

**REQUEST FOR PROPOSALS**

**Number 2023-09**

**ESTABLISHMENT AND OPERATION OF RECEIVING FACILITIES  
FOR  
CITY OF TORONTO DISTRICTS**

**Issue Date:** Wednesday, September 27, 2023

**RFP Version Number:** 3 – Issued January 12, 2024

**Question Submission Deadline:** Refer to Table 2.1

**Proposal Submission Deadline:** Refer to Table 2.1

**LATE PROPOSALS SHALL NOT BE ACCEPTED.**

## PROPONENT'S PROPOSAL CHECKLIST

**NOTE: Proposals not submitted in one (1) sealed Proposal Package containing Envelope 1, Envelope 2 and Envelope 3 as set out below may be rejected or retained for consideration and selection. Envelope 1 must not contain any references to pricing. Envelope 2 must not contain any references to pricing. If a Proponent includes pricing references in Envelope 1 or Envelope 2, the Issuing Authority shall reject such Proposal.**

### **Before sealing Envelope 1 (Mandatory Forms), please check to ensure the following has been done:**

1. Have you enclosed one (1) original and five (5) copies of the completed Proposal Form (Appendix D)? Section 4.1.1.
2. Have you enclosed the required Proposal Deposit? Section 4.1.2.
3. Have you enclosed one (1) original and five (5) copies of the completed Independent Proposal Certification Form (Appendix E)? Section 4.1.3.
4. Have you enclosed one (1) original and five (5) copies of the completed Confidentiality Agreement? Section 4.1.4.
5. Have you labelled Envelope 1 correctly?
6. Are you satisfied that your Envelope 1 documents do not make any references to pricing or any other commercial terms and conditions? All such references should be included in Envelope 2 or Envelope 3, as applicable.

Each Proponent must submit one (1) original identified as “Master” and five (5) copies marked as “Copy” of their Mandatory Forms in Envelope 1, sealed, and clearly marked “**Mandatory Forms**”.

### **Before sealing Envelope 2 (Technical Proposal), please check to ensure the following has been done:**

1. Have you enclosed one (1) copy of the Proposal Form (Appendix D)? Section 4.2.1.
2. If applicable, have you enclosed one (1) original and five (5) copies of the completed Subcontractor Form (Appendix F)? Section 4.2.2.
3. Have you enclosed one (1) original and five (5) copies of the Technical Proposal for each District addressed in the Proposal? Section 4.2.3.
4. Have you enclosed a thumb drive with electronic copies of the Technical Proposal? Section 4.2.
5. Have you labelled Envelope 2 Technical Proposal correctly?
6. Are you satisfied that your Envelope 2 Technical Proposal documents do not make any references to pricing? All such references should only be included in Envelope 3 Financial Proposal.

Each Proponent must submit one (1) original identified as “Master” and five (5) copies marked as “Copy” of their Technical Proposal in Envelope 2, sealed, and clearly marked “**Technical Proposal**”.

### **Before sealing Envelope 2 (Alternative Option), please check to ensure the following has been done:**

1. Have you enclosed one (1) original and five (5) copies of the Alternative Option for each District addressed in the Alternative Option? Section 4.4.
2. Have you enclosed a thumb drive with electronic copies of the Alternative Option? Section 4.4(e).
3. Have you labelled Envelope 2 Alternative Option correctly?
4. Are you satisfied that your Envelope 2 Alternative Option documents do not make any references to pricing? All such references should only be included in Envelope 3 Alternative Option Financial Proposal.


Each Proponent must submit one (1) original identified as “Master” and five (5) copies marked as “Copy” of their Alternative Option in Envelope 2, sealed, and clearly marked “**Alternative Option**”.

**Before sealing Envelope 3 (Financial Proposal), please check to ensure the following has been done:**

1. Have you enclosed one (1) copy of the Proposal Form (Appendix D)? Section 4.3.1.
2. If applicable, have you enclosed one (1) original of the completed Agreement to Bond (Appendix G)? Section 4.3.2.
3. Have you enclosed one (1) original and five (5) copies of the Pricing Form (Appendix H) for each District addressed in the Technical Proposal? Section 4.3.3.
4. Have you enclosed a thumb drive with electronic copies of the Financial Proposal? Section 4.3.
5. Have you labelled Envelope 3 Financial Proposal correctly?


Each Proponent must submit one (1) original identified as “Master” and five (5) copies marked as “Copy” of their Financial Proposal in Envelope 3, sealed, and clearly marked “**Financial Proposal**”.

**Before sealing Envelope 3 (Alternative Option Financial Proposal), please check to ensure the following has been done:**

1. Have you enclosed one (1) original and five (5) copies of the Alternative Option Form (Appendix I)? Section 4.4(b).
2. Have you enclosed a thumb drive with electronic copies of the Alternative Option Financial Proposal? Section 4.4(e).
3. Have you labelled Envelope 3 Alternative Option Financial Proposal correctly?


Each Proponent must submit one (1) original identified as “Master” and five (5) copies marked as “Copy” of their Alternative Option Financial Proposal in Envelope 3, sealed, and clearly marked “**Alternative Option Financial Proposal**”.

**NOTE: The Issuing Authority has provided this checklist for the convenience of the Proponents responding to this RFP and provides no guarantees it is complete. This checklist does not relieve a Proponent of its obligation to review the RFP Documents in their entirety to understand fully the requirements of the RFP Documents (including the content and form of the Proposal), and its obligation to ensure that its Proposal, in response to the RFP Documents, is complete and meets the requirements of the RFP Documents.**

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## **ARTICLE 1 INTRODUCTION**

### **1.1 Definitions**

“Addenda” shall have the meaning set forth in Section 2.3.

“Addendum” shall have the meaning set forth in Section 2.3.

“Agreement to Bond” means the agreement to bond set forth in Appendix G.

“Alternative Option” shall have the meaning set forth in Section 4.4.

“Alternative Option Form” means the alternative option form set forth in Appendix I.

“Applicable Law” shall have the meaning set forth in Section 1.1 of the Draft MSA.

“Blue Box Material” shall have the meaning set forth in Section 1.1 of the Draft MSA.

“Business Day” shall have the meaning set forth in Section 1.1 of the Draft MSA.

“CMO” shall have the meaning set forth in Section 1.3.

“Confidentiality Agreement” means the confidentiality agreement in the form of Appendix C to this RFP, returned by a Proponent pursuant to Section 4.1.4 of this RFP.

“Contract Price” shall have the meaning set forth in Section 1.1 of the Draft MSA.

“District” means an area of the City of Toronto as set forth in Section 1.4.

“Draft Master Services Agreement” or “Draft MSA” means the draft master services agreement in the form set forth in Appendix A.

“Envelope 1” means the envelope containing the Proposal documents prescribed in Section 4.1.

“Envelope 2” means the envelope containing the Proposal documents prescribed in Section 4.2.

“Envelope 3” means the envelope containing the Proposal documents prescribed in Section 4.3.

“Equipment” shall have the meaning set forth in Section 1.1 of the Draft MSA.

“Final Master Services Agreement” or “Final MSA” means an agreement, if any, that is entered into between a Successful Proponent and RLG or a Person, other than a Successful Proponent, and RLG. For clarity, RLG may enter into more than one Final MSA with more than one Successful Proponent in relation to this RFP process.

“Financial Proposal” means the documents required to be included in Envelope 3.

“Inbound Vehicle” shall have the meaning set forth in Section 1.1 of the Statement of Work for Receiving Facilities under the Draft MSA.

“Independent Proposal Certification Form” means the independent proposal certification form set forth in Appendix E.

“Issuing Authority” shall have the meaning set forth in Section 1.3.

“Issuing Authority Contact” shall have the meaning set forth in Section 2.1.

“Mandatory Forms” means the documents required to be included in Envelope 1.

“Outbound Vehicle” shall have the meaning set forth in Section 1.1 of the Statement of Work for Receiving Facilities under the Draft MSA.

“Performance Security” shall have the meaning set forth in Section 7.1 of the Draft MSA.

“Person” means any individual, partnership, limited partnership, joint venture, syndicate, company or corporation with or without share capital, trust, trustee, executor, administrator or other legal personal representative, and any federal, provincial or municipal government, regulatory authority, agency, tribunal, commission, board or department of any such government or entity however designated or constituted.

“Preferred Proponent” means a Proponent with whom the Issuing Authority wishes to negotiate a Final MSA.

“Pricing Form” means the pricing form for a District set forth in Appendix H.

“Proponent” means a Person that registered pursuant to Section 3.1 and is planning to submit a Proposal.

“Proponent Team Member” means a Proponent’s advisor, employee, representative, affiliate, subcontractor or consultant and their respective advisors, employees, representatives, affiliates, subcontractors and consultants.

“Procurement Process” shall have the meaning set forth in Section 1.1 of the Draft MSA.

“Proposal” means the proposal to be submitted by a Proponent in accordance with the RFP Documents.

“Proposal Closing Time” shall have the meaning set forth in Table 2.1 of this RFP.

“Proposal Deposit” shall have the meaning set forth in Section 4.1.2.

“Proposal Package” means the package containing Envelope 1, Envelope 2 and Envelope 3. The Proposal Package may also contain envelopes for Alternative Options, if any.

“Proposal Form” means the proposal form set forth in Appendix D.

“Proposal Materials” shall have the meaning set forth in Section 5.6(a).

“Receiving Facility” shall have the meaning set forth in Section 1.1 of the Draft MSA.

“Registration Deadline” means the registration deadline set out in Table 2.1.

“Registration Form” means the registration form set forth in Appendix B.

“Regulation” shall have the meaning set forth in Section 1.1 of the Draft MSA.

“Request for Proposal” or “RFP” means this RFP Number 2023-07 dated Wednesday, September 27, 2023 (including Appendices A, B, C, D, E, F, G, H, I, J, K, L and M).

“RFP Documents” means:

- (i) this RFP;
- (ii) the Confidentiality Agreement; and
- (iii) any Addenda.

“RLG” shall have the meaning set forth in Section 1.3.

“Single Stream” shall have the meaning set forth in Section 1.1 of the Statement of Work for Receiving Facilities under the Draft MSA.

“Statement of Work” shall have the meaning set forth in Section 1.1 of the Draft MSA.

“Subcontractor” shall have the meaning set forth in Section 1.1 of the Draft MSA.

“Subcontractor Form” means the subcontractor form set forth in Appendix F.

“Successful Proponent” means a Proponent, if any, that executes a Final MSA with RLG.

“Technical Proposal” means the documents required to be included in Envelope 2.

“Value Added Taxes” shall have the meaning set forth in Section 1.1 of the Draft MSA.

“Work” means the work generally described in the Draft MSA, including the Statements of Work.



