



MID-VALUE PROCUREMENT - CONSTRUCTION

**DEFINITIONS, GENERAL WORK REQUIREMENTS AND GENERAL TERMS AND
CONDITIONS**

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DEFINITIONS

The following definitions shall apply to this IRFQ and any resulting order or Contract:

- a) **"Bid"** means a document submitted by a Bidder in response to this IRFQ;
- b) **"Bidder"** means the individual or legal entity submitting a Bid;
- c) **"Contract"** means the agreement for the execution and performance of the duties, responsibilities and obligations, as required under this IRFQ and in accordance with the Bid, which is formed upon the award of the IRFQ;
- d) **"Contractor"** means the entity to which the Town awards a Contract as a result of this IRFQ;
- e) **"Deliverables"** means any goods, services, or construction, or combination thereof provided, or to be provided, by the Contractor as part of delivering the project described in the IRFQ and the Contract
- f) **"IRFQ"** means this Invitational Request for Quotation document in its entirety, including any schedules or addenda attached;
- g) **"Procurement By-law"** means Town's Procurement By-law, as may be replaced or amended from time to time;
- h) **"Shall" or "Must"** indicates a mandatory requirement that must be agreed to, completed and complied with. Failure to agree, complete and comply will result in your Bid being rejected;
- i) **"Town"** means The Corporation of the Town of Aurora.

1. GENERAL WORK REQUIREMENTS

- 1.1** The Contractor shall keep one copy of the Contract at the work site.
- 1.2** The Contractor shall coordinate all work with the Town's representative to ensure minimum disruption of public service and inconvenience to occupants of and visitors to the public building.
- 1.3** The Contractor shall ensure that there is no interference with the use of and safe passage to and from public buildings, public sidewalks and roads without the prior written approval of the Town. Material shall not be stored in or obstruct roadways, sidewalks or passageways without the prior written approval of the Town. The Contractor shall not interfere with or damage privately or publicly-owned adjacent property.
- 1.4** Prior to and during the performance of work, the Contractor shall establish the location of existing utility lines, and shall ensure the same are protected and maintained.
- 1.5** Where alternations are necessary, the Contractor shall ensure the new and old work shall be joined, cut, removed, patched, repaired or finished in a professional and workmanlike manner to the satisfaction of the Town.
- 1.6** The Contractor shall provide and maintain temporary facilities and services required to carry out the work. All such temporary facilities and services shall be removed by the Contractor upon completion of the work.
- 1.7** The Contractor shall only use new products unless otherwise expressly specified in the Contract. The Contractor shall deliver and store material and equipment to manufacturers' instructions, with manufacturers' labels and seals intact. When material or equipment is specified by standard or performance specifications, the Contractor shall, upon request by the Town, obtain from the manufacturer an independent testing laboratory report, stating that the material or equipment meets or exceeds specified requirements.
- 1.8** The Contractor shall keep the work site clean and hazard-free throughout the work period, and shall provide for proper storage, removal and disposal of garbage. All debris shall be transported to an authorized dump, waste treatment site or recycling facility by the Contractor, and disposed of in accordance with applicable by-laws, laws and regulations (all at the Contractor's expense).
- 1.9** The Contractor shall make such explorations and probes as are necessary to ascertain any protective measures required before proceeding with demolition and removal.
- 1.10** The Contractor shall protect existing structures, furnishings and persons by providing and maintaining adequate temporary protective coverings during the performance of the work. The Contractor shall be responsible for any injury to person, damage to existing structures and furnishings as a result of the work. Any damage occurring as a result of the work shall be repaired or replaced by the

Contractor at the Contractor's expense and to the satisfaction of the Town (in its sole discretion).

