execution**

- .1 Subject to any material bid dispute, the City shall send the Successful Supplier a notice of award, subject to the terms contained in the Form of Agreement set out in Part 2. Upon notification that the Form of Agreement is available for execution, the selected Supplier shall sign, date and return the completed Form of Agreement within 10 Working Days of its receipt, along with any required Supplier Attestation, performance security or insurance certificates. The Supplier Attestation (set out in Part 1 Section 2.1.4) is an additional document that must be provided by the selected Supplier in addition to any other documentation required by the terms and conditions of the Form of Agreement.
- .2 If requested by the City, the selected supplier will execute and deliver the Form of Agreement and any required Supplier Attestation, performance security and insurance certificates in a digital form that is legally verifiable and enforceable.
- .3 After award, the failure of the selected supplier to execute the Form of Agreement as finalized, or submit the necessary Supplier Attestation, performance security or insurance certificates, shall constitute sufficient grounds to rescind the award and may constitute grounds to suspend the supplier from being eligible to submit bids on further procurements for such period of time as may be determined under the City's Supplier Code of Conduct in the City of Toronto Municipal Code Chapter 195. If a Supplier is suspended on such grounds, the City may then invite the next-best-ranked Supplier to enter into negotiations to finalize an agreement or the City may elect to suspend, modify and/or cancel this solicitation (with or without the substitution of another solicitation).

### **2.4 Notification to Other Suppliers**

Once the Successful Supplier is notified that the City has awarded the Contract, the other Suppliers will be notified by the City in writing through the internal messaging function of the City Online



Procurement System of the outcome of the RFQ process.

**2.5     Offers to Agencies and Corporations**

After acceptance of a Bid, the Successful Supplier acknowledges and agrees that the City may inform its agencies and corporations of the Successful Supplier's Contract with the City. If any of such agencies and corporations request the Successful Supplier to provide the same work, deliverables or services, the Successful Supplier shall use commercially reasonable efforts to negotiate a separate and distinct contract with the applicable agency or corporation based on the same or comparable terms (including pricing) as are set out in the City's Contract with the Successful Supplier. The Successful Supplier further acknowledges and agrees that the City shall not be liable for any separate contracts negotiated with any of the City's agencies and Corporations by the Successful Supplier.

**2.6     Debriefing**

Unsuccessful Suppliers may request a debriefing after receipt of a notification of the outcome of the selection process. All requests must be in writing to the Procurement Contact through the internal messaging function of the City Online Procurement System and must be made within sixty (60) days of notification of the outcome of the selection process. The intent of the debriefing information session is to aid the Supplier in presenting a better bid in subsequent procurement opportunities. Any debriefing provided is at the sole and absolute discretion of the City, and not for the purpose of providing an opportunity to challenge the RFQ process.

## **SECTION 3 - GENERAL RFQ TERMS AND CONDITIONS**

### **3.1 General Process Terms and Conditions**

- .1 Suppliers acknowledge that their Bids are governed by the terms and conditions set out in this RFQ as well as the by-laws, policies and procedures established by the City (including the City's Policies and Legislation set out in Form A - Part 4 – Bid Submission Form) and any additional terms and conditions related to the provision of the City Online Procurement System. It is the responsibility of the Supplier to review and comply with all such policies.
- .2 Suppliers should structure their bids in accordance with the instructions in this RFQ. Where information is requested in this RFQ, any response made in a Bid should reference the applicable section numbers of this RFQ.
- .3 The City will have no obligation to consider information, documentation or other content not included in a Bid for the purpose of evaluating the Bid. For clarity, the City will not consider any content referred to in but not included in the Bid, including information referenced by links to websites or other external documents.

### **3.2 Suppliers Shall Bear Their Own Costs**

Each Supplier shall bear all costs, expenses and financial obligations associated with or incurred by the Supplier to: (i) prepare and present its Bid or to otherwise participate in the RFQ process including, if applicable, costs incurred for samples, interviews or demonstrations; or (ii) to establish a legally binding contract with the City.

