

APPENDIX A RFT PARTICULARS

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APPENDIX A - RFT PARTICULARS

A. The Work

The Work includes, but is not limited to, the construction of Mosaic House commercial space fit-out for Regional services, located at 5676 Main Street in the Town of Whitchurch-Stouffville, as further described in Appendix C – Form of Contract.

B. Material Disclosures

1. Contract for the Work

The selected bidder will be required to enter into a contract with the Region for the provision of the Work in the form of contract attached as Appendix C. Bidders should review the form of contract before submitting their bid. Any concerns or questions regarding the terms and conditions of the contract should be directed to the Region through the 'Submit a Question' feature on the Bidding Website before the Submission Deadline.

2. Term of Contract

The Work shall be completed in accordance with the Contract Time specified in Appendix C – Form of Contract.

3. Tariffs

Bidders shall price their bids to include all costs associated with only those tariffs that are in effect as of the Submission Deadline.

If additional tariffs come into force after the Submission Deadline that increase the selected bidder's costs of performing the Work, the selected bidder shall notify the Region in writing within 15 days of the enactment of the additional tariffs. Such notice shall include a detailed description of the tariffs, including the rates and amounts of the tariffs and the specific products or components thereof that are affected. The selected bidder shall take commercially reasonable steps to mitigate the costs and damages it may incur as a result of such tariffs by consulting with the Region to determine whether:

- the goods can be sourced from countries to which the additional tariffs do not apply; and/or
- the goods can be shipped and imported into Canada prior to effective date of the additional tariffs.

If the goods can only be sourced from a country subject to the additional tariffs and cannot be shipped before the tariff's effective date, the Region will reimburse the selected bidder, and the Bid Price shall be adjusted accordingly, for the reasonable direct costs the selected bidder incurs as a direct result of the additional tariffs, provided sufficient documentary evidence is submitted that substantiates such costs. No claims for costs the selected bidder incurs as an indirect result of the tariffs (such as, without limitation, due to fluctuations in the cost of materials caused by general market conditions, supply chain disruptions, or geopolitical events – even if such factors are influenced by the tariffs at issue), markups, or administrative charges will be considered. The Region must approve the submitted documentary evidence before any Bid Price adjustment may be authorized. Examples of documentary evidence which may be acceptable to the Region includes:

- Official manufacturer notice outlining the price increase and reason (e.g. tariff changes).
- Updated price list from the manufacturer showing the revised rates and effective date.
- Government-issued tariff documentation (for example, Canadian Border Services Agency notice).
- Selected bidder or distributor correspondence with supporting manufacturer documentation.
- Third-party market reports or industry publications confirming tariff-related cost increases.
- Customs documentation showing applicable tariff rates and their impact on costs.

This entitlement to a potential increase in the Bid Price does not apply to price increases for factors that the selected bidder could have reasonably anticipated, accounted for or avoided as of the Submission Deadline. Such factors include, but are not limited to, fluctuations in the cost of fuel, delivery costs or inflation.

The Region reserves the right to deny the selected bidder's claim for a Bid Price adjustment if the documentary evidence provided by the selected bidder does not meet the Region's requirements, as determined by the Region in its sole discretion. The Region may refuse the selected bidder's claim for an adjustment to the Bid Price or approve an amount less than what was requested if the Region, in its sole discretion, determines that the price adjustment request is unreasonable or exceeds the Region's budgetary limits.

This price adjustment is the selected bidder's sole and exclusive remedy in relation to the imposition of additional tariffs. For clarity, the selected bidder shall not be entitled to an extension of Contract Time on account of the additional tariffs (including, without limitation, on account of any delays, disruptions, cost increases, economic or market conditions, or supply chain impacts arising directly or indirectly from the additional tariffs). Upon receiving payment for the price adjustment, the selected bidder agrees to waive its entitlement to, and release the Region from, any claims for additional compensation, schedule extensions, or other relief (including, without limitation, an increase in the Bid Price and/or an extension of Contract Time) arising out of the imposition of the additional tariffs.

If a tariff that was in effect at the Submission Deadline is subsequently reduced or eliminated, resulting in a decrease of the selected bidder's costs of performing the Work, the Bid Price shall be adjusted downward to reflect the reduction or elimination of the tariff and the associated decrease in the selected bidder's costs.

The Region shall have the right to audit, inspect, and examine the selected bidder's records necessary to verify any required Bid Price adjustment, including without limitation invoices, receipts, purchase orders, customs documentation, supplier quotations, supplier payment terms, and any other relevant financial or transactional records. The selected bidder shall cooperate fully with any such audit, inspection, or examination and provide access to such records promptly upon request.

4. COVID-19

The bidder that enters into a contract with the Region for the provision of the Work will be required to comply with all legislative amendments, controls, regulations, requirements and orders that were or are issued by the Government of Canada, the Province of Ontario, the Region or other municipal authority in response to the global pandemic of the virus leading to COVID-19 including any resurgence or mutation thereof (the "**Pandemic**").