## 1.2 Interpretation

- (a) Whenever inconsistent in the context, words used in the present tense include the future tense, words in the plural include the singular, words in the singular include the plural, the use of any gender shall be applicable to all genders whenever the sense requires.
- (b) The words authorized, directed, required, requested, approved, ordered, sanctioned, and satisfactory, unless some other meaning is obvious from the context, shall mean respectively authorized, directed, required, required, approved, or sanctioned by or satisfactory to the Issuing Authority or its appointed representative.
- (c) Where the word “including” or “includes” is used, it means “including (or includes) without limitation”.
- (d) The word “may” in the RFP Documents denotes permissive, and in the context of the Issuing Authority means acting in its sole and absolute discretion.
- (e) The word “shall” in the RFP Documents denotes imperative.
- (f) Any capitalized term used in the RFP Documents that is not defined in Section 1.1 or elsewhere in the RFP Documents shall, if applicable, have the meaning set out in the Regulation or otherwise shall have the generally accepted industry or technical meaning given to such term.
- (g) The headings in the RFP Documents are solely for convenience of reference and shall not be used for purposes of interpreting or construing the provisions hereof.
- (h) Unless otherwise provided for herein, all monetary amounts referred to herein shall refer to the lawful money of Canada.
- (i) When calculating the period of time within which or following which any act is to be done or step taken pursuant to the RFP Documents, the date which is the reference date in calculating such period shall be excluded. If the last day of such period is not a Business Day, then the time period in question shall end on the first Business Day following such non-Business Day.
- (j) Any references in the RFP Documents to any law, by-law, rule, regulation, order or act of any government, governmental body or other regulatory body, including any Applicable Law, shall be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto.
- (k) This RFP is only a request for proposals and is not, and under no circumstances to be construed or considered as, an invitation to bid or call for tenders. Neither the

RFP Documents nor the submission of any Proposals in response to the RFP Documents shall, in any way whatsoever, create any binding obligations on the Issuing Authority. For clarity, these RFP Documents are not intended to be an offer to enter into a bidding contract with Proponents (often referred to as “Contract A”) and the Issuing Authority shall have no obligations or liability of any kind to a Proponent until a Final MSA, if any, has been formally executed by a Successful Proponent and RLG, and then only owed by RLG (and not CMO) to a Successful Proponent under such Final MSA.

### **1.3 Purpose**

- (a) Circular Materials is a federal not-for-profit corporation having a place of business at 1 St. Clair Avenue West, Suite 700, Toronto ON M4V 1K6 (“CMO”) and the administrator of the common collection system.
- (b) RLG Systems Canada Inc. is a corporation incorporated under the laws of Ontario, having a place of business at 175 Bloor Street East, 9th Floor, South Tower, Toronto, Ontario M4W 3R8 (“RLG”).
- (c) CMO has contracted with RLG to perform work in connection with the establishment and operation of Receiving Facilities and related services. Together, CMO and RLG (collectively the “Issuing Authority”) have issued this RFP to request proposals from interested Persons to perform the Work in one or more Districts. In that regard, RLG (and not CMO) shall enter into Final MSAs with Successful Proponents, if any.
- (d) The Issuing Authority may, in its sole and absolute discretion, decide that:
  - (i) RLG shall enter into one or more Final MSAs with one or more Successful Proponents; and
  - (ii) each Final MSA may relate to the performance of the Work in:
    - (A) one or more Districts; or
    - (B) a part of a District; or
    - (C) the parts of different Districts.

### **1.4 City of Toronto Districts**

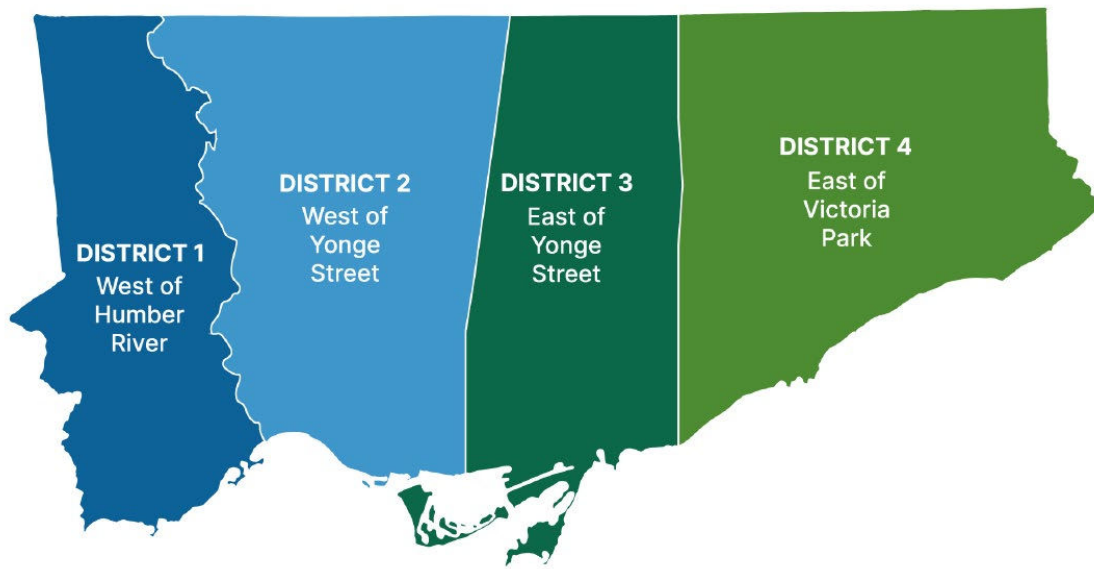
“District 1” is bounded by Keele Street and Parkside Drive to the east; Highway 427, Eglinton Avenue West and Etobicoke Creek to the west; Steeles Avenue to the north; and Lake Ontario to the south.

“District 2” is bounded by Yonge Street to the east; Keele Street and Parkside Drive to the west; Steeles Avenue to the north; and Lake Ontario to the south.

“District 3” is bounded by Highway 404, the Don Valley Parkway, and Woodbine Avenue to the east; Yonge Street to the west; Steeles Avenue to the north; and Lake Ontario to the south.

“District 4” is bounded by Pickering Town Line to the east; Highway 404, the Don Valley Parkway, and Woodbine Avenue to the west; Steeles Avenue to the north; and Lake Ontario to the south.

**Figure 1.1: City of Toronto Districts**



## ARTICLE 2 CONTACT, TIMELINE AND DOCUMENTS

### 2.1 Issuing Authority Contact

- (a) Unless otherwise specified in the RFP Documents, all communications relating to this RFP shall only be addressed to the following designated contact (“Issuing Authority Contact”):

Glenda Gies

[RFP@circularmaterials.ca](mailto:RFP@circularmaterials.ca)

- (b) All communications relating to this RFP shall be in writing and submitted to the Issuing Authority Contact by email with the subject line “RFP Number 2023-09”.
- (c) Proponents and their representatives may not contact individuals employed or engaged by the Issuing Authority, other than the Issuing Authority Contact, concerning matters regarding this RFP. Only information received by the Issuing Authority Contact shall be considered in this RFP. Any Proponent that does not follow these instructions may be disqualified from this RFP.

### 2.2 RFP Timeline

- (a) Table 2.1 provides a proposed schedule for the RFP. The Issuing Authority reserves the right to revise this schedule, or to add to or delete any of the milestones set out in Table 2.1, in the Issuing Authority’s sole and absolute discretion, at any time.
- (b) For those milestones that require Proponents to deliver a response to the Issuing Authority, the milestones listed are firm deadlines and Proponents must submit their response on or before the deadlines set out in Table 2.1.

Table 2.1: RFP Timeline	
Item	Date
RFP Issued	Wednesday, September 27, 2023
Registration Deadline	Friday, January 5, 2024, at 4:00:00 p.m.
Question Submission Deadline	Friday, January 5, 2024, at 4:00:00 p.m.
Deadline for Issuance of Addenda	Friday, January 12, 2024, at 4:00:00 p.m.
Proposal Submission Deadline	Friday, January 26, 2024, at 4:00:00 p.m. (“Proposal Closing Time”)
Clarifications and/or Interviews, if required	Prior to March 31, 2024

<b>Table 2.1: RFP Timeline</b>	
<b>Item</b>	<b>Date</b>
Anticipated Communication by the Issuing Authority to Proponents	Prior to April 30, 2024
MSA Effective Date	Date a Final MSA is executed

### **2.3 Addenda**

- (a) The Issuing Authority may, at any time or times during this RFP, modify the RFP Documents, in whole or in part, or provide clarification or additional information, if deemed necessary by the Issuing Authority. To address such issues, the Issuing Authority shall issue a written addendum to this RFP (collectively, the “Addenda” and individually, the “Addendum”) to Proponents.
- (b) Following the issuance of the RFP, the Issuing Authority shall issue Addenda using the latest contact information provided by a Proponent. The onus is upon a Proponent to ensure the Issuing Authority has the Proponent’s correct contact information.
- (c) It is a Proponent’s ultimate responsibility to ensure they have received all Addenda. Proponents must acknowledge receipt of all Addenda in their Proposal or a Proponent’s Proposal may be disqualified.
- (d) The final Addendum shall be issued no later than the Deadline for Issuance of Addenda specified in Table 2.1.

## ARTICLE 3 INSTRUCTIONS TO PROPONENTS

### 3.1 Registration

- (a) Subject to the other provisions in the RFP Documents, only Persons that register with the Issuing Authority by the Registration Deadline provided in Table 2.1 may participate in the RFP.
- (b) To register, a Person must complete all required elements of the form provided in Appendix B and submit it to the Issuing Authority pursuant to Section 2.1(a).
- (c) The Issuing Authority does not intend to hold a Proponent to a commitment to submit a Proposal that may be required by the Registration Form submitted by such Proponent.

**NOTE: If a Person wishes to jointly submit a Proposal with one or more other Persons, the Person must comply with the requirements of Section 5.9 of this RFP. All Persons submitting the joint Proposal must be identified in the Proposal Form. The Proposal Form must expressly identify, for each joint Person, the services set out in the Proposal that such joint Person shall provide.**

### 3.2 Non-Mandatory Meeting

- (a) Proponents are encouraged to attend a non-mandatory information meeting on Wednesday, October 18, 2023 at 10:00:00 am Eastern Time via Zoom. Login coordinates will be provided to Proponents.
- (b) The non-mandatory information meeting shall include a high-level review of the anticipated RFP process and contents. In addition, the non-mandatory information meeting shall allow for the Proponents to clarify the scope, propose high level concepts and ensure alignment with the Issuing Authority's vision for the RFP. Prior to such non-mandatory information meeting, each Proponent shall provide the Issuing Authority Contact with the names and titles of its representatives that shall be attending the non-mandatory information meeting. The benefits of the non-mandatory information meetings include:
  - (i) discussions that improve the quality of the Proposals; and
  - (ii) an opportunity for Proponents to clarify their understanding, at a high level, of the scope of Work required and the Issuing Authority's objectives.
- (c) Failure to attend the non-mandatory information meeting by a Proponent shall not automatically result in disqualification and the Issuing Authority may, in its sole and absolute discretion, consider the Proposal of such a Proponent. No statement

in the non-mandatory information meeting by either the Issuing Authority or a Proponent shall amend any provision of the RFP Documents, or may be relied upon by a Proponent, except to the extent it is later confirmed in writing by the Issuing Authority through Addenda.

