



**The Corporation of the City of Oshawa**

**Request for Tender**

**Contract No: C2020-079**  
**For Sherwood Park Reconstruction**  
**Closing Date: July 24, 2020**  
**Closing Time: 2:00:00 p.m. Local Time**

**Tenders Received By:**

Electronic Bid Submission Only

**Inquiries:**

**Buyer Deb Allen**  
**Phone 905-436-5645**  
**Email [dallen@oshawa.ca](mailto:dallen@oshawa.ca)**

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- Appendix A – Landscape Drawings
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- Agreement to Bond, if required
- Letter of Undertaking, if required

## Information for Bidders – Summary Sheet

The following is a summary of some of the key requirements included in the attached document. The details of each requirement are provided in the attached document. This information summary is provided for the convenience of the bidders only. It is not necessary to return this summary sheet with your submission.

**Bidders** must consult Part “A”, Instructions to Bidders, Part “B”, Standard Terms and Conditions, and Part “C”, Specifications to ensure that they have included all information required for this **Request for Tender (R.F.T.)**.

**Electronic Bid Submission Only.** Bids must be submitted through the City’s Bidding System located at [oshawa.bidsandtenders.ca](http://oshawa.bidsandtenders.ca) prior to the closing date and time.

Project Description: Sherwood Park Reconstruction  
 Reference Number: C2020-079  
 Term of Agreement: N/A  
 Closing Date: 2:00:00 p.m. local time, July 24, 2020  
 Opening Location: Posted Online at [oshawa.bidsandtenders.ca](http://oshawa.bidsandtenders.ca)

### Submission Requirements:

Description	Yes/No	Requirement
Bid Deposit	No	
Agreement to Bond	Yes	
Performance Bond	Yes	100%
Labour/Materials Payment Bond	Yes	50%
Holdback Applicable	Yes	12% (10% Holdback, 2% Maintenance)
Fidelity Bond	No	n/a
Commercial General Liability Insurance (C.G.L.)	Yes	Upon award – Not less than \$5 million per occurrence
Automobile Insurance	Yes	Upon award – Not less than \$2 million per occurrence
Other	No	
WSIB Clearance Certificate	Yes	Upon Award

Description	Yes/No	Requirements
Schedule of prices to be completed in whole	Yes	
Sample products	No	n/a
Other certifications	No	n/a
Fair Wage Policy applies	No	n/a
Accessible Deliverables	Yes	<a href="http://oshawa.ca/city-hall/resources/vendoraccessiblestandardsmarch2014.pdf">http://oshawa.ca/city-hall/resources/vendoraccessiblestandardsmarch2014.pdf</a>
Accessibility for Ontarians with Disabilities Act (A.O.D.A.) applies	Yes	<a href="http://www.oshawa.ca/residents/resources/accessible_customer_service.pdf">http://www.oshawa.ca/residents/resources/accessible_customer_service.pdf</a>
Site Meeting	No	
Date & Time	n/a	
Location	n/a	

# Definitions and Interpretations

## 1.0 Definitions

Wherever a term set out below appears in the text of this Request for Tender (R.F.T.) capitalized and in bold font, the term shall have the meaning set out for it in this Section 1. Wherever a term below appears in the text of this R.F.T. in lower case, it shall be deemed to have the meaning ordinarily attributed to it in the English language.

- a) **Alternative** means a choice of things, each being fully compliant.
- b) **Bidder(s)** means all persons, partnerships or corporations who respond to this R.F.T., and includes their heirs, successors, and permitted assigns.
- c) **Bid Submission** means a **Bidder's** response to a Request for Tender, Proposal or Quotation.
- d) **Bidding System** means the **City's** bid opportunities website, <https://oshawa.bidsandtenders.ca>.
- e) **City** means The Corporation of the **City** of Oshawa and includes its successors and assigns.
- f) **Contract** means the agreement to be entered into between the Contractor and the **City** with respect to the supply of the Equipment and Services. It shall be based upon this R.F.T., with any agreed upon amendments, and shall also include any plans and specifications and will be held to cover the supply of any and all work, labour, implements and materials that could be reasonably required to properly and satisfactorily supply the Equipment or Services.
- g) **Contractor** means the **Bidder(s)** whose Tender(s) is/are accepted and who has/have agreed to supply the Equipment and Services as described in the Contract. In either case, the term extends to its legal representatives, successors and permitted assigns, agents, employees, sub-contractors and suppliers.
- h) **Electronic Bidding** or **Electronic Bid Submission** means a method of issuing Solicitations and/or receiving written Bids where the process of using and/or receiving Bids by internet is considered appropriate.
- i) **Equipment** means all goods, materials, articles, equipment, software, intellectual property (or any part of them) and vehicles as described in the Specifications attached to this R.F.T. as Part C and acquired through the inclusion of such equipment in a schedule to the Contract from time to time throughout the term of the Contract.
- j) **Improper** means a Tender that is not in conformity in some manner with the requirements of this R.F.T. but will be reviewed by the **City** to determine whether it may be considered in the evaluation process, in the sole and unfettered discretion of the **City**.
- k) **Tender(s)** means the **Bidder's** submission in response to this R.F.T., including the specifications, directions, schedules and requirements, together with all documents

of any description and agreements made or to be made pertaining to the method of supplying the Equipment or Services or to the quantities as shown of acceptable materials to be furnished under the Contract.

- l) **R.F.T.** means this Request for Tender document, including all schedules, parts and attachments, as issued by the **City**, including any addenda or amendments made to it after initial issue.
- m) **Services** means the services as required and described in Part C, Specifications of this R.F.T. and Equipment is as described in the Specifications attached to this R.F.T. as Part C and the **Electronic Bidding** Submission.
- n) **Total Acquisition Cost** means the sum of all costs, including purchase price, all taxes, warranty, life cycle cost, operating and disposal costs.

## 2.0 Interpretation

The following rules of interpretation apply:

- a) The term 'best value' means the most cost efficient and effective manner of supplying the Equipment or Services in the sole and unfettered opinion of the **City**.
- b) Where any mention is made to the masculine gender in any part of this R.F.T. or the Contract, it shall be interpreted as, and deemed to mean, the masculine or feminine gender. Words in the singular can be interpreted in the plural, and vice versa, as the context allows.
- c) Each reference to Provincial legislation in this R.F.T., unless otherwise specified, is a reference to the Current Consolidated Statutes of Ontario, and, in every case, includes all applicable amendments to the legislation, including successor legislation.
- d) The words "shall", "will", and "must" used in this R.F.T. denote imperative.
- e) The word "may" used in this R.F.T. denotes permissive.
- f) The word "and" is an inclusive conjunction, the use of which indicates that all items or phrases in the subsection, article, or list in which it appears are permitted or required, as the case may be. The word "or" is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word "or" may also be an inclusive conjunction having the same meaning as the word "and".

## Part A - Instruction to Bidders

The Corporation of the **City** of Oshawa (the **City**) shall only accept **Electronic Bid Submissions** submitted through the **City's Bidding System** Website. Bid Submissions submitted and/or received by any other method shall be rejected, unless the **City** has instructed otherwise by published Addendum.

**Bidders** are cautioned that the timing of their Bid Submission is based on when the Bid is received by the **Bidding System**, not when a Bid is submitted by a **Bidder**, as Bid transmission can be delayed due to technological problems such as file transfer size, transmission speed, etc.

For the above reasons, the **City** recommends that **Bidders** allow sufficient time to upload their Bid Submission and attachment(s) (if applicable) and to resolve any issues that may arise. The responsibility associated with submitting a bid on time is unequivocally the **Bidder's**. The closing time and date shall be determined by the **City's Bidding System** web clock.

**Bidders** should contact the Buyer listed on the cover page, at least twenty-four (24) hours prior to the closing time and date, if they encounter any problems. The **Bidding System** will send a confirmation email to the **Bidder** advising that their bid was submitted successfully. If the **Bidder** does not receive a confirmation email, contact Purchasing immediately.

Late Bids will not be accepted by the **City's Bidding System**.

The **City** will only accept and receive **Electronic Bid Submissions** through the **City's Bidding System**.

To ensure receipt of the latest information and updates via email regarding this bid or if a **Bidder** has obtained this document from a third party, the onus is on the **Bidder** to create a **Bidding System** Vendor account and register as a Plan Taker for the bid opportunity at <https://oshawa.bidsandtenders.ca>.

### 1.0 Contract / Intent

- a) The intent of the **Contract** is to secure one **Contractor** for all **Equipment** and/or **Services** complete and suitable for the **City's** intended use but the **City** reserves the right to choose more than one **Contractor**.
- b) The intent of this **R.F.T.** is to secure the equipment or services outlined herein in accordance with the terms, conditions, specifications and appendices and attachments of this **R.F.T.** The **City** may or may not enter into a **Contract** as a result of the issuance of this **R.F.T.** The **City** may accept any **Tender** in whole or in part, whether the price or prices be the lowest or not, and may reject any and all **Tenders**.