- 1.11** The Contractor shall comply with the conditions of the Town relating to Workplace Safety and Insurance Board Requirements.
- 1.12** The Contractor shall provide and maintain adequate fire protection in accordance with any applicable laws and regulations.
- 1.13** The Contractor shall provide and arrange for traffic control where necessary for delivery of materials, removal of garbage, or any other activity related to the work as required by applicable by-laws, laws and regulations.
- 1.14** The Contractor shall take the necessary precautions to keep dust, dirt and noise to an acceptable level as directed by the Town or as required by the applicable by-laws, laws and regulations.
- 1.15** The Contractor shall provide suitable protection for all entrances and exit ways into all buildings, all fresh air intakes, telephone, hydro, and mechanical rooms, elevators shafts and all plumbing, against dust, dirt, water and fumes.
- 1.16** The Contractor shall provide canvas tarps from ground to roof for all entrance and exit ways, floors, walls and all standing fixtures against spillage of materials and/or damage during the work period.
- 1.17** The Contractor shall not store materials or use a truck or other equipment in a manner which would load the structure beyond its design capacity.
- 1.18** The Contractor shall ensure that all persons employed or engaged by the Contractor by the Contractor to perform the work use designated existing sanitary facilities and not undress, use profane language or make coarse gestures which on Town property.
- 1.19** The Contractor shall be responsible for and take every precaution reasonable in the circumstances for the protection of all workers associated with the work (whether employed by the Contractor, the Town or a third party), and for the protection of all other persons. The Contractor shall ensure that all persons employed or engaged by the Contractor to perform the work are supervised by a competent person and trained to perform the specific tasks of their jobs in a healthy and safe manner, and that documentation to support such training remains current during the work period.
- 1.20** The Contractor shall ensure that all tools, equipment and machinery brought to the work site shall be used, stored and maintained properly in accordance with applicable laws, regulations and industry standards.
- 1.21** The Contractor shall ensure that all materials brought to the work site shall be used, stored, handled, transported and disposed of properly in accordance with applicable laws, regulations and industry standards. All materials delivered to the Town or used in conjunction with the work shall have applicable Material Safety Data Sheets in accordance with Workplace Hazardous Material Information Systems ("WHMIS") regulations in the Province of Ontario. Applicable Material Safety Data Sheets shall

be available for inspection at the work site at all times while such materials are present.

- 1.22** The Contractor shall notify the Town of all hazardous materials delivered to the Town or used in conjunction with the work, including without limitation, all products controlled federally and/or provincially under WHMIS or Transportation of Dangerous Goods regulations, and all designated substances as defined in the Occupational Health and Safety Act, R.S.O. 1990, c. O.1 and Regulations.
- 1.23** The Contractor shall be responsible for ensuring that all excavated soil material is assessed, characterized, designated, tested, processed, handled, documented, reported, removed, transported, hauled and disposed in full compliance with any legislation applicable to such activities, including O. Reg. 406/19, O. Reg. 347 and the Environmental Protection Act, R.S.O. 1990, c. E.19 along with any other of its regulations, all as amended, (collectively "Soil Disposal Laws").

The Contractor shall be responsible for determining the obligations and requirements that are applicable to the work and disposal of soil material, and for ensuring that all such obligations, including any requirements or obligations of the Project Leader, ("Soil Disposal Obligations") are fulfilled in compliance with any applicable law, including the Soil Disposal Laws. (collectively, the Soil Disposal Laws and Soil Disposal Obligations being the "Soil Disposal Requirements").

The Contractor shall retain any consultant, or subconsultant, necessary, to satisfy the above and to fulfil any applicable Soil Disposal Requirements, including retaining a qualified person as required under O. Reg 406/19 or under any other applicable laws or regulations. The Contractor shall ensure that such consultant, subconsultant, or qualified person, carries out any and all tasks as required to fulfil and comply with any and all Soil Disposal Requirements with respect to any soil that is being removed, transported and disposed from the project site.