- (d) Proponents shall participate in the non-mandatory information meeting in accordance with the guidelines, procedures and processes set by the Issuing Authority.
- (e) In the event that the Issuing Authority deems a question discussed at the non-mandatory information meeting would be of a general interest to the Proponents, or could have a significant effect on the RFP or the outcome of the RFP process, the Issuing Authority shall have the right to provide the question and answer to all Proponents, even if the Proponent that posed the question sought to retract the question.

### **3.3 Inquiries, Omissions, Discrepancies, and Interpretations**

- (a) Each Proponent must satisfy himself/herself by a personal study of the RFP Documents respecting the conditions existing or likely to exist in connection with the Work and other matters in respect of the RFP Documents. There shall be no consideration of any claim, before or after submission of a Proposal, that there is a misunderstanding with respect to the conditions imposed by the RFP Documents.
- (b) A Proponent shall review the information furnished to it by, or on behalf of, the Issuing Authority (including the RFP Documents) in a reasonable and prudent manner and satisfy itself that the information (including the scope of the Work) is complete and clear. If a Proponent finds discrepancies, omissions, errors, departures from good practice and ambiguities, or has other questions or comments in respect of such documents or information or has any doubt as to the meaning of such documents or information (including any uncertainty as to the proper manner of completing a Proposal), the Proponent shall notify the Issuing Authority Contact immediately (but not later than the Question Submission Deadline specified in Table 2.1) pursuant to Section 2.1 of this RFP.

**NOTE: No oral explanation, discussion or interpretation shall modify any of the requirements or provisions of the RFP Documents unless it is marked and issued as an Addendum. The Issuing Authority shall not be responsible for any oral explanation, discussion or interpretation.**

- (c) The Issuing Authority reserves the right to distribute copies of any and all inquiries which it receives from a Proponent and the Issuing Authority's responses to such inquiries to all other Proponents.

- (d) If the Issuing Authority Contact considers that a correction, explanation, or interpretation is necessary or desirable, an Addendum shall be issued to all Proponents.
- (e) For questions, concerns or comments that have a specific relevance to a particular Proponent, the Issuing Authority may, in its sole and absolute discretion, respond only to the Proponent.
- (f) The Issuing Authority may choose not to respond to a question, concern or comment submitted by a Proponent.

### **3.4 Completion of a Proposal**

- (a) All entries in a Proposal shall be clear, legible and indelible.
- (b) All items in a Proposal shall be submitted according to instructions in the RFP Documents.
- (c) Proposals must be submitted in sealed packages, clearly marked as to contents, and shall follow the proposal format outlined in Section 3.5. and elsewhere in the RFP Documents.
- (d) Only content provided in a Proponent's Proposal, any information a Proponent may provide in a presentation to the Issuing Authority (if so invited to provide a presentation by the Issuing Authority) and information collected as part of the Issuing Authority's due diligence process shall be considered part of the Proposal for the purpose of evaluation for this RFP. For clarity, the Issuing Authority shall not use any information directed by links to websites or documents as supplemental information to the Proponent's Proposal.
- (e) A Proponent's Proposal shall be signed in accordance with this Section 3.4(e):
  - (i) Sole Proprietorship: Signature of sole proprietor in the presence of a witness who shall also sign. Insert the words "Sole Proprietor" under the signature. Affix seal.
  - (ii) Partnership: Signature of all partners in the presence of a witness who shall also sign. Insert the work "Partner" under each signature. Affix seal to each signature.
  - (iii) Limited Company: Signature of a duly authorized signing officer(s) in their normal signatures. Insert the officer's capacity in which the signing officer acts, under each signature. Affix the corporate seal.



- (iv) Joint Venture: Each and every party of the joint venture shall sign under their respective seals in a manner appropriate to such party as described above.

### 3.5 Proposal Format

- (a) A Proponent must submit its Proposal to the Issuing Authority in one (1) sealed Proposal Package, containing Envelope 1, Envelope 2 and Envelope 3.
- (b) Envelope 1 must contain the information prescribed pursuant to Section 4.1. The envelope must contain one (1) original set of documents identified as “Master” and five (5) copies marked as “Copy”. The envelope must be sealed, and clearly marked “**Mandatory Forms**”.
- (c) Envelope 2 must contain the information prescribed pursuant to Section 4.2. The envelope must contain one (1) original set of documents identified as “Master” and five (5) copies marked as “Copy”. The envelope must be sealed, and clearly marked “**Technical Proposal**”.
- (d) Envelope 3 must contain the information prescribed pursuant to Section 4.3. The envelope must contain one (1) original set of documents identified as “Master” and five (5) copies of the Pricing Form for each District addressed in the Proposal marked as “Copy”. The envelope must be sealed, and clearly marked “**Financial Proposal**”.

### 3.6 Delivery and Opening of Proposal

- (a) Electronically transmitted (facsimile, email, etc.) Proposals shall NOT be accepted for this RFP. Proposals must be submitted in hard copy.
- (b) A sealed Proposal, with the template label provided in Appendix J affixed to the front of the Proposal Package, must be received by the Issuing Authority at the following address:

175 Bloor Street East, 9th Floor, South Tower, Toronto, Ontario M4W 3R8

The Proposals are to be submitted to the Issuing Authority on the day of the Proposal Closing Time after 9:00:00 AM and on or before the Proposal Closing Time at the address set out in this Section 3.6(b).

- (c) A Proposal shall be stamped with the date and time by the Issuing Authority upon receipt and this stamp shall be the only recognized date and time for the purpose of submission of the Proposal.

- (d) The Issuing Authority shall not be responsible for Proposals which are not properly marked and/or are delivered to any location other than that specified in Section 3.6(b) and/or delivered outside of the time period provided for in Section 3.6(b). The use of any means of delivery for a Proposal shall be at the risk of the Proponent.
- (e) Proposals received after the Proposal Closing Time shall not be considered and shall be returned unopened to the respective Proponent.
- (f) Proponents are advised there shall not be a public opening for this RFP. Proposals received by the Proposal Closing Time shall be opened by the Issuing Authority at a time to be determined by the Issuing Authority.
- (g) A Proposal is irrevocable by a Proponent submitting same and shall remain in effect and open for acceptance by RLG for a period of one-hundred and twenty (120) calendar days after the Proposal Closing Time. Without limiting the generality of any other provision in the RFP Documents, the acceptance of a Proposal may take place at any time during such period of irrevocability. Except as expressly set out in this RFP, once submitted, a Proposal may not be amended but if a Proposal was submitted prior to the Proposal Closing Time, such Proposal may be withdrawn and a new complete Proposal submitted prior to the Proposal Closing Time. Where more than one Proposal is submitted by a Proponent prior to the Proposal Closing Time, the last Proposal to be received shall be deemed to have revoked and superseded any prior Proposal by the applicable Proponent. Any new Proposals must be submitted in accordance with the requirements of this RFP.

### **3.7 Alteration of Proposal Forms**

- (a) The portion of the Proposal prescribed by forms included in the RFP Documents shall contain no alterations or additions or deletions, except those to comply with instructions within the RFP Documents, as issued by the Issuing Authority, or as necessary to correct errors in which case such corrections shall be initialled by the authorized Person or Persons signing the Proposal.
- (b) Any unauthorized alterations to the portion of the Proposal prescribed by forms included in the RFP Documents may result in the rejection of the Proposal.

## **ARTICLE 4 PROPOSAL FORMAT AND EVALUATION CRITERIA**

**NOTE: The criteria described in the RFP Documents as being used to evaluate a Proposal are not exhaustive. Additional criteria may be used by the Issuing Authority for the purposes of evaluating Proposals in its sole and absolute discretion.**

**NOTE: Envelope 1 must not contain any references to pricing. Envelope 2 must not contain any references to pricing. If a Proponent includes pricing references in Envelope 1 or Envelope 2, the Issuing Authority shall reject such Proposal.**

### **4.1 Specific Requirements for Envelope 1 (Mandatory Forms)**

Envelope 1 shall contain the documents described in this Section 4.1.

#### **4.1.1 Proposal Form**

Envelope 1 must include a completed Proposal Form. Failure to provide a completed Proposal Form shall cause the Proposal, and any Alternative Option(s), to be rejected without recourse. The Proposal Form is provided in Appendix D.

#### **4.1.2 Proposal Deposit**

- (a) Proponents are required to submit a deposit with their Proposal and any Alternative Option(s) in the amount of \$100,000 in the form of a certified cheque, bank draft, Canadian currency, letter of credit or bid bond (“Proposal Deposit”) payable to RLG Systems Canada Inc. A Proposal Deposit shall be valid for the period prescribed in Section 3.6(g). Failure to provide a Proposal Deposit shall cause the Proposal, and any Alternative Option(s), to be rejected without recourse. For clarity, one Proposal Deposit is required irrespective of the number of Districts addressed in a Proposal and Alternative Options submitted.
- (b) Photocopies or faxed copies of Proposal Deposits shall result in a Proposal, and any Alternative Option(s), being rejected.
- (c) Unless otherwise determined by the Issuing Authority, for Proponents who are not a Preferred Proponent, Proposal Deposits shall be returned within three (3) weeks after a Proponent is notified that it is not a Preferred Proponent.
- (d) Unless otherwise determined by the Issuing Authority, if RLG, in its sole and absolute discretion, elects not to enter into a Final MSA with a Preferred Proponent, the Preferred Proponent’s Proposal Deposit shall be returned within three (3) weeks after the Issuing Authority’s notice to such Preferred Proponent that RLG has elected not to enter into a Final MSA with such Preferred Proponent.

- (e) Unless otherwise determined by the Issuing Authority, if RLG, in its sole and absolute discretion, elects to enter into a Final MSA with a Preferred Proponent in respect of a Proposal or an Alternative Option and the Preferred Proponent does not enter into a Final MSA with RLG within thirty (30) calendar days of notification from the Issuing Authority, without prejudice to any other right or remedy which may be available to the Issuing Authority, the Preferred Proponent shall forfeit its Proposal Deposit to the Issuing Authority and the Issuing Authority may apply the full amount of the Proposal Deposit as liquidated damages. A Proponent agrees that such liquidated damages are based on a genuine pre-estimate of the damages the Issuing Authority would suffer as a result of a Preferred Proponent failing to enter into a Final MSA within the time referred to in this section and shall be payable regardless of whether or not the Issuing Authority attempts to mitigate its damages.
- (f) For any Successful Proponents that enter into a Final MSA with RLG, the Successful Proponent's Proposal Deposit shall be returned within three (3) weeks of the Successful Proponent providing RLG with its Performance Security.
- (g) Proponents shall not be paid interest on their Proposal Deposit.