## 2.0 Tender Delivery & Opening

- a) The **City** will only accept **Electronic Bid Submissions**. **Electronic Bid Submissions** must be received by the **Bidding System**, no later than 2:00:00 p.m. (14:00:00 hours) local time, on the date shown on the front of the **R.F.T.** and throughout the document (the “deadline for submission”).
- b) **Bidders** are cautioned that the timing of their Bid Submission is based on when the Bid is received by the **Bidding System**, not when a Bid is submitted by a **Bidder**, as Bid transmission can be delayed in a technological problems such as, file transfer size, transmission speed, etc.
- c) For the above reasons, the **City** recommends that **Bidders** allow sufficient time to upload their Tender submission and attachment(s) (if applicable) and to resolve any issues that may arise. The responsibility associated with submitting a bid on time is unequivocally the **Bidder's**. The closing time and date shall be determined by the **City's Bidding System** web clock.
- d) **Bidders** should contact the Buyer listed, at least twenty-four (24) hours prior to the closing time and date, if they encounter any problems. The **Bidding System** will send a confirmation email to the **Bidder** advising that their bid was submitted successfully. If the **Bidders** does not receive a confirmation email, contact Purchasing immediately.
- e) Late **Tenders** will not be accepted by the **City's Bidding System**.
- f) To ensure receipt of the latest information and updates via email regarding this bid or if a **Bidder** has obtained this Tender Document from a third party, the onus is on the **Bidder** to create a **Bidding System** vendor account and register as a Plan Taker for the bid opportunity at [oshawa.bidsandtenders.ca](http://oshawa.bidsandtenders.ca).
- g) **Bidders** may edit or withdraw their **Electronic Bid Submission** prior to the closing time and date. However the **Bidder** is solely responsible to:
  - Ensure the re-submitted bid is **received** by the **Bidding System** no later than 2:00:00 p.m. (14:00:00 hours) local time, on the Bid Closing Date.

### 2.1 Bid Closing Time and Date

All **Bidders** shall have a **Bidding System** Vendor account and be registered as a Plan Taker for this Bid opportunity, which will enable the **Bidder** to download the Bid Call Document, to receive Addenda/Addendum email notifications, download Addenda and to submit their bid electronically through the **Bidding System**.

Bid Submissions must be received by the **City's Bidding System** no later than 2:00:00 p.m. (14:00:00 hours) local time, on the specified closing date.

The closing time shall be determined by the **Bidding System** web clock.

**Bidders** are cautioned that the timing of a Bid Submission is based on when the Bid is received by the **Bidding System**, not when a Bid is submitted by a **Bidder**, as Bid



transmission can be delayed due to technological problems such as file transfer size, transmission speed, etc.

### 3.0 Tender Submission

The **City** will only accept and receive **Electronic Bid Submissions** through the **City's Bidding System**.

**Hard-copy Tender Submissions shall not be accepted and will be rejected.**

- a) Submission of a **Tender** will constitute acceptance of all provisions contained in this **R.F.T.** on the part of all **Bidders**.
- b) When submitting a **Tender**, **Bidders** must ensure that all areas of this **R.F.T.** that require information are completed and submitted in accordance with the instructions, including but not limited to: Deposits, Agreement to Bond or Letter of Undertaking forms if applicable, and Schedule of Prices, submitted through the **Bidding System**. Failure to do so may result in the incomplete **Tender** being rejected.
- c) All **Tenders** must be submitted through the **Bidding System** or the **Tender** will be rejected.
- d) None of the conditions contained on the **Bidder's** standard or general conditions of sale shall be of any effect unless explicitly agreed to by the **City** and specifically referred to on the purchase order.

### 4.0 Inquiry

- a) All inquiries regarding this **R.F.T.** shall be made in writing and sent through the **Bidding System**.
- b) Details of the site visit, if applicable, are provided in the Information for **Bidders** – Summary Sheet provided at the front of this **R.F.T.** **Bidders** not attending site meetings that have been deemed to be mandatory site meetings will be disqualified from the bidding process.
- c) Any inquiries will be responded to in writing through the **Bidding System**. Any clarification shall not alter the **Tender**. Oral arrangements or discussions are not binding and cannot be relied upon.
- d) If during the period prior to submission of **Tenders**, the **City** determines, in its sole and unfettered discretion, that part of the **Tender** requires formal amendment or clarification, written addenda to this **Tender** will be produced and posted on the **City's Bidding System** website.
- e) **Bidders** attempting to contact **City** staff or elected officials other than the contact indicated in this **R.F.T.**, for whatever reason, during the **Tender** or evaluation process are advised that such action may result in their disqualification from the process. If consultation is deemed to be necessary by the **City**, a pre-tender meeting of all **Bidders** and **City** staff will be arranged at a location of the **City's**

choosing. The **City** reserves the right to change the deadline for submission, if necessary, to accommodate such a meeting.

- f) No officer, agent or employee of the **City** is authorized to verbally alter any portion of this **R.F.T.** During the period prior to submission of **Tenders**, any clarification will be issued in the form of written addenda.
- g) All references to **Bidder** include all staff from the proposing organization as well as all contractors and subcontractors that the proposing organization may hire to supply the **Equipment** or **Services**.
- h) Any questions about the interpretation of Specifications or the bid process shall be made in writing and addressed to Purchasing Services through the **Bidding System** in ample time before the deadline for submissions. No inquiries, if received within four (4) business days of the deadline for submissions, will be given any consideration.

#### 4.1 Addendum/Addenda

**Bidders** shall acknowledge receipt of any addenda when submitting their Bid through the **Bidding System**. **Bidders** shall check a box for each addendum/addenda and any applicable attachments that has been issued before a **Bidder** can submit their Bid Submission online.

Addendum/Addenda will typically be issued through the **Bidding System**, forty-eight (48) hours prior to Closing Time and Date.

In the event an addendum is issued within forty-eight (48) hours prior to Closing Time and Date, it may include an extension of the Closing Time and Date. It is the responsibility of the **Bidder** to have received, reviewed and read all Addendum/Addenda that have been issued. **Bidders** should check online at <https://oshawa.bidsandtenders.ca> prior to submitting their Bid and up until Bid closing time and date in the event additional addenda are issued.

The **City** encourages **Bidders** not to submit their Bid prior to forty-eight (48) hours before the Bid Closing Time and Date, in the event that an addendum is issued. If a **Bidder** submits their bid prior to this or at any time prior to the bid closing and an addendum/addenda is issued by the **City**, the **Bidding System** shall withdraw their Bid Submission and change their Bid Submission to an incomplete status (not accepted by the **City**) and the Withdrawn Bid can be viewed by the **Bidder** in the "My Bids" section of the **Bidding System**. The **Bidder** is solely responsible to:

- i) make any required adjustments to their Bid; and
- ii) acknowledge the addendum/addenda; and
- iii) ensure the re-submitted Bid is received by the **Bidding System** no later than 2:00:00 p.m. (14:00:00 hours) local time, on the Bid Closing Date.

**Note:** Additional company contacts are recommended for the reasons outlined below:

- Do not invite any additional contacts within company that the company's does not want the contact to have access to view, edit, submit and/or Withdraw Bid Submissions or who may be in direct competition (for example, a company may have two divisions that could compete for the same Bid Opportunity).
- **Bidders** are strongly urged when creating or updating a **Bidding System** Vendor account to add additional company contacts to create their own login to the **Bidding System**. This will permit the Company's invited contacts that have created their own login to manage (register, submit, edit and withdraw) Bids for which the **Bidder** is a Registered Plan Taker. In the event the Company contracts are on vacation or unavailable due to illness etc., these additional contacts may act on the company's behalf and have the authority to receive addendum notifications from the **Bidding System** and, where permitted by the terms and conditions of the Bid Call Document, to submit Bids electronically through the **Bidding System** and/or withdraw, edit and/or acknowledge addendum/addenda, on the company's behalf.

All communications to **Bidders** will be in the form of addenda and shall become an integral part of the **R.F.T.**

The **Bidder** will receive, at the email address provided in registration, a notice of addenda from the **City**. Regardless of any email notification, it is the sole responsibility of the **Bidder** to regularly monitor the [Current Bid Opportunities](#) on the **City's** website for any addenda, changes, additions or deletions related to the **R.F.T.**

## 5.0 Tender Content

**Tenders** will be deemed complete if they include all of the following submitted through the **Bidding System**:

- a) A completed and executed Bid through the **Bidding System**.
- b) A completed List of Subcontractors.
- c) Reference list: **Bidders** must provide three appropriate references listing completed projects of a similar size and nature, including contact names, telephone numbers and email addresses.
- d) A Bid Deposit (where applicable) as detailed in the Information for **Bidders** – Summary Sheet found at the front of this **R.F.T.**
- e) An Agreement to Bond (where applicable) or approved equivalent as detailed in the Information for **Bidders** – Summary Sheet found at the front of this **R.F.T.**
- f) If any of the above information, items (a) through (e) inclusively, is missing or deficient, the **City** reserves the right, in its sole and unfettered discretion, to request written clarification or to reject the **Tender** in its entirety.

5.1 **Bidders** shall up-load both their Bid Deposit and Agreement to Bond, as instructed in 5.2, to the **City's Bidding System**, in the bid submission file labelled "Bid Deposit and Agreement to Bond".

5.2 **Bidders** shall create a **single zip file** (see **Bidding System** instructions on how to create a zip file) containing both their Bid Deposit and Agreement to Bond and up-load the zipped file to the file labelled “Bid Deposit and Agreement to Bond”.