### **3.3 Limitation of Liability**

- .1 Notwithstanding anything in the RFQ and any express or implied duties or obligations of the City to the contrary, the City and each of its agencies, boards, commissions, elected officials, officers, employees, servants, agents, volunteers, suppliers, advisers and contracted personnel will have no liability to any Person, including any Supplier and prospective Supplier for any damages, costs, liabilities, losses or expenses including direct, indirect, special or punitive damages, or for loss of profits, loss of opportunity or loss of reputation arising out of or otherwise relating to:
  - this RFQ;
  - participation of any such Person in this RFQ process;
  - the provision and availability or lack of availability or accuracy of the City Online Procurement System; or
  - the City's acts or omissions in connection with the conduct of this RFQ process, including the acceptance, non-acceptance or delay in acceptance by the City of any Bid. This limitation applies to all possible claims, whether arising in contract, tort, equity, or otherwise, including any claim for a breach by the City of a duty of fairness, if any, or relating to a failure of the City Online Procurement System to comply with the rules set out in this RFQ.
- .2 By submitting a Bid to the City, each Supplier irrevocably and unconditionally waives any

claims for damages, costs, liabilities, losses and expenses, and shall not seek any order for injunctive relief or specific performance, against the City, its agencies, boards, commissions, elected officials, officers, employees, servants, agents, volunteers, advisers and contracted personnel.

- .3 Each Supplier agrees that, despite this Section 3.3 (Limitation of Liability) or any limitations of liability or releases in favour of City, if the City is found to be liable, in any way whatsoever, for any act or omission in respect of the RFQ or the provision of the City Online Procurement System, the total liability of the City to any Supplier or any other Person participating in the RFQ process, and the aggregate amount of damages recoverable against City for any matter relating to or arising from any act or omission by the City, whether based upon an action or claim in contract, warranty, equity, negligence, intended conduct or otherwise, including any action or claim arising from the acts or omissions, negligent or otherwise, of the City shall be no greater than the Supplier's cost of preparing its Bid.
- .4 Notwithstanding the City's limitation of liability, the Supplier may seek a debriefing or may pursue a Bid Dispute of the RFQ process in accordance with the City's Policies and Legislation.

### **3.4 Joint Venture Bids**

A Supplier may be a private legal entity or any combination of such entities in the form of a joint venture (**Joint Venture**) under and existing agreement or with the intent to enter into such an agreement as supported by a letter of intent. In the case of a Joint Venture, all members shall be jointly and severally liable for the execution of the entire contract if selected by the City. The Joint Venture shall nominate a representative who shall have the authority to conduct all business on behalf of all members of the Joint Venture during the procurement process and for the execution and performance of any resulting contract.

### **3.5 Participation in Multiple Bids**

Submission or participation in more than one Bid by a Supplier will result in the disqualification of all proposals in which the Supplier is involved. This does not limit the inclusion of the same Subcontractor from being named in more than one Bid as a Subcontractor only.

### **3.6 City Materials**

- .1 The RFQ and all correspondence, data, plans, materials, drawings, specifications, reports, estimates, summaries, photographs, models and all other information and documentation in any form provided or made available to any Supplier or prospective Supplier by, or on behalf of, the City in connection with, or arising out of this RFQ (collectively, the "**City Materials**") and all intellectual property rights therein:
  - are and shall remain the sole and absolute property of the City;
  - must be treated by Suppliers and prospective Suppliers as confidential and Suppliers must maintain such confidentiality;
  - must not be disclosed without prior written authorization from the City;

- must not be used for any purpose other than for replying to this RFQ, and for fulfillment of the Contract or any related subsequent agreement; and
  - immediately upon the request of the City, must be returned by the Supplier to the City and all electronic copies must be destroyed.
- .2 Unless and to the extent provided otherwise in the Contract, the City and its advisers make no representation or warranty as to the accuracy or completeness of the City Materials or that the City Online Procurement System will be made available uninterrupted or be error free or accurate, and disclaim all express and implied representations, warranties and conditions in connection with the City Materials and the City Online Procurement System. Any quantities shown or data contained in the City Materials are estimates only and are for the sole purpose of indicating to Suppliers the general scale and scope of the Contract. Use of or reliance by Suppliers on the City Materials and the City Online Procurement System shall be at the Supplier's sole risk and without recourse against the City.
- .3 It is the Suppliers' responsibility to make their own independent investigations, due diligence, projections and conclusions, and consult their own advisors, to obtain all the information necessary to:
- verify and confirm the accuracy and completeness of the City Materials, unless and to the extent provided otherwise in the Contract;
  - ensure proper, accurate and effective use of the City Online Procurement System;
  - satisfy themselves as to all existing conditions affecting the Deliverables or the Contract; and
  - prepare their Bids in response to this RFQ.