#### **4.1.3 Independent Proposal Certification Form**

Envelope 1 must include a completed Independent Proposal Certification Form. Failure to provide a completed Independent Proposal Certification Form or submission of an Independent Proposal Certification Form that is not true in every respect shall cause the Proposal, and any Alternative Option(s), to be rejected without recourse. The Independent Proposal Certification Form is provided in Appendix E.

#### **4.1.4 Confidentiality Agreement**

Envelope 1 must include a completed Confidentiality Agreement. Failure to provide a completed Confidentiality Agreement shall cause the Proposal to be rejected without recourse. The Confidentiality Agreement is provided in Appendix C.

### **4.2 Specific Requirements for Envelope 2 (Technical Proposal)**

Envelope 2 shall contain the documents described in this Section 4.2 in hard copy and a thumb drive with electronic copies of the Technical Proposal.

#### **4.2.1 Proposal Form**

Envelope 2 must include a copy of a completed Proposal Form. The Proposal Form is provided in Appendix D. If a Proponent fails to provide a copy of the completed Proposal Form in Envelope

2, the Issuing Authority may, in its sole and absolute discretion, reject such Proposal or retain such Proposal for consideration and selection.

#### **4.2.2 Subcontractor Form**

Envelope 2 must include a completed Subcontractor Form. The Subcontractor Form is provided in Appendix F. If a Proponent fails to provide a completed Subcontractor Form with its Proposal, the Issuing Authority may, in its sole and absolute discretion, reject such Proposal or retain such Proposal for consideration and selection.

#### **4.2.3 Technical Documentation**

- (a) Envelope 2 must include a separate document that addresses all matters described in Table 4.1 for Districts addressed in the Proposal. The document should use the same headings and topic sequence identified in Table 4.1. If Subcontractors are to be used to fulfill the requirements of the Work, the information for both the Proponent and any such Subcontractors must be equally provided in the document.
  - (i) For clarity, where Table 4.1 information is specific to a District, the information must be set out in a separate document. Information that is specific to each District includes:
    - (A) Item 3 – Environmental and Regulatory Compliance
    - (B) Item 4 – Staffing and Organizational Plan
    - (C) Item 7 – Receiving Facilities
    - (D) Item 8 – Ancillary Facilities
    - (E) Item 9 – Transition/Start-Up Plan
    - (F) Item 10 – Operating Plan
    - (G) Item 15 – Business Interruption/Contingency Plan
  - (ii) For clarity, where Table 4.1 information is common to all Districts included in a Proponent’s Proposal, one (1) separate copy is acceptable. Information that may be common to all Districts includes:
    - (A) Item 1 – Company Profile
    - (B) Item 2 – Experience
    - (C) Item 5 – Health & Safety Plan

(D) Item 6 – Training Plan

(E) Item 11 – Environmental Considerations

(F) Item 12 – Communication Plan

(G) Item 13 – Quality Control/Quality Assurance Plan

(H) Item 14 – Customer Services & Complaints Management

- (b) The evaluation technical points for each of the categories required under the Technical Proposal are provided in Table 4.1.

<b>Table 4.1: Proposal Evaluation Criteria</b>			
<b>Company Capabilities and Credentials</b>			
<b>Item</b>	<b>Category</b>	<b>Evaluation Criteria</b>	<b>Points Value</b>
<b>1.</b>	<b>Company Profile</b>	<ul style="list-style-type: none"><li>◆ Company details, officers, size, number of employees, office locations within Ontario.</li><li>◆ Number of years in business.</li><li>◆ Subcontractor(s) (if any) company details, officers, size, number of employees, office locations within Ontario.</li><li>◆ Subcontractor(s) (if any) number of years in business.</li><li>◆ Evidence that the company has adequate capacity to finance the resources required to complete the Work (e.g., financial statements, bank references, etc.)</li><li>◆ Articles of Incorporation.</li><li>◆ Proponent must provide satisfactory evidence to demonstrate that the legal entity proposing to undertake the Work is in sound financial condition and has the economic capacity to deliver the Work. In the event that a parent or affiliate company proposes to guarantee the obligations of the Proponent, similar evidence should be provided in respect of that parent or affiliate. Such evidence may include audited or accountant-reviewed financial statements, as well as bank or trade references. Proponents shall be evaluated based on the quality of the evidence provided.</li></ul>	<b>7</b>

2.	<b>Experience</b>	<ul style="list-style-type: none"> <li>◆ The Proponent is to describe their general waste management experience in Ontario over the last ten (10) years that has prepared them to undertake the Work. The following information is to be included for past and current receiving facility service contracts. <ul style="list-style-type: none"> <li>• Client name, address, contact name and telephone number</li> <li>• Services provided including receiving facilities owned and/or operated;</li> <li>• Weekly tonnage received by receiving facility (where possible);</li> <li>• Operational years and duration of the contract, including any contract extensions;</li> <li>• Number of receiving facility employees;</li> <li>• Number of supervisory employees;</li> <li>• Annual value of the contract in final year;</li> <li>• Role of Subcontractors, as appropriate; and</li> <li>• Additional information (such as management of contracts of similar size and scope).</li> </ul> </li> <li>◆ Using the format described above, the Proponent may also describe their general waste management experience outside of Ontario over the last ten (10) years that has prepared them to undertake the Work.</li> <li>◆ The Issuing Authority reserves the right, in its sole and absolute discretion, to contact one or more of the named contact Persons to receive reference information for evaluation purposes. The Issuing Authority may also contact other representatives of the same company or organization for whom the work was performed by the Proponent. The Issuing Authority may contact representatives in municipalities that are not listed as references where the Proponent has held contracts. Where applicable, the Issuing Authority may also consider the prior record of the Proponent as a contractor to any other jurisdiction not included in the references when evaluating reference information.</li> </ul>	18
3.	<b>Environmental and Regulatory Compliance</b>	<ul style="list-style-type: none"> <li>◆ For existing facilities, provide copies of all permits required to perform the Work.</li> <li>◆ For new facilities, provide copies of applications for all permits required to perform the Work.</li> <li>◆ Describe any orders/charges/violations to your company by the Ministry of Environment, Conservation and Parks as the result of any contravention of the (Ontario) <i>Environmental Protection Act</i> over the past five (5) years.</li> </ul>	5

Human Resource Requirements			
4.	<b>Staffing and Organizational Plan</b>	<p>The Proponent is to include information on their management capabilities to perform the Work. The evaluation shall consider the experience of key management employees and the staffing requirements for the Work. Information must be included for the following:</p> <p><b>Senior Executive Staff</b></p> <ul style="list-style-type: none"> <li>• Name(s)</li> <li>• Experience/professional qualifications/designations</li> <li>• Responsibilities</li> </ul> <p><b>Contract Manager/Supervisor</b></p> <ul style="list-style-type: none"> <li>• Name(s)</li> <li>• Experience/professional qualifications/designations</li> <li>• Responsibilities</li> </ul> <p><b>Receiving Facility Manager(s) &amp; Supervisor(s)</b></p> <ul style="list-style-type: none"> <li>• Name(s)</li> <li>• Experience/professional qualifications/designations</li> <li>• Responsibilities</li> </ul> <p><b>Contract Administrative Staff</b></p> <ul style="list-style-type: none"> <li>• Number of staff</li> <li>• Responsibilities</li> </ul> <p><b>Receiving Facility Staff</b></p> <ul style="list-style-type: none"> <li>• Total number of staff, number of full-time employees, number of temporary employees, number of equipment operators, number of other staff (specify responsibilities)</li> </ul> <ul style="list-style-type: none"> <li>◆ Proponents are to provide a listing of all Subcontractors, their address and telephone number and the scope of work they shall be performing for the Work.</li> <li>◆ Describe how the Work would be directly supervised to ensure daily completion and how sufficient personnel shall be available to ensure daily completion of the Work.</li> <li>◆ Proposed organizational structure (show in a diagram) including the name and resumes for the following positions as they would relate to the Work undertaken: <ul style="list-style-type: none"> <li>• Senior executive staff;</li> <li>• Regional manager(s)</li> <li>• Senior administration staff;</li> <li>• Receiving facility manager;</li> </ul> </li> </ul>	8



		<ul style="list-style-type: none"> <li>• Receiving facility supervisors</li> <li>• Customer service staff;</li> <li>• Any other management staff; and</li> <li>• If a specific Person is not named for any of the above positions, the Proponent shall identify the position by title and describe the key qualifications of the Person who shall fill the position.</li> </ul> <p>◆ A Proponent proposing to establish a new Receiving Facility should name and state the qualifications of the individuals that will be involved in establishing the new Receiving Facility and should also include a statement committing to staff any new Receiving Facilities with individuals having experience and qualifications equivalent or superior to persons in similar positions at existing Receiving Facilities described in the Proposal.</p>	
5.	<b>Health &amp; Safety Plan</b>	<p>◆ Describe or provide your company's Health and Safety Policy.</p> <p>◆ Describe your plan to ensure that your company and its staff shall deliver the Work in a safe manner to themselves and the public.</p> <p>◆ Describe health and safety training you shall provide staff for the delivery of the Work.</p> <p>◆ Describe any orders/charges/violations to your company by the Ministry of Labour or the Workplace Safety and Insurance Board (WSIB) as the result of any contravention of labour, health and/or safety regulations over the past five (5) years.</p>	5
6.	<b>Training Plan</b>	<p>◆ Provide an outline and schedule of the staff training plan and procedures for start-up and implementation.</p> <p>◆ Provide an outline and schedule of ongoing staff training during the term of any agreement.</p>	5

<b>Facilities / Equipment Requirements</b>			
7.	<b>Receiving Facilities</b>	<p>◆ The following information is required regarding each proposed Receiving Facility to be used in performing the Work.</p> <p>◆ Location, including address and GPS co-ordinates.</p> <p>◆ Describe how the RF will manage Inbound Vehicle and Outbound Vehicle movements:</p> <ul style="list-style-type: none"> <li>• Inbound Vehicles servicing residences and facilities;</li> <li>• Inbound Vehicles serving public space receptacles; and</li> <li>• Outbound Vehicles picking up Blue Box Material.</li> </ul> <p>◆ Description of weigh scale(s) and weighing software program used.</p>	10