## 6.0 Acceptance of Terms

Each **Bidder**, by submitting a **Tender**, represents that the **Bidder** has read, completely understands, and accepts the terms, conditions, and specifications of the **R.F.T.** in full.

## 7.0 Non-Exclusive

**Bidders** should note that any **Contract(s)** awarded as a result of this **R.F.T.** will be non-exclusive. The **City** may, at its sole and unfettered discretion, purchase the same or similar **Equipment** or **Services** from other sources, including but not limited to other **Bidders**, during the term of the **Contract(s)**.

## 8.0 Bid Deposit

- a) The amount of the Bid Deposit, if required, is provided in the Information for **Bidders** - Summary Sheet provided at the front of this **R.F.T.** A bid deposit, if required, must be submitted in one of the following forms:
  - Certified Cheque, Bank Draft, or Money Order, drawn on a Canadian Chartered Bank, made payable to the order of the Corporation of the **City** of Oshawa in the amount of ten (10%) percent of the total bid submitted (including all charges, taxes contingencies and allowances) scanned into the **Bidding System**; or
  - A bid bond from a Surety Company authorized by law to carry on business in the Province of Ontario, in favour of the Corporation of the **City** of Oshawa, equal to, or greater than, ten (10%) percent of the total bid submitted (including all charges, taxes, contingencies and allowances) scanned into the **Bidding System**.
- b) The three (3) low bids will provide to the **City** the original scanned bid bond, certified cheque, bank draft, or money order that were scanned into the **Bidding System** within seventy-two (72) hours of bid closing. Failure to provide the original documents or to enter into a contract may result in **Bidder** being barred from future bid opportunities for up to two (2) years.
- c) The Bid Deposit may also be requested for a specific dollar amount as indicated on the Information for **Bidders** – Summary Sheet. In such cases all of the forms of Bid Deposit outlined above are acceptable providing they are equivalent in value to the dollar amount specified (including all charges, taxes, contingencies and allowances) on the Information for **Bidders** – Summary Sheet.
- d) The bid deposit must remain valid for the period of irrevocability detailed in Part B of this **R.F.T.** If a bid deposit is submitted in a form other than as specified above, the **Tender** may be rejected. If a bid deposit is not submitted through the **Bidding System** the **Tender** will be rejected.

- e) Once the **Contractor** has complied with the submission requirements outlined in the **R.F.T.** and a **Contract** is executed with the successful bidder by a duly authorized official of the **City**, the retained deposits will be null and void.
- f) Failure to furnish the required bonds or approved equivalents, insurance certificate, Workplace Safety Insurance Board (W.S.I.B.) certificate or other required documents within ten (10) days of a written request by the **City** shall make the award of the **Contract** by the **City** subject to cancellation. If the **Contract** is cancelled in this manner, the proceeds of the **Contractor's** bid security accompanying its **Tender** will be forfeited as compensation to the **City** for its losses. This action does not limit the **City's** right to recover any loss, damages or expense it incurs including, but not limited to, the additional costs associated with selecting another **Bidder**.
- g) Any Bid Bond, Agreement to Bond, Performance Bond or Labour and Materials Payment Bond must name the "Principal" as the firm carrying out the work and not a sub-contractor or manufacturer supplying commodities to the firm carrying out the work.

#### **9.0 Agreement to Bond (alternative to Section 10, Surety Requirement)**

The details of an Agreement to Bond or approved equivalent, if required, are provided in the Information for **Bidders** – Summary Sheet provided at the front of this **R.F.T.** In the event that Surety Bonds are required for this project, the following details apply:

- a) The Contractor, together with a Surety Company approved by the **City** and authorized to carry on business in the Province of Ontario, shall furnish to the **City** a Performance Bond in the format of CCDC 221 or Construction Act Forms and a Labour and Materials Payment Bond in the format of CCDC 222 or Construction Act Forms as a percentage of the total bid price shown on the Information for Bidders – Summary Sheet. The Surety Bonds may also be requested for a specific dollar amount as indicated on the Information for Bidders – Summary Sheet. These bonds must cover the faithful performance of the **Contract** and/or the payment of all obligations under the **Contract** and shall be issued by a Surety Company licensed to do business in the Province of Ontario. Unless otherwise indicated, the warranty period on the Performance Bond must be one (1) year following completion of the project. The Performance Bond and/or Labour and Materials Payment Bond must be provided to the **City** within ten (10) days' notice to the bidder of contract award. Failure to provide said bonds to the **City** within ten (10) days will result in the **City** redeeming any Bid Deposit that has been provided.
- b) An "Agreement to Bond" form ensuring that a Performance Bond and/or Labour and Materials Payment Bond can be supplied, scanned into the **Bidding System** and constitutes part of the **R.F.T.** and must be completed, duly signed and executed, and returned with the **Tender** in a sealed envelope or sealed carton clearly identifying the **R.F.T.** contract number, description and contents as identified within the **R.F.T.** A sample Agreement to Bond Form is included with this **R.F.T.** but **Bidders** are advised that an Agreement to Bond as supplied by the **Bidders** Surety

Company or financial institution indicating that the **Bidder** is capable of providing Surety will be sufficient, provided it includes all terms indicated on the **City's** form.

- c) Failure to provide, where required, a Bid Deposit noted in Section 8 above, an Agreement to Bond noted in Section 9 above, or the alternate Surety noted in Section 10 below, will result in the bid being rejected.

#### **10.0 Surety (alternative to Section 9, Agreement to Bond, if required)**

- a) The **Contractor** shall submit a surety through the **Bidding System** in the form of a Certified Cheque, Bank Draft, Irrevocable Letter of Credit or Money Order in the amount of one hundred (100%) percent of the total of the Bonds indicated on the Information for **Bidders** – Summary Sheet. In order for the alternative of the Letter of Credit to be acceptable to the **City**, the enclosed Letter of Undertaking must be completed and signed by the **Bidder** and a signing officer of the **Bidder's** Financial Institution. Failure to provide an Agreement to Bond noted in Section 10 above, or the alternate Surety noted in Section 11 herein, will result in the bid being rejected.
- b) This Surety may be held by the **City** until sixty (60) days after the day on which all work covered by the **Contract** has been completed and accepted or the warranty has expired, whichever is longest. The Surety may be returned before the sixty (60) days has elapsed providing satisfactory evidence is provided that all liabilities incurred by the **Contractor** in carrying out the work have been satisfied and that all liens have expired or have been satisfied, discharged or provided for, and a Clearance Certificate from the Workplace Safety Insurance Board (W.S.I.B.) is provided.
- c) The **City's** standard Letter of Undertaking is attached to this **R.F.T. Bidders** shall have the supplied sample executed by their Financial Institution if this Surety option is exercised (in lieu of Bonding).

#### **11.0 Fidelity Bond**

The details of a Fidelity Bond, if required, are provided in the Information for Bidders – Summary Sheet provided at the front of the **R.F.T.**

- a) Where the **Contract** involves working on **City** property without supervision, the **Contractor** will provide evidence that all personnel employed on, upon or about the premises of the **City**, are covered by a Fidelity Bond in an amount not less than \$10,000 for each individual, or a Certificate of Insurance indicating proof of Employee Dishonesty Coverage.
- b) The **Bidder** shall provide proof from their Surety or Insurance Company of ability to obtain fidelity bonding with their **Tender** through the **Bidding System**, or their **Tender** may be rejected.

## Part B – Standard Terms and Conditions

### 1.0 Acceptance

- a) As soon as practicable after opening the **Tenders**, the **City** will endeavour to act upon them. The acceptance of a **Tender** will be notice in writing signed by a duly authorized representative of the **City** and no other act of the **City** shall constitute the acceptance of a **Tender**. The placing of a notice of award to a **Bidder** by the **City** to the email address given in a **Tender** shall constitute formation of the **Contract** and no other form of notice shall be required. Acceptance of a **Tender** by the **City** shall bind the **Contractor** to execute any additional documents as required by the **City** to further evidence or define the **Contract** as may be required in accordance with paragraph (h) below.
- b) The Contract shall consist of and have priority in the following order:
  - i. the purchase order;
  - ii. the **R.F.T.**;
  - iii. and the **Contractor's Tender**.
- c) The above mentioned documents will be interpreted in precedential order as they are named above regardless of the chronological order in which they are issued or executed. This means that if there is a discrepancy between a term in the **City's** purchase order and a term in the chosen **Tender**, the term in the purchase order will prevail to the extent of the discrepancy.
- d) The **City** may accept any **Tender** in whole or in part, whether the **Total Acquisition Cost** is the lowest or not, and may reject any or all **Tenders**. There shall be no requirement of the **R.F.T.**, implied or otherwise, that the **Tender** representing the lowest **Total Acquisition Cost** will be selected or preferred.
- e) The **City** reserves the right to award by items, groups of items, parts of items or parts of groups of items, or all items of the **Tender**, and to award **Contracts** to one or more **Bidders**, to accept or reject any **Tender** in whole or in part, to waive irregularities and omissions in the **City's** sole and unfettered discretion, if in so doing, the best interests of the **City** will be served. No liability shall accrue to the **City** for its decision in this regard.
- f) In addition to the preceding paragraph, the **Bidder**, by submitting a **Tender**, agrees that it will not claim damages in excess of an amount equivalent to the reasonable costs incurred by the **Bidder** in preparing its **Tender** for matters relating to the **Contract** or in respect of the competitive process, and the **Bidder**, by submitting a **Tender**, waives any claim for loss of profits if no contract is made with the **Bidder**.
- g) Should the **City** receive only one (1) **Tender** on commodities/services that have a known multiple sources potential, the **City** reserves the right to recall or cancel the competition or to negotiate the prices and/or terms offered by the **Bidder**.