Bidders shall consider all legislative amendments, controls, regulations, requirements and orders that were issued, prior to the Submission Deadline, by the Government of Canada, the Province of Ontario, the Region or other municipal authority in response to the Pandemic, including any impacts such legislative amendments, controls, regulations, requirements and orders could have on pricing, and the bidder's prices will be deemed to include all costs associated with the foregoing.

5. Electronic Monitoring Policy

The Region has implemented an [Electronic Monitoring Policy](#), as may be amended from time to time. This policy outlines when and how employees and contractors may be electronically monitored while performing work-related duties and activities or while using Regional assets, equipment, systems or information. A copy of this policy is available at the below link: <https://www.york.ca/business/doing-business-york-region/current-bids-and-tenders>.

6. Occupational Health and Safety Management System (OHSMS) Certification Program

As part of the Region's ongoing commitment to occupational health and safety, all contractors submitting bids on publicly tendered Regional construction projects must possess, at the time of bidding, at least one of the following occupational health and safety management system (OHSMS) certifications acceptable to the Region ("**OHSMS Certification**"):

- (a) Certificate of Recognition (COR[®]) issued by the Infrastructure Health and Safety Association (IHSA);
- (b) Letter of COR[®] Equivalency issued by the IHSA;
- (c) Letter of Reciprocity issued by the IHSA;
- (d) ISO 45001:2018 certificate issued by an entity accredited by an accreditation body recognized by the International Accreditation Forum (IAF) ("**ISO Certificate**") and/or
- (e) any other OHSMS certification accredited by the Chief Prevention Officer under section 7.6.1 of the Occupational Health and Safety Act.

Valid OHSMS Certification must be maintained for the duration of the contract.

For further details about COR[®], including the certification process and fees, please contact the IHSA at 1-800-263-5024 or visit their website at <http://www.ihsa.ca/cor-home>.

For further details about ISO 45001:2018, please contact the International Organization for Standardization at customerservice@iso.org or visit their website at <https://www.iso.org/>. Additional details about certification and accreditation bodies are available on the IAF website at <https://www.iafcertsearch.org/>.

For further details related to the OHSMS certification accredited by the Chief Prevention Officer under section 7.6.1 of the Occupational Health and Safety Act, please visit <https://www.ontario.ca/page/supporting-ontarios-safe-employers-program#section-5>.

For further details related to the OHSMS Certification Program, visit York.ca at <https://www.york.ca/business/doing-business-york-region>.

7. Examination of the Site

Prior to submitting a bid, bidders shall thoroughly acquaint themselves with the RFT and carefully examine the site where the Work will be performed, to fully inform themselves of the existing conditions and limitations. Access to the site may be provided during the bidding period when requested.

Bidders shall not claim, after the submission of their bid, that there was any misunderstanding of the terms and conditions of the contract relating to site conditions.

8. Designated Substances Notice

A site hazard assessment has been conducted and all known designated substances under the *Occupational Health and Safety Act*, RSO 1990, c O.1 are listed in the Pre-Work Hazard Assessment Form attached as Appendix G

The Pre-Work Hazard Assessment Form is provided for information purposes only and the Region assumes no responsibility for its correctness or completeness.

9. Non-Disclosure Agreement

The Region reserves the right to require the bidder to enter into a non-disclosure agreement satisfactory to the Region regarding any information that the Region deems to be confidential.

10. Award of Contract

The award of the contract will be subject to the approval of Regional Council or its authorized delegate and, if applicable, the receipt of sufficient funding.

C. Mandatory Submission Requirements

1. Bid Deposit

Bidders shall submit a bid deposit in the amount of not less than 10% of the Subtotal Contract Amount generated on the Bidding Website in the Schedule of Prices (the “**Bid Price**”), to act as security for the satisfaction of the pre-conditions of award listed in Section E.

The bid deposit shall be in the form of a digital Bid Bond from a recognized guarantee or surety company acceptable to the Region and authorized by law to do business in the province of Ontario. The form of Bid Bond acceptable to the Region is attached as Appendix E. In lieu of the Bid Bond form attached as Appendix E, the Region may at its sole discretion accept Bid Bonds that are substantially in the form of Appendix E or substantially in the form issued by the Canadian Construction Documents Committee (CCDC 220 Form) or the Surety Association of Canada.

Bidders shall upload the digital Bid Bond in the document upload field titled “Bid Bond (Digital Bond)” in the Documents & Bonding step in the Bidding Website.