		<ul style="list-style-type: none"> <li>◆ Description of Receiving Facility site: <ul style="list-style-type: none"> <li>• Site plan (include drawing and Google Maps view overhead and street view);</li> <li>• Site Inbound Vehicle and Outbound Vehicle movement description;</li> <li>• Inbound Vehicle and Outbound Vehicle queuing – how many can queue onsite (curbside vs transfer trailer); and</li> <li>• Operating hours;</li> </ul> </li> <li>◆ Description of Receiving Facility buildings: <ul style="list-style-type: none"> <li>• Overall size;</li> <li>• Tipping floor size(s);</li> <li>• Facility plan drawing;</li> <li>• Material flow drawing;</li> <li>• Number of inbound (receiving) ground level doors;</li> <li>• Ground level door width and height;</li> <li>• Number of shipping doors;</li> <li>• Throughput capacity – per day, per year; and</li> <li>• Storage capacity (indoors) for loose material.</li> </ul> </li> <li>◆ Description of Receiving Facility equipment: <ul style="list-style-type: none"> <li>• Make and model of compactor(s);</li> <li>• Compactor throughput per hour (Single Stream);</li> <li>• Make and model of rolling stock vehicles that would be used to conduct the work;</li> <li>• Make and model of other equipment that would be used to conduct the work;</li> </ul> </li> <li>◆ Calculations to support management of seasonal tonnage increases and population growth over the term of any agreement.</li> <li>◆ Any other information deemed appropriate and helpful to evaluation of a Proposal.</li> </ul>	
8.	<b>Ancillary Facilities</b>	<ul style="list-style-type: none"> <li>◆ The Proponent shall list the locations of each of the following facilities that are applicable to the Proponent's Proposal: <ul style="list-style-type: none"> <li>• Contractor head office;</li> <li>• Contingency locations (if applicable); and</li> <li>• Other locations.</li> </ul> </li> <li>◆ Any other information deemed appropriate and helpful to the evaluation of a Proposal.</li> </ul>	2

Implementation / Operational Requirements			
9.	Transition/ Start-Up Plan	<ul style="list-style-type: none"> <li>◆ Provide an outline of intended communications, equipment and staffing procurement scheduling, staff training schedules, facility siting, if required, and other implementation plans to ensure a smooth transition to start-up of the Work.</li> <li>◆ Provide a schedule (tasks/time) from Final MSA execution to full implementation of the Work.</li> </ul>	7
10.	Operating Plan	<ul style="list-style-type: none"> <li>◆ Detailed workplan must be included for all parts of Work. The workplan should include but is not limited to the following information: <ul style="list-style-type: none"> <li>• Description of the implementation schedule, including but not limited to, any facility or Equipment purchase timeframe, staff hiring, etc.;</li> <li>• Description of how service shall be provided, estimated number of Inbound Vehicles and Outbound Vehicles managed per hour based on number expected to arrive at each Receiving Facility per day; estimated number of tonnes throughput per hour based on tonnes expected to be delivered to each Receiving Facility;</li> <li>• Map showing the location of the Receiving Facility or Receiving Facilities that will service the District and drive times and kilometers from Eligible Sources in the District to the proposed Receiving Facility. The Receiving Facilities or Receiving Facility must be within one (1) hour driving time of Eligible Sources. The driving time shall be measured based on the average amount of time required to complete the drive from Eligible Sources to a Receiving Facility over the course of a typical day;</li> <li>• Description of split-weighing protocol (i.e., vehicle queuing, ensuring weights are recorded for each compartment);</li> <li>• Description of how a Receiving Facility will receive both Collected Material from Eligible Sources and Collected Material from Public Space Receptacles and how each source of Collected Material will be kept separate during receiving, consolidation and loading;</li> <li>• Description of where and how Inbound Vehicle samples will be taken and, after sealed in supersacs, will be secured;</li> <li>• Staffing plan including the number of staff, their roles and responsibilities and reporting relationships;</li> <li>• Description of the maintenance, recalibration and recertification plan for weigh scales;</li> <li>• Description of the fixed and rolling stock maintenance plan including service requirements, frequency of service, etc;</li> </ul> </li> </ul>	12

		<ul style="list-style-type: none"> <li>• Flexibility of workplan: outline how a Receiving Facility will accommodate a variation in quantity of Collected Material received;</li> <li>• Contingency plan: outline method(s) to deal with situations including: <ul style="list-style-type: none"> <li>○ Loss of use of a Receiving Facility;</li> <li>○ Strike, lockout, or other labour disruption;</li> <li>○ Delayed delivery of Collected Material to a Receiving Facility;</li> <li>○ Unusual quantity of Collected Material received;</li> <li>○ Unscheduled Equipment downtime;</li> <li>○ Unscheduled unavailability of a Receiving Facility; and</li> <li>○ Other major Work interruption;</li> </ul> </li> <li>• Ensure the operating plan describes how your company shall account for: <ul style="list-style-type: none"> <li>○ Capabilities and limitations for receiving various streams of materials;</li> <li>○ Changes in the number of Inbound Vehicles delivering Collected Material;</li> <li>○ Fluctuations in quantity of Collected Material received throughout the year (i.e., managing seasonal peaks); and</li> <li>○ Any other operational items.</li> </ul> </li> </ul>	
<b>11.</b>	<b>Environmental Considerations</b>	<ul style="list-style-type: none"> <li>◆ Incorporate any environmental considerations in the Proposal, such as: <ul style="list-style-type: none"> <li>• Green fleet initiatives;</li> <li>• Alternative fuels; and</li> <li>• Other.</li> </ul> </li> </ul>	<b>4</b>

<b>QA/QC / Communication / Contingency Plan</b>			
<b>12.</b>	<b>Communication Plan</b>	<ul style="list-style-type: none"> <li>◆ Describe your intended methods of regular communication with RLG throughout the course of any agreement and how you shall keep the RLG informed about operational matters arising, other service changes, alterations, and the like.</li> </ul>	<b>5</b>
<b>13.</b>	<b>Quality Control/ Quality Assurance Plan</b>	<ul style="list-style-type: none"> <li>◆ Provide an outline of how you shall ensure that the Work shall be performed consistently, how you shall ensure adequate staff training, ongoing communication to staff, or other methods proposed to ensure that quality control is maintained.</li> </ul>	<b>4</b>
<b>14.</b>	<b>Customer Service &amp; Complaints Management</b>	<ul style="list-style-type: none"> <li>◆ Describe procedures and communication flows, response of your company or agents to a direct complaint;</li> <li>◆ Describe related tracking/recording procedures; and</li> <li>◆ Describe your after-hours response procedure/protocol.</li> </ul>	<b>5</b>
<b>15.</b>	<b>Business Interruption/ Contingency Plan</b>	<ul style="list-style-type: none"> <li>◆ Describe any circumstance(s) where your company has been unable to deliver any of the work described in any past or current contract arrangement;</li> <li>◆ Describe the contingency plan your company implemented in that instance if and when it occurred;</li> <li>◆ Describe your company's contingency plan if weigh scales are unavailable for periods of longer than two hours;</li> <li>◆ Describe your company's contingency plan for a larger scale/longer term business interruption e.g., work stoppage, fire;</li> <li>◆ Describe your contingency plan if the facility is unable to receive materials from collection vehicles for (i) up to 48 hours, (ii) for up to one week and (iii) for a longer period of time; and</li> <li>◆ Describe your contingency plan if the facility is unable to ship materials for (i) up to 48 hours, (ii) for up to one week and (iii) for a longer period of time.</li> </ul>	<b>3</b>

- (c) A Proponent may include additional, directly relevant information regarding their company, Subcontractors and/or services, brochures and case histories that could prove helpful to the Issuing Authority in assessing their Proposal.

**Note: Proponents must score a minimum of seventy-five (75) technical points on the Technical Proposal, out of the one hundred (100) technical points available for a Technical Proposal for their Envelope 3 to be opened and scored.**

### **4.3 Specific Requirements of Envelope 3 (Financial Proposal)**

Envelope 3 shall contain the documents described in this Section 4.3 in hard copy and a thumb drive with electronic copies of the Financial Proposal.

#### **4.3.1 Proposal Form**

Envelope 3 must include a copy of a completed Proposal Form. The Proposal Form is provided in Appendix D. If a Proponent fails to provide a copy of the completed Proposal Form in Envelope 3, the Issuing Authority may, in its sole and absolute discretion, reject such Proposal or retain such Proposal for consideration and selection.

#### **4.3.2 Performance Security**

- (a) The Proponent has the option of providing a (i) performance bond, (ii) letter of credit, or (iii) certified cheque for the Performance Security required under the Final MSA. The Proponent shall identify which form of Performance Security the Proponent will provide in the performance security section of the Proposal Form.
- (b) If the Proponent intends to provide a performance bond under the Final MSA, then the following shall apply:
  - (i) Envelope 3 must contain an executed Agreement to Bond issued by a surety authorized to transact in the business of suretyship in Ontario, in a form attached as Appendix G, which is valid for a period of one-hundred and twenty (120) days after the Proposal Closing Time indicating that the Proponent is able to obtain from such surety a performance bond for a dollar amount equal to twenty-five percent (25%) of the highest projected annual Contract Price during the term of a Final MSA. Subject to Section 5.5(b) and the other provisions in the RFP, the highest projected annual Contract Price during the term of a Final MSA may be determined with reference to the data provided in Appendix K.
  - (ii) The Agreement to Bond must bear the original signatures of the issuer and the Proponent. Photocopies or faxed copies of the Agreement to Bond shall result in the Proposal being rejected.
  - (iii) Failure to provide an Agreement to Bond shall cause the Proposal to be rejected without recourse.
- (c) If a Proponent submits a Proposal with one or more other joint Persons, the Proponent must provide a single Performance Security (i.e., each joint Person is not permitted to provide a portion of the required Performance Security).

### **4.3.3 Pricing Form**

Envelope 3 must contain one (1) completed Pricing Form (Appendix H) for each District addressed by a Proposal. If a Proponent fails to provide a copy of the completed Pricing Form in Envelope 3, the Issuing Authority may, in its sole and absolute discretion, reject such Proposal or retain such Proposal for consideration and selection.

### **4.3.4 Exceptions**

- (a) In a document entitled “Exceptions” a Proponent shall list all exceptions to the Work or any other provision of the Draft MSA in sufficient detail to permit a clear understanding of the effects of such exceptions on the terms, operations and/or service levels proposed in the Draft MSA. For clarity, a Proposal with an exception may, in the sole and absolute discretion of the Issuing Authority, be rejected or may, in the sole and absolute discretion of the Issuing Authority, be retained for consideration and selection. Notwithstanding any other provision in this RFP, the Issuing Authority shall have no obligation or liability of any kind or in any circumstance with respect to undertaking to resolve any exception proposed by a Proponent.
- (b) The “Exceptions” document shall provide sufficient detail of the costs of any exceptions described in Section 4.3.4(a) to permit the Issuing Authority to obtain a clear understanding of the financial implications of exceptions included in a Proponent’s Proposal.
- (c) Envelope 3 shall include the “Exceptions” document, if any, described in this Section 4.3.4.