- h) All **Tenders** shall be irrevocable for ninety (90) days following the deadline for submission to allow sufficient time for evaluation of the **Tenders** and for the investigation of the **Bidders**.
- i) Upon acceptance of a **Tender**, or any part of it, by the **City**, the successful **Bidder** shall, if requested by the **City** so to do, execute and enter into an additional formal contract that is satisfactory to the Solicitor of the **City**, to properly secure the Contract resulting from the acceptance of a **Tender**, or any part of it, and to include indemnity and related provisions that in the opinion of the Solicitor are required to protect the **City**.
- j) Any notice that the **City** may be required to or desire to give to the **Bidder** shall for all purposes be deemed to have been sufficiently and properly given if forwarded by email, regular mail or courier and addressed to the **Bidder** at the address shown for the **Bidder** on its **Tender**. It shall be presumed to have been received by the **Bidder** immediately for email, on the third day following the mailing or the day following registration with the courier.
- k) No **Tender** shall be accepted from any person or **Bidder** who has a claim or has instituted a legal proceeding against the **City**, or against whom the **City** has a claim or has instituted a legal proceeding, without the prior approval of **City** Council. This applies whether the legal proceeding is related or unrelated to the subject matter of this **R.F.T.**

## **2.0 Purchasing By-Law**

- a) **Tenders** will be called, received, evaluated, accepted, and processed in accordance with the **City's** Purchasing By-law and Procedures posted on the **City's** website. By submitting a **Tender**, each **Bidder** agrees to be bound by the terms and conditions of that By-law and those Procedures, including any amendments to them, as fully as if it were reproduced and attached to this **R.F.T.**
- b) No verbal arrangement or agreement relating to the **Equipment** or **Services** specified or called for under this **R.F.T.** will be considered binding and every notice, advice or other communication pertaining to it must be in writing and signed by a duly authorized person.

## **3.0 Bidder Eligibility**

- a) **Bidders** must meet the **City's** requirements for experience. The **City** reserves the right to contact the references provided in a Bid Submission to confirm the **Bidder's** experience, ability and performance. The **City** will not be responsible for following up with references that do not respond in a timely manner. The **City** will disqualify any **Bidder** who cannot provide the following, when requested by the **City**:
  - proof that they have previously held and satisfactorily completed a contract of the size and type being proposed or proof of employment in the type of service being proposed and written references as to their satisfactory performance; or adequately demonstrate that they have the ability to provide the necessary expertise and resources, including sub-contractors, to satisfactorily complete the **Contract**.



The **City** reserves the right to require a **Bidder** to replace any of the sub-contractors provided in its bid if the sub-contractor is deemed unsatisfactory by the **City**.

- b) The **City** reserves the right to investigate and evaluate the experience, capability, safety, quality, registration and financial position of any **Bidder** prior to an award of a **Contract**.
- c) The **City** reserves the right to reject any **Bidder** or **Tender** in its sole discretion, at any stage of the bid process, on the basis of:
  - The bid contains false or misleading information or misrepresentation;
  - The **Bidder** fails to cooperate with the **City's** attempt to seek clarification or verification of information contained in a bid;
  - The **Bidder** reveals a conflict of interest in its bid or a conflict of interest is brought to the attention of the **City**;
  - Information provided by references or lack of response; or
  - If any of the references contacted confirm that the reference information provided by the **Bidder** is substantially inaccurate or confirm that the **Bidder** was terminated from a contract due to default or failed to meet the performance requirements for similar Work, Goods or Service, the **City** reserves the right to reject the Bid. The **City's** decision in this regard is final.
- d) This **Tender** is made by the **Bidder** without any connection, knowledge, comparison of figures or arrangement with any other person or persons making a **Tender** for the same **Equipment** or **Services**, and is in all respects fair and without collusion or fraud.

#### 4.0 Assignment

- a) The **Contractor** shall not assign the **Contract**, or any portion of it, without the prior written consent of the **City**.
- b) It is understood and agreed that the **Bidder** will be an independent contractor and that all services will be performed by the employees or agents of the **Contractor**. Sub-contracting agreements made by the **Contractor** will not release the **Contractor** from any obligation to the **City** with respect to the performance of the **Contract**. Joint or consortium **Tenders** must have one prime **Contractor** who will be responsible for overall project success, and provide one point of contact and a single billing point. The **City** shall not be responsible for payment to the **Contractor's** partners, subcontractors or suppliers in the event the prime **Contractor** defaults on its responsibilities. The prime **Contractor** must communicate such to its partners, sub-contractors and suppliers. The prime **Contractor** must also provide the **City** with a written statement outlining function components that the sub-contractor(s) will be offering.
- c) The **City** must grant prior written approval, in its sole and unfettered discretion, for any assignment and all sub-contractors.

## 5.0 Indemnification

- a) The **Contractor** agrees that it shall continuously save, keep harmless and fully indemnify the **City**, its elected officials, employees and agents and its successors and assigns, from and against all actions, claims, suits, demands, proceedings, losses, liabilities, damages, costs and expenses, which may be brought against or made upon the **City** resulting from or arising out of the **Contractor's** performance of or rendering of any **Services** pursuant to the **Contract**.
- b) The **Contractor** also agrees that it shall continuously save, keep harmless and fully indemnify the **City**, its elected officials, employees and agents and its successors and assigns, against all actions, claims, suits, demands, proceedings, losses, liabilities, damages, costs and expenses, which may be incurred by the **City** resulting from or arising out of the **Contractor's** performance of or rendering of any **Services** pursuant to the **Contract**.
- c) The **Contractor** shall indemnify the **City** from all claims arising out of unpaid accounts relating to the **Contract**. The **City** shall have the right at any time to require satisfactory evidence that the **Equipment**, or any part of it, in respect of which any payment has been made or is to be made by the **City**, is free of and clear of construction or other liens, attachments, claims, and demands, charges or other encumbrances.

## 6.0 Insurance

### a) Liability Coverage

Upon award the **Contractor** shall obtain, provide and maintain a Commercial General Liability (C.G.L.) Insurance Policy for the duration of the **Contract**.

- i. The Policy shall be written on an occurrence basis and have a liability limit of not less than the amount shown on the information for **Bidders** - Summary Sheet in respect of any one accident or occurrence.
- ii. The **City of Oshawa** shall be named on the Policy as an **additional insured** without subrogation.
- iii. Policy coverage shall include third party bodily injury including death, property damage and personal injury and wording in the Policy shall not be less than the insurance wording shown in I.B.C. Forms 2100 and 2320, or their equivalent replacement.
- iv. The Policy shall be taken out with an insurance company licensed to carry on the business of insurance in the Province of Ontario.
- v. The Policy shall contain a cross liability and/or severability clause which protect each insured to the same extent as if they were separately insured.
- vi. Prior to commencement of the **Contract**, the **Contractor** shall verify that valid insurance coverage is in place by submitting a certificate of insurance to the **City** which must be acceptable in all respects to the Manager, Purchasing Services.

- vii. The certificate of insurance will identify the City of Oshawa as an additional insured with respect to the services provided by the **Contractor**, under this **Contract**. No review or approval of any such insurance certificate by the City shall derogate from or diminish the **City's** rights or the **Contractor's** obligation contained in the **Contract**.
- viii. If liability limits are extended by an umbrella or excess liability policy, the certificate of insurance must clearly identify which underlying liability policy is affected by the umbrella or excess limit.
- ix. The Policy shall be endorsed to provide that the **City** is to receive not less than thirty (30) days' notice in writing in advance of any cancellation, material amendment, or change restricting coverage. Written notice shall be personally delivered or sent by registered mail to the Manager, Purchasing Services. Should any claim(s) arise, the **Contractor** shall be financially responsible to pay for any amount(s) up to and including the deductible amount under the Policy.
- x. The **Contractor** shall ensure that any and all subcontractors also have valid Commercial General Liability Insurance coverage with the same limits and wording as outlined in this section, if the **City** grants assignment pursuant to the **Contract**.

#### **b) Automobile Coverage**

Upon award the **Contractor** shall obtain, provide and maintain an Automobile Insurance Policy to cover all vehicles and commercial trailers owned or leased by the **Contractor** on forms meeting statutory requirements covering all vehicles and commercial trailers used in any manner in connection with the performance of the terms of this **Contract**.

- i. The Policy shall have a liability limit of not less than two million dollars (\$2,000,000) in respect of any one accident or occurrence.
- ii. Policy coverage shall include third party bodily injury including death, property damage and basic accident benefits and coverage shall not be less than the insurance wording shown in the Standard Ontario Automobile Policy Form OAP 1.
- iii. The Policy shall be taken out with an insurance company licensed to carry on the business of insurance in the Province of Ontario.
- iv. Prior to commencement of the **Contract**, the **Contractor** shall verify that valid insurance coverage is in place by submitting a certificate of insurance to the **City** which must be acceptable in all respects to the Manager, Purchasing Services.
- v. The Policy shall be endorsed to provide that the **City** is to receive not less than thirty (30) days' notice in writing in advance of any cancellation, material amendment, or change restricting coverage. Written notice shall be personally delivered or sent by registered mail to the Manager, Purchasing Services.
- vi. Should any claim(s) arise, the **Contractor** shall be financially responsible to pay for any amount(s) up to and including the deductible amount under the Policy.