2. Undertaking to Bond

Bidders shall submit a digital Undertaking to Bond. The Undertaking to Bond shall be in the form of a digital Undertaking to Bond from a recognized guarantee or surety company acceptable to the Region and authorized by law to do business in the province of Ontario. The form of Undertaking to Bond acceptable to the Region is attached as Appendix F. In lieu of the Undertaking to Bond form attached as Appendix F, the Region may at its sole discretion accept Undertakings to Bond that are substantially in the form of Appendix F or substantially in the form issued by the Surety Association of Canada, including digital Agreements to Bond or Consents of Surety.

Bidders shall upload the digital Undertaking to Bond in the document upload field titled “Undertaking to Bond (Digital Bond)” in the Documents & Bonding step in the Bidding Website.

3. Joint Venture or Consortium

Bidders structured as a joint venture or consortium shall upload a PDF file containing the documentation required under this section C.3 in the document upload field titled “Joint Venture or Consortium Documentation” in the Documents & Bonding step in the Bidding Website. The documentation shall:

- identify the member that will be:
 - the prime contractor having full responsibility for the requirements of the Work; and
 - responsible for executing all documentation on behalf of the bidder; and
- include a duly authorized statutory declaration from each member declaring that the member agrees to:
 - comply with, and be bound by, the terms and conditions of the RFT; and

- be jointly and severally liable for all obligations under the contract.

The Region will only discuss the RFT with the prime contractor as the sole representative on behalf of the joint venture or consortium.,

Bidders not structured as a joint venture or consortium do not need to upload the documentation required under this section C.3.

D. Mandatory Technical Requirements

1. Occupational Health and Safety Management System (OHSMS) Certification Program

Under the Mandatory Technical Requirements section in the Bidding Website, bidders are required to confirm whether or not they have obtained at least one valid OHSMS Certification by selecting either “yes” or “no” under each specified OHSMS Certification type category.

Bidders are also required to upload, in the document upload field titled “OHSMS Certification Documentation” in the Documents step in the Bidding Website, proof of valid OHSMS Certification in a form acceptable to the Region, in its sole discretion.

The name of the certified organization must appear on the proof of OHSMS Certification and must match the legal name of the bidder, as determined by the Region in its sole discretion.

For bidders structured as a joint venture or consortium, at least one of the parties to the joint venture or consortium must possess valid OHSMS Certification and the name of the certified party must appear on the submitted proof of OHSMS Certification.

Acceptable forms of proof of valid OHSMS Certification types are limited to the following:

- (a) Certificate of Recognition (COR®) issued by the IHSA;
- (b) Letter of COR® Equivalency issued by the IHSA;
- (c) Letter of Reciprocity issued by the IHSA;
- (d) ISO Certificate that contains all of the following information:
 - (i) the standard for which the certificate has been issued (ISO 45001:2018 or more current version)
 - (ii) appropriate scope for Ontario based operations (the scope on the certificate must match the scope of the procurement, as determined by the Region in its sole discretion)

- (iii) certificate expiration date
- (iv) certificate number; and
- (e) any other OHSMS certification accredited by the Chief Prevention Officer under section 7.6.1 of the Occupational Health and Safety Act.

If proof of valid OHSMS Certification has not been submitted or is submitted in a form that does not meet the OHSMS Certification requirements of the RFT, the Region reserves the right to:

- (a) contact the relevant third party issuing the subject OHSMS Certification to verify the validity of the bidder's OHSMS Certification; and/or
- (b) issue the bidder a rectification notice identifying the OHSMS Certification deficiencies and providing the bidder an opportunity to rectify the deficiencies. If the bidder fails to satisfy the OHSMS Certification requirements within 3 business days following the day the Region emails a rectification notice to the bidder, its bid will be rejected.

E. Pre-Conditions of Award

1. Executed Contract

The selected bidder shall execute a contract with the Region for the provision of the Work.

2. WSIB Certificate of Clearance

The selected bidder shall submit a current Certificate of Clearance from the Workplace Safety and Insurance Board.

3. Insurance

The selected bidder shall provide proof of insurance coverage as specified in Appendix D Bidders should review the insurance requirements with their insurance provider to ensure that each requirement can be met before submitting their bid. Any concerns or questions regarding the insurance requirements should be directed to the Region through the 'Submit a Question' feature on the Bidding Website before the Submission Deadline.

4. Bonds

The selected bidder shall provide:

- (a) a Performance Bond in an amount equal to 100% of the Bid Price and conforming to Form 32 - Performance Bond under Section 85.1 of the Construction Act; and

(b) a Labour and Material Payment Bond in an amount equal to 50% of the Bid Price and conforming to Form 31 - Labour and Material Payment Bond under Section 85.1 of the Construction Act

Form 32 – Performance Bond under Section 85.1 of the Construction Act and Form 31 – Labour and Material Payment Bond under Section 85.1 of the Construction Act can be found at <http://ontariocourtforms.on.ca/en/construction-lien-act-forms/>.

The bonds shall be issued by a recognized guarantee or surety company acceptable to the Region and authorized by law to do business in the province of Ontario.