## **4.4 Proponent Initiated Alternative Options**

- (a) If a Proponent submits a Proposal, a Proponent may also submit proposed alternatives to the Work (each an “Alternative Option”) with its Proposal which:
  - (i) present economic, environmental or increased effectiveness or efficiency;
  - (ii) are generally consistent with the requirements set out in the RFP Documents; and
  - (iii) deliver the Issuing Authority’s desired objectives.

For clarity, an Alternative Option may address a subset of the Work and/or one or more Districts or portions of Districts.

- (b) A Proponent shall submit an Alternative Option using the Alternative Option Form provided in Appendix I.

- (c) Without limiting the generality of the foregoing, an Alternative Option shall include the following:
  - (i) a complete description of how the work described by the Alternative Option differs from the Work, including any changes to service levels.
  - (ii) the reason for any differences between the Alternative Option and the RFP Documents;
  - (iii) the changes to the Draft MSA required to align the Draft MSA with the Alternative Option;
  - (iv) the amount by which each price listed in the Alternative Option Form may change, including any volume discounts for increased quantities of material or dollar spend, if the Alternative Option is accepted and any new unit prices established by the Alternative Option; and
  - (v) such other necessary information to permit the Issuing Authority to conduct an accurate analysis of the Alternative Option.
- (d) A Proponent acknowledges and agrees that:
  - (i) any Alternative Option(s) and corresponding Alternative Option pricing may be accepted in any order or combination, including all or none;
  - (ii) the Alternative Option pricing shall not be taken into account in evaluating a Proposal;
  - (iii) an Alternative Option and its related Alternative Option pricing are open for acceptance for the period time specified in Section 3.6(g) for a Proposal;
  - (iv) if an Alternative Option is accepted then the Draft MSA shall be revised to reflect the Alternative Option and related Alternative Option pricing, if any, that has been accepted; and
  - (v) the acceptance of any Alternative Option(s) shall not affect the list of Subcontractors set out in the Subcontractor Form submitted with the Proponent's Proposal and shall also apply to the Alternative Option, unless the Proponent specifically indicates a change to the Subcontractor Form in the Alternative Option and this change is also accepted.
- (e) A Proponent must submit an Alternative Option in a sealed envelope, clearly marked "Alternative Option #1" and include the sealed envelope in the Proposal Package. A thumb drive containing all documents related to the Alternative Option shall be included in the sealed envelope. If a Proponent wishes to submit multiple



Alternative Options, the Proponent shall include an additional sealed envelope in the Proposal Package for each additional Alternative Option and number each additional Alternative Option envelope sequentially. For clarity, the rights and benefits available to the Issuing Authority in respect of a Proposal shall also be applicable to the Alternative Option(s).

- (f) If Envelope 1 of a Proposal is not rejected by the Issuing Authority, then the technical and financial merits of each Alternative Option (submitted in the Proposal Package) may be evaluated separately by the Issuing Authority based on the factors and criteria provided for in this RFP and the Issuing Authority may, in its sole and absolute discretion, identify the Proponent that submitted the Alternative Option as a Preferred Proponent. For clarity, the Issuing Authority has no obligation to evaluate, consider or select an Alternative Option and an Alternative Option will not form part of the evaluation of Envelope 1, Envelope 2 and Envelope 3 forming part of such Proposal. For clarity, the technical merits of the Alternative Option should be enclosed in an envelope marked as “Alternative Option” and the financial merits of the Alternative Option should be enclosed in an envelope marked as “Alternative Option Financial Proposal”. See Proponent’s Proposal Checklist for required number of original and copies of each document.

#### **4.5 Further Diligence**

- (a) The Issuing Authority may conduct further diligence on certain Proposals.
- (b) The Issuing Authority may verify with any Proponent or with a third party any information provided by the Proponent. The Issuing Authority may check references provided by the Proponent or otherwise in the possession of the Issuing Authority.
- (c) The Issuing Authority, in its sole and absolute discretion, may require one, some or all of the Proponents to submit supplementary documentation clarifying or changing any matters contained in their applicable Proposal or submit other additional information (within such time as set by the Issuing Authority) or the Issuing Authority may prepare a written interpretation of any aspect of a Proposal and seek the applicable Proponent’s acknowledgement of that interpretation (within such time as set by the Issuing Authority). Such clarifications, changes, additions or acknowledged interpretations shall form part of the applicable Proposal.

#### **4.6 Selection Process**

- (a) Subject to the other provisions of the RFP Documents, the following is an overview of the weighting of the RFP:
  - (i) Technical Proposal points – 100

- (ii) Financial Proposal points – 50
- (iii) Total points - 150
- (b) Unless stated otherwise the following procedures shall apply:

**Stage 1**

- (i) Proposals shall be evaluated by the Issuing Authority;
- (ii) Envelope 1 shall be opened;
- (iii) Should the contents of a Proponent's Envelope 1 not meet the mandatory requirements for Envelope 1, pursuant to Section 4.1, the Proponent's proposal shall be rejected;

**Stage 2**

- (iv) Once the Envelope 1 received from each Proponent has been opened, the Issuing Authority shall open the Envelope 2 submitted by those Proponents whose Envelope 1 met the mandatory requirements for Envelope 1, pursuant to Section 4.1;
- (v) The Issuing Authority shall evaluate the content of each Envelope 2, using evaluation criteria pursuant to Section 4.2.3, and assign technical points to each Technical Proposal evaluated;
- (vi) Should the Technical Proposal in a Proponent's Envelope 2 not score at least seventy-five (75) technical points, the Proponent's Proposal shall be rejected;
- (vii) After the review of the Technical Proposal and before the opening of the Envelope 3, Proponents may be asked to attend an interview/presentation ("Interview/Presentation") with the Issuing Authority (concurrently or consecutively). The purpose of the Interview/Presentation will be to allow the Proponent to make a brief presentation on its Proposal and also allow the Issuing Authority to ask questions of, and otherwise interview, the Proponent regarding its Proposal. The Issuing Authority may ask questions regarding planning, financing, operation and management the Work including, without limitation, technical, commercial or legal questions and any exceptions to the terms and conditions of the Draft MSA. The questions will not necessarily be the same for each Proponent and will depend upon a particular clarification required by the Issuing Authority of the Proponent's Proposal or presentation. Only the upper management of each Proponent

shall attend the Interview/Presentation. The attendees are expected to be thoroughly versed and knowledgeable with respect to the requirements of the RFP Documents and the contents of their Proposal.

### Stage 3

**NOTE: All Financial Proposal materials should be included in Envelope 3 and should be separate from the Mandatory Forms (Envelope 1) and the Technical Proposal (Envelope 2).**

- (viii) The Issuing Authority shall open Envelope 3 submitted by a Proponent whose Technical Proposal scored at least seventy-five (75) technical points and review the enclosed Financial Proposal;
- (ix) If a Financial Proposal reviewed by the Issuing Authority is determined, in the Issuing Authority's sole and absolute discretion, to be compliant with the Financial Proposal requirements pursuant to Section 4.3, the Issuing Authority shall calculate a Contract Price for such Financial Proposal based on the Issuing Authority's estimated volumes of Work for the Draft MSA.
- (x) The lowest Contract Price calculated by the Issuing Authority ("Lowest Contract Price") shall be assigned fifty (50) financial points for its Financial Proposal;
- (xi) For all Financial Proposals, the Contract Price calculated by the Issuing Authority shall be used to divide the Lowest Contract Price and the result shall be multiplied by fifty (50) financial points to determine the financial points assigned to the Financial Proposal;
- (xii) For all Proposals where both the Technical Proposal and the Financial Proposal are assigned points, the technical points shall be added to the financial points to determine the total points for a Proposal;
- (xiii) The Issuing Authority may, in its sole and absolute discretion, identify one or more of the Proponents as a Preferred Proponent.
- (c) For clarity, subject to the other requirements of this RFP, a Proposal shall be automatically rejected if:
  - (i) the Issuing Authority has not received:
    - (A) a Proposal Form pursuant to Section 4.1.1 in respect of such Proposal;
    - (B) a Proposal Deposit pursuant to Section 4.1.2 in respect of such Proposal;

(C) an Independent Proposal Certification Form pursuant to Section 4.1.3 in respect of such Proposal;

(D) a Confidentiality Agreement pursuant to Section 4.1.4 in respect of such Proposal; or

(E) if applicable, an Agreement to Bond pursuant to Section 4.3.2 in respect of such Proposal.

- (ii) the Technical Proposal in a Proponent's Envelope 2 does not score at least seventy-five (75) technical points;
- (iii) Envelope 1 contains any references to pricing; or
- (iv) Envelope 2 contains any references to pricing.

For clarity, subject to the other requirements of this RFP, a Proposal may, in the Issuing Authority's sole and absolute discretion, be rejected or retained for consideration and selection if the Issuing Authority has not received a completed Pricing Form pursuant to Section 4.3.3 in respect of such Proposal.

#### **4.7 Negotiations**

- (a) If the Issuing Authority selects a Preferred Proponent or Preferred Proponents, then it may continue the RFP process in accordance with one or more of the following:
  - (i) provide one, some or all of the Preferred Proponents and/or any other Person with a modified Draft MSA;
  - (ii) require one, some or all of the Preferred Proponents to meet with senior management of the Issuing Authority and others designated by the Issuing Authority to discuss Proposal and/or Alternative Option matters (including pricing, schedule, Draft MSA and all other commercial, technical or legal matters). For greater certainty, such meetings may take place sequentially or concurrently;
  - (iii) enter into negotiations or discussions with the Preferred Proponent(s) and/or any other Person (concurrently or consecutively, at the sole and absolute discretion of the Issuing Authority) to discuss or negotiate, within such period of time established by the Issuing Authority, in its sole and absolute discretion (the "Negotiation Period"), any aspect of a Preferred Proponent's Proposal or Alternative Option or any other Person's proposal or of the Draft MSA or to introduce new matters for negotiation that were not previously included in the RFP Documents or Draft MSA or modify any

term in the RFP Documents (including, without limitation, the Draft MSA and the exceptions to the Draft MSA forming part of a Proposal), or clarify any outstanding issues. For clarity, these negotiations and discussions may include a change in the Work or the area where the Work is performed or any legal, commercial, business or technical matter. In these negotiations and discussions, RLG and a Preferred Proponent and/or any other Person will attempt to finalize the terms of a Final MSA to the satisfaction of both parties;

- (iv) enter into a Final MSA with a Preferred Proponent and/or any other Person;
  - (v) if at any time the Issuing Authority, in its sole and absolute discretion, forms the opinion that a mutually acceptable Final MSA is not likely to be reached within the Negotiation Period, or if the Issuing Authority decides, in its sole and absolute discretion, that it does not wish negotiations with a Preferred Proponent and/or any other Person to continue, the Issuing Authority may give such Preferred Proponent and/or any other Person written notice to terminate negotiations, in which event the Issuing Authority may continue discussions with other Preferred Proponents and/or any other Person, open discussions with another Proponent and/or any other Persons, terminate the RFP or otherwise act pursuant to its rights and remedies in the RFP Documents (including, without limitation, those set out in RFP Section 5.11); and
  - (vi) if RLG and a Preferred Proponent do not enter into a Final MSA during the Negotiation Period, then unless RLG and the Preferred Proponent otherwise agree in writing, such negotiations shall automatically terminate at the end of the Negotiation Period.
- (b) In no event will the Issuing Authority be required to enter into discussions or negotiations pursuant to this Section 4.7 or any other provision in this RFP on similar or other terms or offer any modified terms to any Proponent and any other Persons. The Issuing Authority shall incur no liability or responsibility to any Proponent and any other Persons as a result of such discussions, negotiations or modifications.
- (c) RLG reserves the right to enter into one or more Final MSAs in whole or in part with one or more Successful Proponents.