Without limiting the generality of the foregoing, the Contractor shall, prior to the removal of any soil material from the project site, provide to the Town documentation and information to demonstrate, to the satisfaction of the Director, that any necessary permit, authorization and approval for the removal of the material, transportation of the material and the deposit of the material at the destination site, are in place and are in compliance with any Soil Disposal Requirements, for the entire quantity of material intended to be removed. The Contractor shall not remove any soil material off the project site prior to obtaining the necessary permits and approvals for the hauling and disposal of the same at the disposal site, and the Contractor shall only remove the quantity of the soil material for which approval have been obtained.

Further and without limiting the foregoing, the hauling and disposal documentation and records to be provided by the Contractor shall demonstrate, to the satisfaction of the Director, that any such hauling and disposal was conducted pursuant to Contract requirements, prior approvals and in compliance with any Soil Disposal Requirements.

The Contractor shall only be entitled to payment for quantities of disposed soil material that is properly accounted for, verifiable and documented, in accordance with the aforementioned requirements, the Contract and any applicable Soil Disposal Requirements, to the satisfaction of the Director.

The Contractor shall not be entitled to claim any delays, or costs related to delays, for having to undertake any activities, obligations, tasks or services that are part of soil assessment, characterization, designation, testing, processing, documenting, reporting, removal, transportation, hauling and disposal or otherwise required with respect to the same pursuant to the Contract and Soil Disposal Laws, regardless of whether the necessity of such activities was unknown or not part of the scope of the Work outlined in the Contract.

The Contractor shall be liable for and indemnify the Town for any penalties incurred due to non-compliance with any Soil Disposal Requirements. The Town reserves the right to withhold any payments to the Contractor in the event of non-compliance with any Soil Disposal Requirements. The Town reserves the right to deduct, from any monies owed or due to the Contractor, any amounts necessary to remedy any non-compliance with Soil Disposal Requirements.

Any proposed location within the limits of the Town to be used for the disposal of excavated soil material must be approved by the Town prior to its use.

2. GENERAL TERMS AND CONDITIONS

- 2.1.** The goods, material, articles, equipment, work or services, specified or called for in or under this IRFQ, shall be delivered or completely performed, as the case may be, by the Bidder as soon as possible and in any event within the period set out herein as the guaranteed period of delivery or completion after receipt of an official order therefore.
- 2.2.** The prices quoted in this IRFQ - shall be payable in Canadian Funds and shall be exclusive of all taxes. Taxes are to be shown separately where applicable.
- 2.3.** The prices quoted in this IRFQ shall be based on the goods, material, articles or equipment referred to herein, being delivered F.O.B. destination, freight prepaid and allowed.
- 2.4.** Notwithstanding the above, all Work under the Contract will be on as-needed basis when requested by the Town. The Town does not warrant or represent any quantity of Work under the Contract and the Town may choose, at its discretion, not to assign any Work under the Contract. The quantity set out above is only an estimate and that payments will be made for the actual measured quantities of work performed in accordance with the Contract
- 2.5.** Any Contract executed pursuant to this IRFQ will not be an exclusive contract for the provision of the described work, services or deliverables. The Town may contract with others for the same or similar work, services or deliverables, by way of a further procurement or otherwise, or may obtain the same or similar work, services or deliverables internally.
- 2.6.** A Proper Invoice pursuant to this IRFQ or the Contract shall contain the following information:
 - a) the Contractor's name and address;
 - b) the date of the application for payment and the period during which the work, services or materials were supplied;
 - c) the applicable purchase order number of the Town;
 - d) information identifying the Contract under which services or materials were supplied;
 - e) a description, including quantity where appropriate, of the services or materials that were supplied;
 - f) the amount payable for the services or materials that were supplied and the applicable HST;
 - g) the amount of the holdback being held and, if applicable, the amount of holdback payable;
 - h) the name, title, telephone number and mailing address of the person to whom payment is to be sent;

- i) if requested by the Town, a valid WSIB certificate,
- j) if requested by the Town, a completed statutory declaration of progress payment distribution by Contractor,
- k) record of Payment Draw Estimate and, if applicable, of the payment review that includes, at the minimum, the date of such a meeting for the applicable billing period.