- vii. The **Contractor** will ensure that any and all sub-contractors also have valid Automobile Insurance coverage with the same limits and wording as outlined in this section, for all licensed vehicles owned and/or leased by them, if the **City** grants assignment pursuant to the **Contract**.

### c ) General Insurance Guidelines

The limits and types of coverage requested herein are minimum requirements and may not reflect potential insurable risks or exposures for all circumstances. It is the responsibility of the **Contractor** relying on the advice of their insurance and/or legal representative to purchase higher limits and/or any additional coverage appropriate for all claim circumstances.

### 7.0 Workplace Safety Insurance Board (W.S.I.B.) Certificate

- a) A W.S.I.B. account number and clearance certificate from the Workplace Safety Insurance Board shall be provided prior to the commencement of work indicating all payments by the company to the W.S.I.B. in conjunction with the **Contract** have been made, and that the **City** will not be liable to the W.S.I.B. for future payments in connection with the **Contractor's** fulfillment of the **Contract**.
- b) Clearance certificates should be renewed prior to expiry every ninety (90) days, at a minimum, during the term of the **Contract**.
- c) The **City** shall have the right to retain, out of any monies payable by the **City** to the **Contractor** under this **Contract**, the total amount from time to time outstanding of all damage claims by third parties arising out of this **Contract** which have not been settled by the **Contractor** or its insurers. For the purposes of this paragraph, a claim has been settled if a payment has been made to and accepted by the claimant and a complete release obtained once the claim has been fully investigated by the W.S.I.B.
- d) Independent operators (for example, single owner/operators) will be subject to the requirements under this Section. As such these operators will be required to provide a W.S.I.B. Certificate of Clearance.
- e) Independent operators must provide a certificate from W.S.I.B. confirming they have purchased the Optional W.S.I.B. Coverage.

### 8.0 Occupational Health & Safety Act/Environmental Protection Act

- a) Should the provisions of the Occupational Health and Safety Act, apply to the work to be completed under a **Contract** resulting from this **R.F.T.**, a contravention of the Occupational Health and Safety Act, as amended from time to time, by the **Contractor**, subcontractor or supplier may be considered a breach of this **Contract**.

- b) The **Contractor** shall “take every precaution reasonable in the circumstances” for the protection from injury of **City** employees, occupants of the site, the general public and workers.
- c) The **Contractor** shall provide, erect, and maintain required barricades, warning signs, guard-rails, and light guards in accordance with applicable regulations.
- d) Except as specified in the **Contract**, the **Contractor** will ensure that no additional signs are erected unless approved by the **City**.
- e) The **Contractor** shall remove debris, packaging and waste materials frequently and as directed by the **City**. The **Contractor** shall remove from the site and legally dispose of rubbish, waste materials, and any form of hazardous waste (as defined in regulations to the Environmental Protection Act, as amended from time to time).
- f) Dust and dirt shall be kept to an acceptable level and as directed by the **City**. The **Contractor** shall cover or wet down dry materials and rubbish to prevent blowing dust and debris.
- g) While on the premises, all hazardous chemical waste shall be properly identified and stored so as not to pose a safety or health hazard to **City** employees, occupants of the site and the general public.

## 9.0 Storage and Dispensing Equipment

Where storage and/or dispensing equipment is required for proper handling and storage of delivered **Equipment**, such **Equipment** is provided and owned by the **City**.

## 10.0 Character of Workers

- a) The reference to "workers" refers to workers of the **Contractor** and its sub-contractors, if any, and includes Corporate Officers.
- b) The **Contractor** agrees to employ only orderly, competent, and skillful workers. When the **Contract** calls for a worker to be certified in their discipline, or the discipline requires certification, the **Contractor** shall ensure every worker shall be current and up to date in their certification. Whenever the **City** informs the **Contractor** in writing that any worker is, in its sole and unfettered opinion, incompetent, unfaithful or disorderly, the **Contractor** will ensure that the worker in question is removed from the work site and shall not be further employed on the **Contract** without the **City's** written consent.

## 11.0 Project Site Working Conditions

It is the **Bidder's** responsibility to investigate the project site and the nature of the work and inform itself, before bidding, of all the physical and working conditions and applicable administrative practices.

Details of the site visit, if applicable, are provided in the Information for **Bidders** – Summary Sheet provided at the front of the **R.F.T. Bidders** not attending mandatory site meetings will be disqualified from the bidding process. **Tenders** received from disqualified **Bidders** will be returned unopened at the **Bidder's** expense.

## 12.0 Care and Handling

- a) The **Contractor** will assume full responsibility for the safe handling and delivery of materials, in accordance with the Transportation of Dangerous Goods Act and the Occupational Health and Safety Act, as amended from time to time, the Workplace Hazardous Materials Information System (W.H.M.I.S.), and any other municipal, provincial or federal legislation applicable during the term of this **Contract**.
- b) Prior to commencement of the work the **Contractor** shall provide a list of products controlled under W.H.M.I.S. which he expects to supply on this **Contract**. The **Contractor** will provide Material Safety Data Sheets (M.S.D.S.) to the **City** prior to contract commencement.
- c) The **Contractor(s)** shall be aware of and conform to all governing regulations, including those established by the **City**, related to worker health and safety. The **Contractor** shall keep employees and sub-contractors informed of such regulations. The **Contractor** will be responsible for obtaining the **City's** Workplace Safety and Health Policy and adhere to the policy, including the dress code for on-the-job safety.

## 13.0 Patents and Copyrights

- a) The **Contractor** shall, at its sole expense, defend all claims, actions or proceedings brought against the **City** based on any allegations that the **Equipment**, or any part of it, constitutes an infringement of any patent, copyright or other proprietary right, and shall pay to the **City** all costs, damages, charges and expenses, including its lawyers' fees on a solicitor and his own client basis, occasioned to the **City** in this regard.
- b) The **Contractor** shall pay all royalties and patent license fees required for the **Equipment**.
- c) If the **Equipment**, or any part of it, is in any action or proceeding held to constitute an infringement of any patent, copyright or other proprietary right, the **Contractor** shall either secure for the **City** the right to continue using the **Equipment** or shall, at the **Contractor's** sole expense, replace the infringing **Equipment** with non-infringing **Equipment** or modify it so that the **Equipment** no longer infringes any such rights.

## 14.0 Errors and Omissions of the Contractor

Errors, mistakes, or omissions made by the **Contractor**, its agents, employees, or workmen shall be rectified by the **Contractor** at its sole expense.

## 15.0 Equivalencies

- a) Wherever possible, the **Equipment** or **Services** specified or called for in or under this **R.F.T.** shall be of Canadian origin and manufacture. If patented or proprietary goods, material, articles, or equipment are mentioned in this **R.F.T.**, **Tenders**

submitted on approved equivalents will be considered, but the mark or brand of them must be specified in the **Tender**.

- b) The **City** will be the sole and final judge as to whether an alternate product is equivalent or not and the **City's** decision shall be final and not reviewable by any court or tribunal.

## 16.0 Quantities

- a) Unless otherwise specified in this **R.F.T.**, quantities shown are approximate and furnished without liability on behalf of the **City**. Quantities are supplied for the guidance of the **Bidders** only and are not to be considered as minimum or maximum quantities.
- b) Unless otherwise stated, payment will be by the unit complete at the **Tender** price on the actual quantities deemed acceptable by the **City**.

## 17.0 Terms of Payment

Unless alternate payment terms are specified in the Specifications attached to this **R.F.T.** as Part C, the **City** will accept billing for one hundred (100%) percent of the actual value of each element of the **Equipment** provided or **Services** performed in each month and accepted by the **City**. Invoices will be payable by the **City** thirty (30) days after they are received.

For work governed by the Construction Act, payment will be made in accordance with the Construction Act. Where required by the Construction Act, appropriate monies may be held back until sixty (60) days after successful provision of the **Equipment** or completion of the **Services**, as the case may be. Holdback releases are dependent upon the **Contractor** meeting the requirements of the Construction Act.

Payments made by the **City**, including final payment, shall not relieve the **Contractor** from its obligations or liabilities under the **Contract**.

- a) Vendors must note that payments will be made in accordance with the authorized prices and upset limit (estimate) outlined on the purchase order. No other payments will be made without prior express written justification to and authorization by Purchasing Services.
- b) Acceptance by the **Contractor** of the final payment shall constitute a waiver of claims by the **Contractor** against the **City**, except those previously made in writing in accordance with the **Contract** and still unsettled. The **City** shall have the right to withhold from any sum otherwise payable to the **Contractor** any amount sufficient to remedy any defect or deficiency in the **Equipment and Services**, pending correction of the deficiencies or any amount sufficient to satisfy any claim the **City** has against the **Contractor** resulting from a previous contract, a legal proceeding or unpaid accounts, including property or business taxes.
- c) **Bidders** are advised that the **City** has implemented a Procurement/Purchasing Card (P.card) system for its small dollar acquisitions. Although this **Contract** will

be implemented as a systems **Contract**, users (i.e. **City** staff) may require the ability to pick up goods needed immediately from the closest available location and would “release” off the **City Contract** by means of the P.card. The **Contractor** must ensure that any **City** acquisitions made with a P.card are charged at the quoted prices.