## **ARTICLE 5 OTHER RFP TERMS & CONDITIONS**

### **5.1 Confidentiality**

- (a) Each Proponent shall comply with the terms and conditions of the Confidentiality Agreement. For clarity, any terms or conditions set out in the Confidentiality Agreement and the Proponent's obligations set out in the Confidentiality Agreement shall continue in perpetuity and shall survive the termination, expiration or completion of this RFP.
- (b) Each Person that does not register, and does not enter into the Confidentiality Agreement, acknowledges the confidential and proprietary nature of certain information that is involved with this RFP and, as such, agree to take all reasonable measures necessary to ensure that the information is treated with the utmost confidentiality.
- (c) A Proponent that does not enter into a Final MSA with RLG must destroy any documentation related to this RFP, including electronic communications and copies of RFP Documents, and certify in writing to the Issuing Authority that the Proponent destroyed such documentation within thirty (30) calendar days of the earlier of (i) becoming aware that the Proponent shall not be entering into a Final MSA with RLG and (ii) a request from the Issuing Authority that the Proponent destroy such documentation.

### **5.2 Restricted Communications**

- (a) A Proponent shall not, and shall ensure that Proponent Team Members do not:
  - (i) issue or disseminate any media release, public announcement or public disclosure (whether for publication in the press, on the radio, television, internet or any other medium) that relates to this RFP or any matters related thereto, without the prior written consent of the Issuing Authority; or
  - (ii) communicate with any Person (other than such Proponent or such Proponent Team Members) on matters related to this RFP.
- (b) If a Proponent or a Proponent Team Member, in the opinion of the Issuing Authority, contravenes Section 5.2(a), the Issuing Authority may, in its sole and absolute discretion:
  - (i) take any action in accordance with this RFP, including rejecting the Proposal of such Proponent; or

- (ii) impose conditions on the Proponent's or a Proponent Team Member's continued participation in this RFP that the Issuing Authority considers, in its sole discretion, to be appropriate.

### **5.3 Conflict of Interest**

- (a) "Conflict of Interest" includes any situation or circumstance where in relation to the Work, a Proponent and/or a Proponent Team Member has commitments, relationships, or commercial interests which:
  - (i) do, could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of the Issuing Authority's independent judgment; or
  - (ii) do, could or could be seen to compromise, impair or be incompatible with the effective performance of the Proponent's obligations under any agreement with RLG.
- (b) A Proponent shall, and shall ensure Proponent Team Members, declare, and continue to be under an obligation to declare, all Conflicts of Interest or any situation that may be perceived as a Conflict of Interest that exists now or may foreseeably exist in the future.
- (c) In connection with its Proposal and any Alternative Option(s), each Proponent shall:
  - (i) avoid any Conflict of Interest in relation to the Work;
  - (ii) disclose to the Issuing Authority without delay any actual, potential, or apparent Conflict of Interest that arises during preparation of the Proponent's Proposal and any Alternative Option(s); and
  - (iii) comply with any requirements prescribed by the Issuing Authority to resolve any Conflict of Interest.
- (d) In addition to all contractual or other rights or rights available at law or in equity or legislation, the Issuing Authority may, in its sole and absolute discretion, immediately exclude a Proponent from further consideration or exclude the Proponent from this RFP if:
  - (i) the Proponent fails to disclose an actual, potential, or apparent Conflict of Interest;

- (ii) the Proponent or any representative identified in the Proponent's Proposal fails to comply with any requirements prescribed by the Issuing Authority to resolve a Conflict of Interest;
  - (iii) the Proponent's Conflict of Interest issue cannot be resolved; or
  - (iv) the Proponent gives or offers any gratuity to or attempts to bribe or coerce the Issuing Authority, any representative of the Issuing Authority, or any representative of any producer responsibility organization.
- (e) The Issuing Authority reserves the right, in its sole and absolute discretion, to exclude any Proponent or Proponent Team Member on the grounds of Conflict of Interest. The Issuing Authority may also, in its sole and absolute discretion, waive the ineligibility of the Proponent or a Proponent Team Member on such terms and conditions as the Issuing Authority, in its sole and absolute discretion, may require, including that the Proponent or entity put into place adequate safeguards to mitigate the impact of any Conflict of Interest and to ensure that any and all Confidential Information the Proponent or Proponent Team Member may have continues to be kept confidential and is not disclosed or used except as expressly allowed by the Issuing Authority.

#### **5.4 Proponent Expense and Risk**

- (a) The Issuing Authority is not liable to reimburse or compensate a Proponent in any manner whatsoever or under any circumstances in connection with the RFP or the procurement of a service provider for a Final MSA (in whole or in part) by the Issuing Authority (including, without limitation, cancellation or suspension of the RFP, rejection of any Proposal or the exercise of any other right by the Issuing Authority) and the Issuing Authority is not liable for any expenses or costs incurred by a Proponent in connection with, or in relation to, the RFP (including, without limitation, the preparation and submission of a Proposal and any Alternative Option(s), site visits, conference calls, travel expenses, interviews, meetings, discussions, oral presentations, on site demonstrations and any additional information requested by the Issuing Authority) and such expenses or costs shall be borne by a Proponent.
- (b) The Issuing Authority shall not be responsible for any liabilities, costs, expenses, losses or damages (including, without limitation, loss of profits, loss of opportunity and loss of reputation) incurred, sustained or suffered by a Proponent and the Issuing Authority shall not be subject to, and a Proponent shall not seek, any order for injunctive relief, specific performance, certiorari or mandamus in any manner whatsoever or under any circumstance in connection with the RFP or the procurement of a service provider for a Final MSA (in whole or in part) by the Issuing Authority (including, without limitation, prior to, subsequent to, or by



reason of a Proponent's preparation or submission of a Proposal or Alternative Option(s) or acceptance, non-acceptance, disqualification or rejection by the Issuing Authority of any Proposal, Alternative Option(s) or other proposal, or by reason of any delay in the acceptance of a Proposal or any Alternative Option(s) or cancellation or suspension of the RFP or RLG entering into, or not entering into, an agreement(s) or any other actions taken by the Issuing Authority).

- (c) A Proponent waives any and all claims against the Issuing Authority for costs, expenses, losses or damages in connection with the RFP or the procurement of a service provider for a Final MSA (in whole or in part) by the Issuing Authority.

## **5.5 Disclaimer and Limitation of Liability**

- (a) This RFP does not commit the Issuing Authority to any specific course of action. This RFP does not bind the Issuing Authority or constitute any offer of any kind by the Issuing Authority to any or all of the Proponents. While the Issuing Authority intends for RLG to enter contract negotiations with one or more Proponents, the fact that the Issuing Authority has given notice to a Preferred Proponent does not bind the Issuing Authority to purchase any service from the Preferred Proponent.
- (b) The Issuing Authority makes no representations or warranty as to the accuracy or completeness of the information provided in connection with this RFP and disclaims all express and implied representations, warranties and conditions in connection with this RFP. Proponents should make their own investigations, projections and conclusions, and consult their own advisors, to independently verify the information contained in this RFP, and obtain any additional information that they may require, prior to submitting their Proposals.
- (c) The Issuing Authority shall have no liability to any Person or entity for any damages, including direct, indirect, special or punitive damages, and loss of profits arising out of or otherwise relating to this RFP, each Proponent's participation in this RFP process, or the Issuing Authority's acts or omissions in connection with the conduct of this RFP process. This limitation applies to all possible claims, whether arising in contract, tort, equity, or otherwise, including any claim for a breach by the Issuing Authority of a duty of fairness or relating to a failure by the Issuing Authority to comply with the rules set out in this RFP.
- (d) Notwithstanding that in accordance with Section 1.2(k) of this RFP, this RFP is not an invitation to bid or call for tenders and is not intended to create "Contract A", the Proponent and all other entities participating in the RFP process agree that, in spite of RFP Section 5.4(a) or any limitations of liability or releases in favour of the Issuing Authority, if the Issuing Authority is found to be liable, in any way whatsoever, for any act or omission in respect of the RFP process, the total liability of the Issuing Authority to any Proponent or any other entity participating in the

RFP process, and the aggregate amount of damages recoverable against the Issuing Authority for any matter relating to or arising from any act or omission by the Issuing Authority, 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 Issuing Authority, shall be no greater than the Proponent's cost of preparing its Proposal or \$10,000 whichever is less.

## **5.6 Ownership**

- (a) All copies of material and information prepared by or for the Proponents in connection with or in relation to the Proposals and delivered to the Issuing Authority and all other material and information delivered to the Issuing Authority by the Proponents in connection with or in relation to the Proposals or this RFP including the Proposals and any Alternative Option(s) (collectively, the "Proposal Materials") and all intellectual property rights therein shall be the sole and absolute property of the Issuing Authority (and may not be returned by the Issuing Authority). Without limiting the generality of the foregoing, the Issuing Authority may copy the Proposal Materials and disclose and distribute the Proposal Materials to its employees, advisors and third parties for any purpose. The Issuing Authority will not disclose or distribute a Proponent's Proposal Materials to another Proponent or to other parties that provide the same or similar services as the Proponent.
- (b) Each Proponent assigns and transfers to the Issuing Authority and shall cause all personnel and others to assign and transfer to the Issuing Authority, all right, title and interest in the Proposal Materials, including intellectual property rights therein. The Proponent shall cause all personnel and others to waive, for the benefit of the Issuing Authority, their respective moral rights (and any similar rights to the extent that such rights exist) in and to the Proposal Materials.
- (c) The RFP Documents remain the property of the Issuing Authority and shall not be used for any purpose by the Proponents except in respect of this RFP.
- (d) Each Proponent may retain copies of its Proposal Materials solely for internal non-commercial purposes.
- (e) Notwithstanding any other provisions of this Section 5.6, the Proposal Materials that are subject to disclosure obligations or requirements to safeguard personal information for privacy purposes under the *Freedom of Information and Protection of Privacy Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, or an administrative or court order do not become part of the property of CMO pursuant to this Section 5.6.