### 3.7 Ownership of Bid Materials

- .1 The documentation comprising any Bid, along with all correspondence, data, plans, materials, drawings, specifications, reports, estimates, summaries, photographs, models and all other information and documentation in any form provided or made available to the City by, or on behalf of, any Supplier in connection with, or arising out of this RFQ (collectively, the "**Bid Materials**") and all intellectual property rights therein, once received by the City:
- shall become the sole and absolute property of the City; and
  - shall become subject to MFIPPA, and the City may be required to disclose the Bid Materials members of the public, pursuant to MFIPPA.
- .2 Each Supplier:
- .1 represents and warrants that the information contained in its Bid Materials does not infringe any intellectual property right of any third party;

- .2 hereby assigns and transfer to the City, and shall cause all its personnel and other third parties to assign and transfer to the City, all right, title and interest in the Bid Materials, including intellectual property rights therein:
  - .3 shall cause all its personnel and other third parties to waive, for the benefit of the City, their respective moral rights (and any similar rights to the extent that such rights exist) in and to the Bid Materials; and
  - .4 shall indemnify, defend and hold harmless the City and its agencies, boards, commissions, elected officials, officers, employees, servants, agents, volunteers, advisers and contracted personnel, if any, against all claims, actions, suits and proceedings brought against, or losses, costs, expenses, damages suffered, sustained, or incurred by them which may be directly or indirectly attributable to, or arising or alleged to arise out of the infringement or alleged infringement of any patent, copyright, trademark, or other intellectual property right of a third party in connection with the Bid Materials.
- .3 Suppliers are also advised that MFIPPA does provide protection for confidential and proprietary business information. For the purposes of the City's compliance with MFIPPA, Suppliers are advised to identify in their Bid Materials material any scientific, technical, commercial, proprietary or similar confidential information, the disclosure of which could cause them injury.
- .4 Each Supplier's name and total bid price may be made public. Bid Materials will, as necessary, be made available:
- on a confidential basis, to advisers retained by the City to advise or assist with the RFQ process;
  - to members of Council in accordance with the City's procedures; and
  - to members of the public pursuant to MFIPPA.
- .5 The City will not return the Bid or any other Bid Materials.

### **3.8 Failure or Default of Supplier**

- .1 Without prejudice to any other right or remedy available to the City under this RFQ or at law, if the Supplier, for any reason, fails or defaults in respect of an obligation of the Supplier under the terms of the RFQ, the City may:
  - disqualify the Supplier from the RFQ and/or from competing for any future procurement processes issued by the City; and
  - require the Supplier to pay the City the difference between its Bid and any other Bid which the City accepts, if the latter is for a greater amount and, in addition, to pay the City any other cost which the City may incur by reason of the Supplier's failure or default.
- .2 The Supplier shall be ineligible to submit a new bid for any procurement process that the City is required to reissue as a result of the Supplier's failure or default under the Contract or

where the City deems that the Supplier has abandoned the Contract.

**3.9 Trade Agreements**

Suppliers should be aware that procurements falling within the scope of the Canadian Free Trade Agreement or other trade agreements applicable to the City are subject to such agreements, but the rights and obligations of the parties will be governed by the specific terms of this RFQ.

**3.10 No Guarantee of Volume of Work or Exclusivity of Contract**

The City makes no guarantee of the value or volumes of work or orders to be assigned to the Successful Supplier. The Contract with the Successful Supplier will not be an exclusive contract for the provision of the described Deliverables. The City may contract with others for the same as or similar Deliverables or may obtain such Deliverables or services internally.