- d) The **City** of Oshawa also accepts electronic invoicing from vendors. Invoices must be provided in Portable Document Format (P.D.F.) format and sent directly to Accounts Payable at [AccountsPayable@oshawa.ca](mailto:AccountsPayable@oshawa.ca). Invoices received at this e-mail address will be treated as an “original copy”.
- e) The **City** of Oshawa provides vendors with the option to receive direct deposit through an electronic payment program by contacting Accounts Payable at [AccountsPayable@oshawa.ca](mailto:AccountsPayable@oshawa.ca)

## 18.0 Discounts for Prompt Payment

- a) Upon receipt of invoice(s) that are in accordance with the price(s) and terms and conditions shown on the purchase order, where discounts for prompt payment have been offered, cheques can be issued within twenty (20) days of receipt of the invoice in Finance Services - Accounts Payable section (address as shown on the purchase order).
- b) **Bidders** are to state the percentage discount for prompt payment offered in the appropriate area of the electronic submission. All discounts for prompt payment offered will not be calculated to form part of the total bid price and therefore will not be factored into the award. Where no discount for prompt payment has been offered on the bid form, the terms of payment for the invoices will be “Net 30 Days” and invoices processed accordingly.
- c) Cheques covering payment of invoices offering discounts for prompt payment will be forwarded by regular mail to suppliers to arrive on or before the twentieth (20<sup>th</sup>) day following receipt of the invoice in Accounts Payable. However, the **City** cannot be held responsible for delays beyond its control such as, but not limited to, services provided by Canada Post, lost mail, disruption of postal services, weekends and statutory holidays, etc. It is not possible to make cheques available for pick up by vendors that offer a discount for prompt payment.
- d) Suppliers are required to clearly indicate/highlight on their invoice the rate of the discount for prompt payment offered, number of days after receipt of the invoice in Accounts Payable that the discount applies and the dollar value of the discount. The rate of discount for prompt payment must be in accordance with that offered at the time of bidding and may not be altered at any time during the contract period.
- e) In the event that payment cannot be mailed to arrive at the supplier’s office by the twentieth (20<sup>th</sup>) day following receipt of the invoice by Accounts Payable (subject to section 18 (b) above) the invoice will be paid without deducting the discount offered. There will be no penalty or damages applied against the **City** for discounts not taken.



- f) Invoices forwarded by the supplier that are not accurate when received by Accounts Payable or require adjustment/revision to comply with the prices, terms and conditions of the purchase order will be considered as complete and received by Accounts Payable only when all required adjustments/revisions have been made.

## 19.0 Unpaid Accounts

The **Contractor** must indemnify the **City** from all claims arising out of unpaid accounts relating to the **Equipment** and/or **Services**. The **City** shall have the right at any time to require satisfactory evidence that the **Equipment** in respect of which any payment has been made or is to be made by the **City** is free of and clear of construction or other liens, attachments, claims, and demands, charges or other encumbrances.

## 20.0 Changes in the Equipment or Services

The **City** may, without invalidating the **Contract**, direct the **Contractor** to make changes to the **Equipment** or **Services**. When a change causes an increase or decrease in the **Equipment** or **Services**, the **Contract** price shall be increased or decreased by the applicable unit price, or in the absence of applicable unit prices, by an amount to be agreed upon in writing between the **City** and **Contractor**. All changes must be in writing.

## 21.0 Non-Performance

- a) The **City** reserves the right to determine, in its sole and unfettered discretion, non-performance of the **Contract**, including the level of quality of **Equipment** or **Services** provided and further reserves the right to cancel any or all of the **Contract** if the **Contractor** fails to correct deficiencies upon thirty (30) days' written notice. The **City's** evaluation and determination in this regard shall be final and not reviewable by any court or tribunal.
- b) In the event that the **Contractor** fails or neglects to comply with any condition set out in the **Contract**, the **Contract** may be unconditionally cancelled by the **City** without notice and without penalty to the **City**.
- c) In the event the **Contractor** fails to perform work in a safe manner, the **Contract** may be unconditionally cancelled by the **City** without notice and without penalty to the **City**.
- d) The **City** reserves the right to disqualify for an indeterminate period (minimum two (2) years) the name of any **Bidder** for breach of the terms and conditions of this **R.F.T.** or for unsatisfactory performance of the **Contract**. This disqualification will apply to the terminated **Contractor** as the **Bidder** on future quotations, tenders or requests for proposal or as a sub-trade to a **Bidder** on future competitions (quotations, tenders, or proposals) issued by the **City**. The **City** also reserves the right to publish the names of all disqualified **Contractors** in any future quotation, tender or requests for proposal.

## 22.0 Pricing (Term of Agreement)

- a) The **Contract** term shall be as shown in the Information for **Bidders** – Summary Sheet provided at the front of this **R.F.T.**
- b) The **City** shall have the sole and absolute right to extend the term of the **Contract** for any or all optional extension terms identified in the **Contract**. Pricing for such extensions shall be in accordance with Part B, Section 22 (c). There is no automatic renewal option under the **Contract**.
- c) **Bidders** must state a maximum percentage increase for any subsequent years specified for this **Contract** on the Schedule of Prices, submitted through the **Bidding System**. Ninety (90) days prior to the anniversary date of the **Contract**, the **Contractor(s)** must provide a written submission of any proposed price increases for the following year of the **Tender** (not to exceed the maximum percentage increase bid on the **Tender** submission). A basis for the proposed price increase must be provided. The **City** will assume that all prices or annual renewal periods will remain unchanged if not advised by the **Contractor** within the timeframe indicated above. Renewal will be subject to **Contractors** providing revised Certificates of Insurance and W.S.I.B. Certificates of Clearance.
- d) If applicable, the **City** will issue a blanket purchase order to cover its requirements, against which releases will be made directly by various departments or agencies of the **City**.
- e) It will be the responsibility of the **Contractor** to maintain a suitable stock of materials for prompt delivery when required and to satisfy themselves that individuals releasing and/or picking up material are in fact City employees. Prices bid must include all incidental costs and the **Bidder** must be satisfied as to the full requirements of the **R.F.T.** No claims for extra work or **Equipment** or **Services** will be entertained and any additional **Equipment** or **Services** must be authorized in writing prior to commencement. Should the **Bidder** require more information or clarification on any point, it must be obtained prior to the submission of the **Tender**.
- f) The **Contractor** shall be responsible for the collection and remittance of all applicable taxes and agrees to hold the **City** harmless in this regard.
- g) All prices bid must be in Canadian funds and shall include currently applicable customs duty, excise tax, freight, insurance and all other charges of every kind attributable to the **Equipment** or **Services** save and except the Harmonized Sales Tax (H.S.T.), which is extra where applicable.
- h) The unit price prevails in cases of discrepancies between unit prices and extensions. The **City** will make all necessary corrections to any **Tender** that is in error through addition or extension with the corrected value prevailing, and all **Bidders** shall be bound by such corrections. Where there are obvious errors such as incorrect extensions or misplaced decimals, these will be corrected and all **Bidders** shall be bound by such corrections.

## 23.0 Unit Prices

Bid prices shall be Free on Board (F.O.B.) delivered. Unit prices shall be firm and shall include all federal excise tax, duty, freight and shall be subject to Harmonized Sales Tax when applicable. Applicable taxes shall be shown in the space provided on the Tender form.

## 24.0 Disclosure/Retention of Records

- a) Total bid prices will be made available on the **City's** website. The bid prices will be the amount read out at the bid opening and subject to arithmetical validation.
- b) Submissions of **Tenders** as a result of this **R.F.T.** are in accordance with the Municipal Freedom of Information and Protection of Privacy Act (M.F.I.P.P.A.).
- c) Release of information contained in the **Tenders** may be requested by anyone under the M.F.I.P.P.A. Consideration will be given to **Tenders** that contain either a trade secret or information that if disclosed would result in harm to the **Bidder**. This would include scientific, technical, financial or labour relations information.
- d) All requests for information must be made in writing and submitted, along with the applicable fee to the **City's** Freedom of Information Officer, **City** Clerk Services.
- e) To prevent the release of information the **Bidder** must state that the **Tender** is submitted in confidence and indicate the nature of the confidential information and what harm would result from the release.
- f) The successful **Bidder(s)** shall maintain and retain all records and other documents in any form related to the contract and/or purchase order for a period of three (3) years from the date of final payment. Upon request, the successful **Bidder(s)** shall make available to the **City** any such records and/or documents.
- g) For the purposes of this Section 24, a record means any record of information, however recorded, whether in printed form, on film, by electronic means or otherwise and includes, but is not limited to, correspondence, emails, photographs, field notes, reports, arithmetical tabulations and analysis.
- h) The successful **Bidder(s)** agrees that in the event that it receives a request for disclosure of information, confidential or otherwise, it shall, prior to any disclosure, notify the **City** Clerk immediately in writing of such a request and shall not agree to such disclosure without the **City's** written consent.
- i) Records produced as a result of engagement by the **City** shall not be disclosed or distributed to individuals, including elected officials within the **City**, other than the Project Manager (**City** staff lead on project), the **City's** Manager, Purchasing Services, Legal Services or the **City** Clerk without prior written consent.