## **5.7 Language, Time and Governing Law**

- (a) Except where otherwise requested, all documents relating to a Proponent's Proposal and any Alternative Option(s) and all communications between a Proponent and the Issuing Authority shall be in the English language.
- (b) Except where otherwise disclosed, all references to times in this RFP shall mean Eastern Time (ET).
- (c) This RFP and each Proponent's Proposal and any Alternative Option(s) shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

## **5.8 Competitors**

- (a) For the purposes of the RFP the word "Competitor" shall include any Person, other than a Proponent, whether or not affiliated with a Proponent, who
  - (i) has been requested to submit a Proposal or an Alternative Option in response to the RFP;
  - (ii) could potentially submit a Proposal or an Alternative Option in response to the RFP, based on their qualifications, abilities, or experience;
- (b) Each Proponent must have prepared its Proposal and any Alternative Option(s) either:
  - (i) independently from, and without consultation, communication, agreement, or arrangement with, any Competitor; or
  - (ii) based on consultations, communications, agreements, or arrangements with one or more Competitors regarding this RFP, and the Proponent discloses, in its Independent Proposal Certification Form, complete details thereof, including the names of the Competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements, provided in no event has there been consultation, communication, agreement, or arrangement with any Competitor regarding: (A) prices; (B) methods, factors, or formulas used to calculate prices; (C) the intention or decision to submit, or not to submit, a Proposal; or (D) the submission of a Proposal which does not meet the requirements of the RFP.

## **5.9 Joint Proposals**

If a Proponent wishes to jointly submit a Proposal or any Alternative Option(s) with one or more other joint Person, they may do so, subject to and in accordance with the following requirements:

- (a) a Proponent shall identify in the Proposal Form which joint Person shall appoint one of its employees to act as the point of contact for all material matters in respect of any definitive agreement(s). Notwithstanding the foregoing, a Proponent acknowledges and agrees that the Issuing Authority may, in its sole and absolute discretion, require changes to the contractual structure proposed by joint Persons, which such changes may include, the removal of one or more of the joint Persons from the Proposal or any Alternative Option(s);
- (b) a Proponent must not enter into exclusive teaming or other bidding arrangements with joint Persons that would preclude them from separately submitting a bid on its own or with other Proponents;
- (c) all subcontracting between joint Persons is subject to the terms and conditions set out in any definitive agreement(s);
- (d) prior to any communication or distribution of confidential information to a potential joint Person, a Proponent must provide the Issuing Authority, in advance and in writing, with the name of the potential joint Person and that portion of the services that the proposed joint Person is to provide. A Proponent shall also provide contact information for the potential joint Person, and a summary of the confidential information that the Proponent wishes to disclose to the potential joint Person;
- (e) prior to any communication or distribution of confidential information to a potential joint Person, a Proponent shall enter into a confidentiality agreement with the potential joint Person. Such confidentiality agreement shall include treatment of confidential information that is no less restrictive than the confidentiality requirements of the Proponent in the Confidentiality Agreement it entered into in respect of this RFP; and
- (f) Each party to the joint Proposal and any joint Alternative Option(s) shall be jointly and severally liable in respect of the joint Proposal and any joint Alternative Option(s).

## **5.10 Resolution of Proposal Inconsistencies**

In the event of any inconsistency between an original form, a copy of a form, or an electronic copy of a form (contained on a thumb drive) submitted in a Proposal or any Alternative Option(s), the inconsistency shall be resolved by reference to the original form.

## **5.11 Issuing Authority Rights**

- (a) The Issuing Authority may, in its sole and absolute discretion, elect not to enter into a Final MSA for one or more Districts or any subset thereof.

- (b) The Issuing Authority may, in its sole and absolute discretion, carry out the RFP process as it determines to be in the best interests of the Issuing Authority and to be the most beneficial to the Issuing Authority. At any time after the issuance of the RFP, including, without limitation, following receipt of the Proposals and Alternative Options or following the selection of Preferred Proponents, the Issuing Authority may, in its sole and absolute discretion and without limitation:
- (i) request one, some or all of the Proponents provide additional information, modify its Proposal or Alternative Option(s) in areas considered to be deficient, or provide references;
  - (ii) issue a new request for proposal to one, some or all of the Proponents and/or any other Person;
  - (iii) issue an invitation to bid or a call for tenders to one, some or all of the Proponents and/or any other Person;
  - (iv) request a proposal from any other Person either in the RFP process or in a new process;
  - (v) carry out the evaluation process described in the RFP and accept or reject any Proposal or Alternative Option;
  - (vi) enter into discussions or negotiations between RLG and one, some or all of the Proponents and/or any other Person with respect to the Work, either concurrently or consecutively, in the sole and absolute discretion of the Issuing Authority, and the finalization of a Final MSA to the satisfaction of both parties;
  - (vii) enter into one or more Final MSAs, on terms acceptable to RLG, with one, some or all of the Proponents and/or any other Person with respect to the Work;
  - (viii) amend the scope of the Work or cancel or suspend the RFP or the Work;
  - (ix) do nothing in relation to the Proposals and Alternative Options;
  - (x) accept any or all Proposals or Alternative Options (in whole or in part); and/or
  - (xi) reject or disqualify any or all Proposals or Alternative Options (in whole or in part).
- (c) In no event will the Issuing Authority be required to involve a Proponent in the matters or processes set out in Section 5.11(a) or elsewhere in this RPF.
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- (d) The Issuing Authority may invite a Proponent to submit a Proposal or any Alternative Option(s) for this RFP, or may have invited a Proponent to participate in any Procurement Process prior to this RFP, without implying that the Proponent or its Proposal or any Alternative Option(s) automatically meets the requirements of this RFP and the Proponent shall be required to demonstrate its qualifications in its Proposal and any Alternative Option(s).
- (e) The Proponent providing the lowest priced Proposal or Alternative Option or highest scored Proposal or Alternative Option will not necessarily be identified as a Successful Proponent or a Preferred Proponent, and the Issuing Authority reserves the right to exercise any of the other rights set out in the RFP Documents or afforded to the Issuing Authority.
- (f) This Section 5.11(f) is subject to Section 4.6(c). While Proponents will receive a higher score if they are compliant with the requirements of the RFP Documents (and may be penalized in the evaluation process if they are not compliant), the Issuing Authority is not obligated to reject Proposals or Alternative Options that are non-compliant. For clarity, there is no compliance test or requirement for compliance in order for Proposals or Alternative Options to be considered by the Issuing Authority and the Issuing Authority may consider Proposals and Alternative Options that address a subset of the Work and/or one or more Districts or portions of Districts. Proposals and Alternative Options that have reservations or erasures and/or are not in compliance with the RFP Documents, are unsigned, improperly signed, sealed or prepared, incomplete, conditional, non-conforming or qualified, illegible or obscure, altered (unless properly and clearly made and initialled by the Proponent), or irregular or contain false or misleading information or statements or do not comply with the requirements of the RFP Documents may, in the sole and absolute discretion of the Issuing Authority, be rejected or may, in the sole and absolute discretion of the Issuing Authority, be retained for consideration and selection. If a Proponent provides partially completed forms in its Proposal or any Alternative Option(s) or if a Proposal or an Alternative Option only relates to the performance of the Work in:
  - (i) a part of a District; or
  - (ii) the parts of different Districts,

the Issuing Authority may, in its sole and absolute discretion, reject such Proposal or such Alternative Option or retain such Proposal or such Alternative Option for consideration and selection. For clarity, the Issuing Authority may evaluate each Proposal on the basis of each District addressed by such Proposal (including the applicable parts of the Technical Proposal and the Financial Proposal) and the Issuing Authority may, in its sole and absolute discretion, retain for consideration and selection the parts of a Proposal in respect of a District, even if other parts of

such Proposal in respect of other Districts have been rejected or not retained for consideration.

- (g) In the event that a Proposal or any Alternative Option(s) contains an arithmetical error or inconsistency, the Issuing Authority reserves the right, in its sole and absolute discretion, to correct or recalculate the error.
- (h) Each item in the Pricing Form and any Alternative Option Form(s) shall indicate a commercially reasonable price for such item. Proposals and Alternative Options that contain prices which appear to be so unbalanced as likely to affect adversely the interests of RLG may, in the sole and absolute discretion of the Issuing Authority, be rejected.
- (i) The Issuing Authority, in its sole and absolute discretion, may reject a Proposal and any Alternative Option(s) if the Proponent, or any officer or director of the Proponent, is or has been engaged, either directly or indirectly, in:
  - (i) a legal action against the Issuing Authority, or the City of Toronto including its elected or appointed officers and employees; and
  - (ii) any lobbying, or other attempts at inappropriate communication or conversation with the Issuing Authority or its appointed officers and staff.
- (j) The Issuing Authority, in its sole and absolute discretion, may reject a Proposal and any Alternative Option(s) if a Person other than a Proponent, and any identified joint Persons or subcontractors, has an interest in a Proposal or an Alternative Option or in the award for which a Proposal or an Alternative Option is made.
- (k) The Issuing Authority, in its sole and absolute discretion, may reject a Proposal and any Alternative Option(s) if there is collusion or an arrangement between a Proponent and any other service providers(s) in connection with this RFP, including if a Proponent has knowledge of the contents of another Proponent's Proposal or any Alternative Option(s) or of figures or an agreement or arrangement, express or implied, with any other party (except with a joint Person in the case of a joint Proposal and any joint Alternative Option(s) as contemplated in Section 5.9) in connection with the making of the Proponent's Proposal and any Alternative Option(s).
- (l) The Issuing Authority reserves the right to disqualify those Proponents whose historical performance, in terms of failure to meet contract specifications, terms, and conditions or health and safety violations, has been unsatisfactory as determined by the Issuing Authority, in its sole and absolute discretion.

- (m) These reserved rights are in addition to any other express rights under this RFP and other rights that may be implied in favour of the Issuing Authority in the circumstances.

## **5.12 Insurance**

A Successful Proponent shall be required to comply with the insurance requirements pursuant to Section 8.8 of the Draft MSA.



## **ARTICLE 6 RFP APPENDICES**

Attached to, and forming a part of, this RFP are the following appendices:

- (a) Appendix A – Draft MSA;
- (b) Appendix B – Registration Form;
- (c) Appendix C – Confidentiality Agreement;
- (d) Appendix D – Proposal Form;
- (e) Appendix E – Independent Proposal Certification Form;
- (f) Appendix F – Subcontractor Form;
- (g) Appendix G – Agreement to Bond;
- (h) Appendix H – Pricing Form;
- (i) Appendix I – Alternative Option Form;
- (j) Appendix J – Proposal Package Label Template; and
- (k) Appendix K – Information.