**3.11 Bid Dispute Procedure**

Any dispute, complaint, or protest in respect of this RFQ by a Supplier, including prior to and subsequent to the acceptance a Bid by the City shall be addressed in accordance with the Pre-Award Bid Dispute and Post-Award Bid Dispute process under Article 10 of Chapter 195, Purchasing, of the Toronto Municipal Code and the related policy in the City's Policies and Legislation, which are set out on the City of Toronto website at: <https://www.toronto.ca/business-economy/doing-business-with-the-city/understand-the-procurement-process/purchasing-policies-legislation/>.

**3.12 Supplier Code of Conduct**

Each Supplier shall comply with the Supplier Code of Conduct as set out in the City's Policies and Legislation.

**3.13 Governing Law and Enforceability**

- .1 The terms and conditions of the RFQ process are to be governed by and construed in accordance with the City's Policies and Legislation, the laws of the province of Ontario and the federal laws of Canada applicable therein.
- .2 If any provision of the RFQ or its application to any party or circumstance is unenforceable, the provision shall be ineffective only to the extent of the unenforceability without: (i) invalidating the remaining provisions of the RFQ; (ii) changing the fundamental nature of the obligations assumed by the parties; and (iii) affecting its application to other parties or circumstances.

**3.14 RFQ Definitions and Interpretation**

**.1 Definitions**

Throughout this RFQ, unless inconsistent with the subject matter or context, the following definitions shall apply other than in respect of Part 2 (FORM OF AGREEMENT).

- .1 **"Addenda" or "Addendum"** means a document containing additional information and/or changes to the RFQ issued by the City through the City Online Procurement System prior to the Submission Deadline.

- .2 “**Bid**” means an offer submitted by a Supplier in response to the RFQ, which includes all of the documentation necessary to satisfy the submission requirements of the RFQ and “**Bids**” shall have a corresponding meaning;
- .3 “**Bid Materials**” has the meaning set out in Section 3.7 (Ownership of Bid Materials).
- .4 “**Bid Submission Form**” has the meaning set out in Section 1.9.2 (Bid Submission Form).
- .5 “**Bid Validity Period**” has the meaning set out in Section 1.12 (Bid Validity Period).
- .6 “**Canadian Business Subsidiary**” means a corporation operating in Canada, that acts as a supplier, **manufacturer** or distributor of goods and services and is controlled by a parent corporation outside of Canada, and where:
  - A. the business subsidiary has permanent offices or production facilities, and
  - B. a minimum of 70% of the deliverables will be provided by employees based in Canada.
- .7 “**Canadian Supplier**” means a supplier, manufacturer or distributor of any business structure that conducts its activities on a permanent basis in Canada. The business either:
  - A. has its headquarters or principal place of business in any province or territory of Canada; or
  - B. has at least 70% of its employees in Canada at the time of the bid submission of the applicable procurement process; or
  - C. is a Canadian Business Subsidiary.
- .8 “**City**” means the **City of Toronto**
- .9 “**City Materials**” has the meaning set out in Section 3.6 (City Materials).
- .10 “**City Online Procurement System**” has the meaning set out in Section 1.4 (City Online Procurement System).
- .11 “**City’s Policies and Legislation**” means Chapter 195, Purchasing, of the Toronto Municipal Code and the related procurement policies, procedures and guidelines set out on the City of Toronto website at: <https://www.toronto.ca/business-economy/doing-business-with-the-city/understand-the-procurement-process/purchasing-policies-legislation/> as amended, supplemented, re-enacted or replaced from time to time.
- .12 “**Contract**” means the terms and conditions set out in Part 2 (FORM OF AGREEMENT) to be executed by the Successful Supplier and the City or incorporated into a purchase order, which sets out the terms and conditions for the Deliverables.