## 25.0 Contract Cancellation

- a) The **City** shall have the right to cancel any uncompleted or unperformed portion of the **Equipment** or **Services** or part of them. In the event of such cancellation, the **City** and the **Contractor** shall negotiate a settlement.

- b) The **City** shall not be liable to the **Contractor** for loss of anticipated profit on the cancelled portion or portions of the **Contract**. In the event that the **Contractor** fails or neglects to comply with any condition outlined in the **Contract**, the **Contract** may be unconditionally cancelled by the **City** without notice.

## 26.0 Laws and Regulations

The **Contractor** shall comply with relevant federal, provincial and municipal statutes, regulations, **City** policies and by-laws pertaining to the **Contract** and its performance. The **Contractor** shall be responsible for ensuring similar compliance by its suppliers and sub-contractors. The **Contract** shall be governed and interpreted in accordance with the laws of the Province of Ontario.

## 27.0 Environmental Concerns

In order to contribute to waste reduction and to increase the development and awareness of environmentally sound purchasing, the **Contractor** will ensure that, wherever possible, specifications are amended to provide for expanded use of durable products, reusable products and products (including those used in services) that contain the maximum level of post-consumer waste and/or recyclable content, without significantly affecting the intended use of the products or services. It is recognized that cost analysis is required in order to ensure that the products are made available at competitive prices.

## 28.0 Default by Contractor

- a) If the **Contractor** commits any act of bankruptcy, or if a receiver is appointed on account of its insolvency or in respect of any of its property, or if the **Contractor** makes a general assignment for the benefit of its creditors, then, in any such case, the **City** may, without notice, terminate the **Contract**.
- b) If the **Contractor** fails to comply with any request, instruction or order of the **City**, or fails to pay its account, or fails to comply with or persistently disregard statutes, regulations, by-laws or directives of relevant authorities related to the **Equipment** or **Services**, or fails to prosecute the **Equipment** or **Services** with skill and diligence, or purports to assign or sublet the **Contract** or a portion of it without the **City's** written consent, or refuses to correct defective **Equipment** or **Services**, or is otherwise in default in carrying out its part of any of the terms, conditions and obligations of the **Contract**, then, in any such case, the **City** may, upon expiration of ten (10) days from the date of written notice to the **Contractor**, terminate the **Contract**.
- c) Any termination of the **Contract** by the **City**, as mentioned in 28.0(b) above, shall be without prejudice to any other rights or remedies the **City** may have.
- d) If the **City** terminates the **Contract**, it is entitled to:
  - i. Withhold any further payment to the **Contractor** until the completion of the **Equipment** or **Services** and the expiry of all obligations under the **Contract**;

And

- ii. Recover from the **Contractor** any loss, damage and expense incurred by the **City** by reason of the **Contractor's** default, which may be deducted from any monies due or becoming due to the **Contractor**.

## 29.0 Samples

Samples, when required, must be submitted strictly in accordance with the instructions. If samples are requested after opening of **Tenders**, they shall be delivered within three (3) working days following request, unless additional time is granted. Samples must be submitted free of charge and will be returned at the **Bidder's** expense, if so requested, provided they have not been destroyed by tests and provided they are not required for comparison purposes. The acceptance of samples by the **City** shall be at its sole discretion and any such acceptance shall in no way be construed to imply relief of the **Contractor** from its obligations under the **Contract**.

## 30.0 Electrical Safety Authority

In accordance with the Electrical Safety Authority (E.S.A.) regulations on the Continuous Safety Services (C.S.S.) Program, all **Contractors** providing services at any **City** of Oshawa location involving any degree of electrical connections(s) must:

- a) Enter all electrical work into a log book (for "routine" work at facilities on the C.S.S. program); and/or
- b) Apply for and receive a Certificate of Inspection prior to energizing any electrical work (for "substantial" work at facilities on the C.S.S. program or any work performed at any **City** location **not** on the CSS program).

## 31.0 Declarations

- a) I/We declare that no person, firm or corporation, other than the one whose signature or the signature of whose proper officers is or are attached to this **R.F.T.**, has any interest in this **Tender** or in the **Contract**.
- b) I/We further declare that this **Tender** is made independently and without any connection, knowledge, comparison of figures or arrangement with any other contractor, firm or person making a similar **Tender** and is in all respects fair and without collusion or fraud.
- c) I/We further declare that no **City** employee or member of Council (or their families) is, or will become, interested directly or indirectly as a contracting party or otherwise in or in the performance of the **Contract** or in the supplies, work or business to which it relates or in any portion of the profits of it, or of any such supplies to be used therein or any of the monies to be derived from it.
- d) I/We further declare that the statements contained in the **Tender** are in all respects true.

- e) I/We further declare that I/We have examined the locality and site(s) of the proposed **Equipment**, as well as all the specifications relating to them, prepared, submitted and rendered available on behalf of the **City** and are hereby
- f) acknowledged to be an integral part of the **Contract**. I/We hereby propose and offer to enter into the **Contract** on the terms and conditions and under the provisions set forth in the **Tender**, and to accept in full payment for it the sums calculated in accordance with the actual measured quantities and unit prices attached to this **Tender**.
- g) I/We agree that this **Tender** is an offer which is to continue open for acceptance until emailing or the placing in the mail or delivery to the address given in this **Tender** of a notice of award, which shall constitute formation of the **Contract**, or for ninety (90) days following the **Tender** closing date, whichever occurs first, and that the **City** may at any time within that period, and without notice, accept this **Tender** whether any other **Tender** had been previously accepted or not.

### **32.0 Errors, Omissions in the City Documents**

The **City** shall not be held liable for any errors or omissions in any part of this **R.F.T.** While the **City** has used considerable effort to ensure an accurate representation of information in this **R.F.T.**, the information contained in the **R.F.T.** is supplied solely as a guideline for **Bidders**. The information is not guaranteed or warranted to be accurate by the **City**, nor is it necessarily comprehensive or exhaustive.

### **33.0 Fair Wage Policy**

The **City** of Oshawa has a Fair Wage Policy which is posted at our website.

[To learn more visit the Oshawa Purchasing Information Page.](#)

Please visit our website for the complete policy. **Bidders** are requested to refer to the “Information for **Bidders** – Summary Sheet” page of this document to determine if Fair Wage is applicable to this project.

### **34.0 Ontarians with Disabilities Act, 2001**

The Corporation of the City of Oshawa is committed to proactively addressing accessibility issues and the development of strategic actions to remove, where possible, and prevent barriers to access for people with disabilities.

On September 29, 2003 the **City** implemented a Corporate Accessibility Plan pursuant to the Ontarians with Disabilities Act, 2001 requiring, in part, that the **City** when deciding to purchase goods or services shall have regard to the accessibility for persons with disabilities to the goods or services. The **City** is committed to accessibility principles and to complying with all relevant provincial statutes and regulations enacted thereunder, with particular regard to, but not limited to, the Ontarians with Disabilities Act, 2001 and the Accessibility for Ontarians with Disabilities Act, 2005, as amended from time to time, as well as all successor and other accessibility-related legislation.

### 35.0 Accessibility Standards for Customer Service for Contracted Services

Ontario's first accessibility standard, Ontario Regulation 429/07, "Accessibility Standards for Customer Service", came into effect on January 1, 2008. The standard states what businesses and other organizations in Ontario, including the **City**, must do to make the provision of their goods and services more accessible to people with disabilities. [Accessibility standards for Customer Service for Contracted Services is outlined at http://www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca)

Pursuant to the requirements of Ontario Regulation 429/07, all employees, agents, volunteers and others who deal with members of the public or other third parties on the **City's** behalf or who participate in developing the **City's** policies, practices and procedures governing the provision of goods and services to members of the public or other third parties must receive training about the provision of goods and services to persons with disabilities.

This training must include a review of the purposes of the Act and the requirements of Ontario Regulation 429/07 as well as instruction about the following:

1. How to interact and communicate with persons with various types of disability;
2. How to interact with persons with disabilities who use an assistive device or require the assistance of a guide dog or other service animal or the assistance of a support person;
3. How to use equipment or devices available on the **City's** premises or otherwise provided by the **City** that may help with the provision of goods or services to a person with a disability; and
4. What to do if a person with a particular type of disability is having difficulty accessing the **City's** goods or services.

All successful **Bidders** must ensure compliance with Ontario Regulation 429/07. This means that, as a person or business that deals with the public or other third parties on behalf of the **City**, the Contractor must train all of its employees, agents and volunteers who work on **City** property or at **City** facilities. Training must also be provided by the Contractor to other employees, e.g. consultants, who participate in developing the **City's** policies, practices and procedures governing the provision of goods or services to members of the public or other third parties.

This training must be provided by the Contractor to each employee, agent or volunteer as soon as possible after he or she is assigned to work on **City** property or at a **City** facility. As well, training must be provided on an ongoing basis to ensure compliance with amendments to the legislation.

The **City** reserves the right to inspect the successful **Bidder's** records of training, which must describe its training policy and summarize the training, including to whom the training has been given and when the training was given. The **City** also reserves the right to require the **Contractor** to amend its training policies, practices and procedures if

the **City** deems the training not to be in compliance with the requirements of Ontario Regulation 429/07.