2.7. Any Proper Invoice pursuant to this IRFQ or the Contract shall adhere to the following requirements:

- a) Proper Invoices shall be sent through e-mail directly to Accounts Payable of the Town at contractorinvoices@aurora.ca and in accordance with the service requirements set out herein.
- b) Proper Invoices may only be sent to the Town by the Contractor seven (7) days after a Payment Draw Estimate has been provided to the Town with respect to the work, services or materials subject to such a Payment Draw Estimate. In a case where the Payment Draw Estimate has not been provided or where a Proper Invoice is provided earlier than seven (7) after the provision of the Payment Draw Estimate, any such proposed invoice provided to the Town shall be deemed to be received by the Town seven (7) calendar days following its provision to the Town.
- c) Proper Invoices shall not be given, submitted or received by the Town between December 10 and January 4 of any year. Any invoices sent to the Town between December 10 and January 4, inclusive, shall be deemed to be received by the Town on January 5. In the case of an invoice that is deemed to have been received seven (7) calendar days following its provision to the Town, pursuant to paragraph (b), if the seventh (7th) falls between December 10 and January 4, inclusive, such invoice shall be deemed to have been received on January 5.

2.8. Upon the completion of the work, services or supply of materials under the Contract, or earlier termination of the Contract, the Contractor shall provide the Town with a Payment Draw Estimate and, if requested by the Town, meet with a Town representative to review the Payment Draw Estimate. The Payment Draw Estimate shall be provided using a method and to a party as directed by the Town, but shall not be sent to contractorinvoices@aurora.ca. If additional work, services or materials are required following the submission of the Payment Draw Estimate, the Contractor shall submit invoice(s) for the same in accordance with the requirements set out herein as additional Payment Draw Estimate(s).

2.9. Any invoice provided to the Town that does not meet all of the requirements set out above or is not sent to the Town in accordance with the requirements set out herein, shall not be considered a Proper Invoice received by the Town. Any such in-compliant invoice or application for payment shall not result in payment and shall not constitute a Proper Invoice that is received by the Town until such time as it satisfies

all the requirements of the Proper Invoice Set out above and is served on the Town in accordance with the service requirements set out herein.

- 2.10.** The Town shall make payments to the Contractor in Canadian funds using electronic funds transfer (EFT). Upon Contract execution, the Contractor shall complete the Town's EFT payment form and submit it to the Town.
- 2.11.** The Town shall pay any Proper Invoices received by the Town in accordance with the provisions of the Contract and the Construction Act, subject to any holdback provisions of the Contract and the Construction Act.
- 2.12.** Subject to Part IV and V of the Construction Act, all monies payable to the Town by the Contractor under any stipulation herein may be retained out of any monies due or which may become due from the Town to the Contractor under the Contract or any other contract with the Town, or otherwise howsoever, or may be recovered from the Contractor or its sureties, or any or either of them, as a debt due to the Town.
- 2.13.** The Town shall have the right to cancel at any time any Contract or any part of any Contract resulting from an official order based on this IRFQ in respect to the goods, material, articles, equipment, work or service covered thereby, not delivered or performed at that time, without incurring any liability whatsoever in respect thereto.
- 2.14.** The Contractor shall not have any claim for compensation or damages against the Town for any stoppage or delay for any cause whatever.
- 2.15.** All goods, material, articles or equipment, supplied, and all work or services performed, pursuant to an official order based on the IRFQ, shall be subject to inspection by the Town at the point of unloading, or the site or work or service. No extra charge shall be made by the Bidder for packaging, packing or containers.
- 2.16.** No verbal arrangement or agreement, relating to the goods, material, articles, equipment, work or service specified or called for under this IRFQ will be considered binding, and every notice, advice or other communication, pertaining thereto, must be in writing and signed by a duly authorized person of the Town.
- 2.17.** The Contractor shall at all times will and truly save, defend, keep harmless and fully indemnify the Town and its servants, employees and agents, from and against all actions, suits, claims, demands, loss, costs, charges, damages and expense, brought or made against or incurred by the Town, its servants, employees or agents, in any way relating to goods, material, articles or equipment, supplied, or the supplying thereof, or work or services, performed, or the performing thereof, pursuant the Contract or any official order based on this IRFQ, or relating to inventions, copyrights, trademarks or patents, or rights thereto, used in supplying such goods, material, articles or equipment, or in performing such work or services, or arising out of the subsequent use or operation of such goods, material, articles, equipment or work.