- .13 **“County of Origin”** means the country where the goods were grown, or the last country in which the goods were produced, as applicable.
- .14 **“Deliverables”** means all goods and/or services to be provided by a Supplier as described in this RFQ.
- .15 **“Joint Venture”** has the meaning set out in Section 3.4 (Joint Venture Bids).
- .16 **“MFIPPA”** means the Municipal Freedom of Information and Protection of Privacy Act, as amended, supplemented, re-enacted or replaced from time to time.
- .17 **“Non-American Business Subsidiary”** means a business subsidiary controlled by a parent corporation operating on a permanent basis in the United States of America (“USA”), that acts as a supplier, manufacturer or distributor of goods, where:
  - A. the business subsidiary has permanent offices or production facilities outside of the USA; and
  - B. a minimum of 70% of the deliverables will be provided by employees based outside of the USA.
- .18 **“Non-American Supplier”** means a supplier, manufacturer or distributor of any business structure that does not meet the definition of “USA Based Supplier”.
- .19 **“Person”** means any individual, partnership, limited partnership, firm, joint venture, syndicate, company or corporation with or without share capital, trust, trustee, executor, administrator or other legal personal representative, governmental authority or entity however designated or constituted.
- .20 **“Procurement Contact”** has the meaning set out in Section 1.2 (Procurement Contact).
- .21 **“RFQ”** means this RFQ package in its entirety, including all documents listed in Section 1.3 (RFQ Documents) and Addenda that may be issued by the City.
- .22 **“Subcontractor”** means a Person undertaking the execution of a part of the Contract by virtue of an agreement with the Contractor.
- .18 **“Submission Deadline”** means the specified deadline for Bids to be submitted to the City as indicated in the RFQ timetable in Section 1.5 (RFQ Timetable).
- .19 **“Successful Supplier”** means the Supplier that has been selected to enter into the Contract for the performance of the Contract.
- .20 **“Supplier”** means a Person, including, where applicable, a Joint Bid Team, that submits a Bid in response to this RFQ and **“Suppliers”** shall have a corresponding meaning.
- .21 **“Supplier Code of Conduct”** means business ethical standards contained in Article 13 Chapter 195, Purchasing, of the Toronto Municipal Code, as amended,



supplemented, re-enacted or replaced from time to time, which is set out on the City of Toronto website at: [https://www.toronto.ca/legdocs/municode/1184\\_195.pdf](https://www.toronto.ca/legdocs/municode/1184_195.pdf).

- .22 **“Trade Partner Supplier”** means a supplier, manufacturer or distributor of any business structure that conducts its activities on a permanent basis within a country that is a party to an international trade agreement applicable to municipalities in Canada. The Trade Partner Supplier either:
- A. has its headquarters or main office within a country that is a party to an international trade agreement applicable to municipalities in Canada, or
  - B. has at least 70% of its employees based in a country that is a party to an international trade agreement applicable to municipalities in Canada at the time of bid submission deadline of the applicable procurement process.
- .23 **“USA Based Supplier”** means a supplier, manufacturer or distributor of any business structure that conducts its activities on a permanent basis in the United States of America (“USA”). The business either:
- A. has its headquarters or principal place of business in any state or territory of the USA; or
  - B. has at least 70% of its employees in the USA at the time of the bid submission of applicable procurement process.
  - C. USA Based Supplier does not include a Non-American Business Subsidiary.
- .22 **“Working Day”** means a day other than:
- a Saturday, Sunday, statutory holiday, or statutory vacation day that is observed by the City of Toronto; or
  - a day identified by the City of Toronto as a designated or statutory holiday.

**.2 Interpretation of the RFQ**

- .1 Except where otherwise requested, all documents relating to the Bid and all communications between Suppliers and the City will be in the English language.
- .2 Except where otherwise disclosed, all references to times in this RFQ will mean local time in Toronto, Ontario, Canada.
- .3 The phrase “includes” “, include” or “including” means “includes, without limitation” or “including” or “include, without limitation”.
- .4 In the RFQ, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
- .5 Unless otherwise stated herein, all amounts in the RFQ are in Canadian dollars, including any amounts provided in the Pricing Form.
- .6 In addition to the words defined in Section 13.14 (Definitions), the other words used in this RFQ shall be interpreted consistent with the definitions contained in the City's Policies and Legislation.