The **City** has developed an accessibility training guide.  
[http://www.oshawa.ca/residents/resources/accessible\\_customer\\_service.pdf](http://www.oshawa.ca/residents/resources/accessible_customer_service.pdf)

Alternative formats may be available upon request: contact 905-436-5637.

### **36. Deliverables in Accessible Format**

Suppliers will ensure all print material identified as deliverables will be created using an Arial or Verdana font in a minimum point size of 12. There will be a statement at the beginning or end of the document which reads “If this information is required in an accessible format please contact, (name, phone number and email of proponent). Suppliers will be responsible to supply all accessible formats if requested at no additional cost to the City of Oshawa and/or requestor.

Suppliers will ensure all digital products identified as deliverables will be in an accessible format as outlined in the Accessibility for Ontarians with Disabilities Act, 2005 Integrated Accessibility Standards Regulation – Ontario Regulation 191/11 conforming to the World Wide Web Consortium’s web Content Accessibility Guidelines (WCAG) 2.0 Level AA.

[Accessible Document and Website Standards may be viewed at http://oshawa.ca/city-hall/resources/vendoraccessiblestandardsmarch2014.pdf](http://oshawa.ca/city-hall/resources/vendoraccessiblestandardsmarch2014.pdf)

Should public meeting accessibility accommodations be requested, they will be supplied by the Supplier at no additional cost to the City of Oshawa and/or requestor. Suppliers will ensure all PowerPoint presentations used in public meetings or presentations will conform to the **City** of Oshawa Formatting Tips for Accessible PowerPoint Presentations.

### **37.0 Design and Development Prohibitions**

Suppliers, potential suppliers and consulting firms shall not be requested to expend time, money, or effort, for the design or development of specifications or otherwise help define a requirement beyond the normal level of service expected. Should such extraordinary services be required, the Manager, Purchasing Services must be advised. If there is no alternative but to request such extraordinary services, the firm providing same shall be compensated at a pre-determined fee. The resulting specifications shall become the property of the **City** for use in obtaining competitive bids. Suppliers or consultants who provide design services and/or specifications for work to be tendered or quoted shall not be permitted to submit a bid for said work.



### 38.0 Tax Arrears

Firms/individuals having tax arrears exceeding ten thousand dollars (\$10,000.00) will not be contracted by the **City** for any new business. Payments owing to firms/individuals with existing contracts, having tax arrears exceeding ten thousand dollars (\$10,000.00), will be applied to the outstanding taxes and not forwarded to the firm/individual until all outstanding taxes have been fully paid.

### 39.0 Force Majeure

If the **Contractor's** performance of any component of the Work is delayed in accordance with the Substantial Performance Date as outlined in the Information to Bidders – Summary Sheet or latest expressly accepted contract schedule, as applicable, in effect as of the date of the Force Majeure Event, by acts of God, public enemies, acts of governments or foreign states, epidemics and/or pandemics, quarantine restrictions, fires or floods that were not caused or contributed to by any act, fault or omissions of the **Contractor**, strikes, lockouts or organizations of workers, embargoes by transportation companies or public authorities, riots, insurrections, wars, pestilence, lightning, earthquakes, cyclones, issuance of a stop Work order by a court of competent jurisdiction or Province or the Regional Medical Officer of Health for the Regional Municipality of Durham and/or other public authority provided that such order was not issued as a result of any act, fault or omission of the **Contractor**, or by other causes which The **City** determines in its sole discretion to be wholly beyond the control of the parties ("Force Majeure Event"), with the effect that the Substantial Performance Date or latest expressly accepted contract schedule are affected, then, to the extent affected, upon request by the **Contractor**, a non-compensable extension to any affected Substantial Performance Date or latest expressly accepted contract schedule shall be considered. The **Contractor** shall not be entitled to any compensation on account of any extension to any Substantial Performance Date or latest expressly accepted contract schedule. Further, The **City** shall have no liability to the **Contractor** for losses incurred by the **Contractor** as a result of any Force Majeure Event and which shall cause such Party to be unable to fulfil or to be delayed or restricted in the fulfilment of any obligation hereunder

In respect of each Claim Notice submitted by the **Contractor** for a Force Majeure Event, the **Contractor**, shall submit the applicable details in respect of an extension to the Substantial Performance Date or latest expressly accepted contract schedule, or any Milestone(s), any period(s), part(s) or portions(s) thereof, as applicable. If requested by The **City**, the **Contractor** shall provide a detailed schedule delay analysis supporting the **Contractor's** request and any additional supporting documentation as requested by The **City**.

Changes to the Substantial Performance Date or latest expressly accepted contract schedule shall be administered by issuance of a **Contract** Change, unless The **City** and **Contractor** cannot mutually agree to an extension of time then The **City** at its sole discretion may determine the length of the extension the **Contractor** is entitled to and grant an extension of time accordingly by issuance of a Change Order.

## **Part C - Project Information & Appendices**

### **1.1 Introduction**

The City of Oshawa is looking to procure construction services for the partial capital redevelopment of Sherwood Park located at 585 Ormond Drive in the City of Oshawa. This project will feature reconstruction of asphalt pathways, replacement of the playground equipment and safety surfacing, site furnishings, and planting.

### **1.2 Scope of Services**

Scope of services within this project include mobilization, site layout and grading, excavation works, site servicing, concrete and asphalt paving, play equipment, safety surfacing installation, site furniture, planting and sodding works. All work shall be in accordance with the terms, conditions, specifications, appendices, and attachments of this Request for Tender (R.F.T.).

It shall be the Contractor's responsibility to obtain the latest edition of the Ontario Provincial Standard Specifications and Drawings as referenced herein.

All referenced Ontario Provincial Standard Specifications (O.P.S.S.) within the Contract Documents shall be the latest revisions as of the tender advertisement date.

Ontario Provincial Standard Specifications General Conditions of Contract as per O.P.S.S.MUNI 100 shall apply to this contract.

### **1.3 Location**

The project site is located at 585 Ormond Drive, Oshawa ON L1K 2L4.

### **1.4 Owner**

The Corporation of the City of Oshawa is the sole owner of Sherwood Park.

### **1.5 Contract Administration**

The project management / contract administration will be undertaken by CIMA+ on behalf of the City of Oshawa's Parks Planning and Development Services. The successful Contractor is required to provide a qualified, full-time site supervisor to oversee work completed under this Contract per the terms of this R.F.T.

### **1.6 Project schedule**

Work must be continuous from the project start date until project completion. The successful Contractor will be required to submit a detailed project schedule upon award of this Contract as well as interim schedules as required by the project manager. The park construction is to start August 2020 and is to be substantially complete by November 20<sup>th</sup>, 2020.

## **1.7 Project Appendices**

Appendix A – Sherwood Park Redevelopment Drawings

Appendix B – Sherwood Park Redevelopment Specifications

Appendix C – Sherwood Park Geotech Report

## Agreement to Bond

To: The Corporation of the City of Oshawa (the "City")  
 50 Centre Street South, 6th floor  
 Oshawa, ON. L1H 3Z7

And to:  Insert name of Contractor here

We, the undersigned, hereby undertake and agree to become bound as Surety for the **Contractor** as follows if the bid for the **contract** contained herein is accepted by the **City**

Bond	Percent of the Total Price
(a) A performance bond conforming to the form of a Performance Bond in the format of C.C.D.C. 221 or in a form acceptable to the <b>City</b> .	%
(b) A labour and material payment bond conforming to the form of labour and material payment bond in the format of C.C.D.C. 222 or in a form acceptable to the <b>City</b> .	%

Surety Information	Print or Type Details
Dated at (City or Town)	
Date	
Surety	
Signature of Authorized Signing Officer	
Office or Position of Authorized Signing Officer	

If the above-mentioned bid is accepted, the undersigned will execute the bond within ten (10) days of notification of acceptance of the bid.

**Note:** This agreement must be executed on behalf of the Surety Company by its authorized officers under the company's Corporate Seal and the Surety Company must be a satisfactory Guarantee Company, authorized by law to carry on business in the Province of Ontario.

# Letter of Undertaking

## (Bid Security)

The City of Oshawa  
Purchasing Services  
50 Centre Street South, 6th floor  
Oshawa, ON. L1H 3Z7

Re: **Bid Security – Contract No.**

Pursuant to the request of and for the account of our customer:

<b>Contractor Information</b>	Print or Type Details
Name of Contactor	
Address	
Amount equal to 100% of the contract price	\$

We hereby undertake and agree to provide in your favour an irrevocable Standby Letter of Credit in an amount equal to 100% of the contract amount, stipulated in the table above, for the due and proper performance of the Work shown and described in the **R.F.T.** Document, if our customer's Bid is accepted by the City. Such Standby Letter of Credit is automatically renewable unless advised by written notice to the Manager, Purchasing Services 30 days preceding the expiry date or dates that the letter of credit will not be renewed, in which case the City may draw on the Standby Letter of Credit, notwithstanding that the customer may not be in default of any contract with the City or the work is otherwise being performed from time to time in accordance with all requirements of the City.

<b>Authorization</b>	Print or Type Details, except Signature
Name of Bank or Financial Institution	
Contact information	Telephone: Email:
Per Authorized Signing Officer Print Name	
Signature of Authorized Signing Officer	