- 2.18.** In the event that the Bidder fails or neglects to comply with any of the conditions set out in this IRFQ, any Contract resulting from an official order based on this IRFQ may be unconditionally cancelled by the Town without notice.
- 2.19.** If the case that any person or corporation contracting with the Town pursuant to this IRFQ, is found to have provided, or agreed to provide, any interest to a Town employee in relation to the Contract, or the award of the Contract, then such Bidder or Contractor, and their representatives and assigns, shall forfeit all claims under the Contract, and for all work done, or material, goods, wares or merchandise, furnished under it and the Town will have a right to terminate any resulting Contract at any time.
- 2.20.** The Town reserves the right, in its sole discretion, to terminate any Contract resulting from this IRFQ, in whole or in part, for any reason or for no reason, upon providing thirty (30) Days prior written notice to the Contractor.
- 2.21.** Should a dispute arise from the terms and conditions of the IRFQ, regarding the meaning, intent or ambiguity, the decision of the Town shall be final.
- 2.22.** Any product or service found to be defective, failed, or unsuitable for its intended use, shall be unconditionally replaced, repaired, or returned for 100% credit. The Town shall not be liable for any restocking charges or additional transportation charges incurred as a result of such replacement, repair, or return. Only a proven case of abuse or careless use by the end user shall serve as an exception to this provision.
- 2.23.** The Contract, any work resulting from this IRFQ or Contract, or any part thereof, or any monies payable pursuant to the Contract, shall not be transferred, assigned or otherwise disposed of without prior written consent of the Town. Such written consent however shall not under any circumstances relieve the Bidder/Contractor of his/her liabilities and obligations under this IRFQ or Contract and shall be within the sole and unfettered discretion of the Town.
- 2.24.** Upon completion of the Contract by the Contractor, a written performance evaluation of the Contractor may be completed by the Town and the evaluation shall be placed in the Town file corresponding to the Contractor. A copy of the evaluation and supporting documentation may be made available to persons requesting Town references for a future contract and also may be reviewed and may form part of the criteria when considering the Town's future award of contracts. The Contractor authorizes the completion, maintenance and release of any information that forms part of the evaluation.
- 2.25.** The Contractor agrees that any services being performed under the Contract will be in accordance with the provisions and regulations set out in the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11, as amended, and its associated Accessibility Standards for Customer Service (O. Reg 429/07) by ensuring only appropriately trained consultants, agents, officials, employees or subcontractors are assigned to the work. If requested by the Town, the Contractor shall make available to the Town all documents associated with the training of

and/or written confirmation that its employees, agents, officials or subcontractors have been appropriately trained as required under the Accessibility for Ontarians with Disabilities Act, 2005, and the regulation(s) made thereunder.

- 2.26.** Any correspondence, documentation and information provided to staff of the Town by any Bidder or Contractor in connection with, or arising out of, this IRFQ, including any Bid, shall become the property of the Town, and as such, shall be subject to Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, as amended ("MFIPPA"). Bidders/Contractors are advised to identify any material, scientific, technical, commercial, proprietary or similar confidential information, the disclosure of which could cause them injury if the information were to be released to the public. Further, any parties providing personal information to the Town pursuant to this IRFQ or the Contract are deemed to have consented to such information being used in the evaluation and the administration of the Bids and the Contract, at the discretion of the Town. Any questions relating to the MFIPPA are to be directed to the Town Clerk.
- 2.27.** Payments to the Contractor, holdbacks and their release, and certificates of substantial performance and completion under this Contract shall be in full compliance with the provisions of the Construction Act. A ten-percent (10%) Construction Act holdback will be calculated based on the value of work performed and deducted from payments. The Contractor shall be deemed to have made due allowance for executing the requirements of the Construction Act.
- 2.28.** If the Work under the Contract consists of more than one improvement and the improvements are to lands that are not contiguous, then for the purposes of subsection 2(4) of the Construction Act, R.S.O. 1990, c. C.30, improvements conducted in each calendar year of the life of the Contract to lands that are non contiguous shall be deemed to be improvements under a separate contract.
- 2.29.** Subject to Part IV and V of the Construction Act, all monies payable to the Town by the Contractor under any stipulation herein may be retained out of any monies due or which may become due from the Town to the Contractor under the Contract or any other contract with the Town, or otherwise howsoever, or may be recovered from the Contractor or its sureties, or any or either of them, as a debt due to the Town.
- 2.30.** The following shall apply to any adjudication the Town and the Contractor engage in pursuant to the Construction Act:
- a) any hearings shall be held at a venue within the jurisdiction of the place of the work or such other venue as the Town and the Contractor may agree and which is acceptable to the adjudicator;
 - b) the adjudication shall be conducted in English;
 - c) the Town and the Contractor may be represented by counsel throughout an adjudication;

d) there shall not be any oral communications with respect to issues in dispute that are the subject of an adjudication between a party and the adjudicator unless it is made in the presence of both parties or their legal representatives;

e) a copy of all written communication between the adjudicator and a party shall be given to the other party at the same time.

2.31. Notwithstanding anything else, the parties acknowledge and agree that the Contractor shall be responsible for ensuring the health and safety of any of its employees, sub-contractors, sub-consultants and personnel conducting services or providing deliverables under the Contract, and the Contractor shall be responsible for compliance at all times with any applicable laws, rules, orders, regulations, decrees, policies, directives, mandates, guidelines and recommendations put in place by any government body in relation to COVID-19 or the associated pandemic, including Town policies relating to personal protective equipment and vaccination requirements, (collectively the "Pandemic Regulations"), as amended from time to time, regardless of when a Pandemic Regulation is introduced, put into place or varied. The Town may at any time request the Contractor to provide health and safety protocols put in place by the Contractor with respect to COVID-19 and proof of compliance with any Pandemic Regulations and the Contractor is forthwith required to provide the same.

Contractors are responsible for being informed about and satisfying themselves with respect to any applicable Pandemic Regulations. Information with respect to Town policies and regulations can be provided upon request by the Contractor.

Notwithstanding anything else, the Contractor shall not be entitled to payment for any costs, charges or delays incurred as a result of Pandemic Regulations or COVID-19 or the associated pandemic, including the costs for acquiring any equipment or supplies to comply with Pandemic Regulations, or any other costs or losses incurred as a result of COVID-19, including the costs related to varying any work methods or personnel, or related to increased material costs.

Notwithstanding anything else, in the event the Contractor ceases construction activity due to COVID-19 or the associated pandemic, the Contractor shall ensure that the Place of the Work, and any lands affected by the Work, are left in a condition so as to avoid property damage and any harm, safety risks, or hazards to the public, and in a condition that maintains a stable operation of any Town infrastructure or stream affected by the Work. In the event the Contractor is in default of the aforementioned, upon receipt of a written notice of the same by the Town and not remedying the same within two (2) Working Days, the Town shall be entitled to take all such measures it deems necessary to address the default and the Contractor shall reimburse the Town for any costs attributable to such measures. In the event the Town deems the default to pose an immediate hazard to public safety or structural stability of the site, or in the event that the default comprises the Town's critical infrastructure, the Town shall be entitled to take immediate measures it

deems necessary to address the default and the Contractor shall reimburse the Town for any costs attributable to such measures.