CITY OF HAMILTON

REQUEST FOR PROPOSALS

Contract Number: C3-01-26

Professional Arts Administration Services for the City of Hamilton Arts Awards Program Implementation

Closes: 3:00 PM, Hamilton time
Monday, April 20, 2026

***** ELECTRONIC PROPOSAL SUBMISSIONS ONLY *****

Procurement Division
Corporate Services Department

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COMMUNICATIONS NOTICE

Revised: March 21, 2023

All requests for information, instructions or clarifications shall be submitted through the Bidding System by clicking on the "Submit a Question" button for the specified Request for Proposals document and shall be directed to:

Kanika Canzoneri
Procurement Specialist

All questions related to this Request for Proposals (RFP) or any clarification with respect to this RFP must be made no later than **three Business Days prior** to the Closing Time of this RFP in order that City staff may have sufficient time to respond. The City reserves the right to extend the deadline for questions if required regarding this RFP.

Written answers or clarifications to issues of substance shall be shared with all Proponents and issued as part of the RFP in the form of an Addendum. **All Proponents are advised that any Addenda issued will only be posted on the following website:**

https://hamilton.bidsandtenders.ca

It is the sole responsibility of each Proponent to check the website for any and all Addenda that have been issued for this Request for Proposals.

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City of Hamilton
Corporate Services Department
Procurement Division
Email: procurement@hamilton.ca

Kanika Canzoneri
Procurement Specialist
Telephone: (905) 546-2424, extension 3397
Email: Kanika.Canzoneri@hamilton.ca

REQUEST FOR PROPOSALS NOTICE

Contract Number: C3-01-26

Professional Arts Administration Services for the City of Hamilton Arts Awards Program Implementation

Closing 3:00 PM, Hamilton time
Monday, April 20, 2026

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Only electronic Proposal submissions shall be accepted and received through the City's Bidding System by the closing date and time stated above.

There is no public opening for this Request for Proposals.

1.0 SCOPE OF WORK

The City of Hamilton is seeking a qualified arts administrator with knowledge of the arts and events sector to work with City of Hamilton staff within the tourism and culture division to plan, develop, and implement the annual City of Hamilton Arts Awards Program within an annual fixed budget of $40,000.00 annually. The scope of Work to be undertaken comprises of five (5) Program phases as follows:

1. Nomination phase
2. Adjudication phase
3. Marketing and communications phase
4. Event phase
5. Evaluation/assessment phase

2.0 CONTRACT REQUIREMENTS

There is no proposal security, performance security or labour and material payment security required for this Request for Proposals.

3.0 SITE MEETINGS

There are no scheduled site meetings for this Request for Proposals.

4.0 TO OBTAIN DOCUMENTS

4.1 Free Preview of Request for Proposals Document

A complete set of Request for Proposals documents may be viewed for free on the City of Hamilton's bid opportunities website **https://hamilton.bidsandtenders.ca.**

4.2 Purchase of Request for Proposals Document

The Request for Proposals documents are available for online purchase only.

Online: **https://hamilton.bidsandtenders.ca**

Fee: $65.99 non-refundable, tax included + applicable bids&tenders™ fees

4.3 Accommodations for Proponents with Disabilities

In accordance with the Ontario Human Rights Code, Ontarians with Disabilities Act, 2001 (ODA) and Accessibility for Ontarians with Disabilities Act, 2005 (AODA), the City of Hamilton will accommodate for a disability, ensuring full and equitable participation throughout the bid process.

If a Proponent requires this Request for Proposals in a different format to accommodate a disability, the Proponent must contact the Procurement Specialist as soon as possible and in any event prior to the closing date. The Request for Proposals in the different format will be issued only to the requesting Proponent and all Addenda will be issued in such different format only to the requesting Proponent.

Procurement Manager
City of Hamilton

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DEFINITIONS

Document Source: Request for Proposals – Goods and Services
Revised: October 22, 2025

Whenever used in the RFP or the Agreement, the following words have the following meanings:

STANDARD DEFINITIONS

"Addendum" and "Addenda" means a written addendum or addenda issued with respect to this RFP;

"Alternate Proposal" means a Proposal submitted by the same Proponent to the RFP that responds fully and completely to the RFP but which identifies a different way of fulfilling the RFP requirements. This is not the same and is not related to the definitions of Alternative or Alternative Price which relate specifically to identified requirements of the RFP. Alternate Proposals are not permitted unless expressly identified in the Special Instructions. Where an Alternate Proposal is not permitted and one is submitted it may be rejected.

"Alternative" means anything for which Proponents provide a price in a manner that gives the City options in determining the actual Work of the Contract and may include such items as an optional product, system, installation, method, design and requirement. The City shall not be obliged to purchase an Alternative when accepting a Proposal, but may, at its discretion elect to purchase all, some or none of the Alternatives offered.

"Alternative Price" means the amount stipulated by the Proponent for an Alternative, which can be stated as an addition, a deduction, or no change to the Total Contract Price. The Successful Proponent shall be obliged to adhere to the Alternative Price quoted in its Proposal.

"Benchmark" means the minimum required score by category and by overall score of a Proponent's Proposal in order to proceed from Step 1 to Step 2 of the evaluation process, as set out in the Proposal Submission Information;

"Bid" shall have the same meaning as Proposal.

"Bidder" shall have the same meaning as Proponent.

"Bidding System" means the electronic system used by the City for the advertisement of public bid opportunities at the following website: https://hamilton.bidsandtenders.ca, and which is required to be used for all dissemination of information by or on behalf of the City and submissions from Proponents for this Request for Proposals.

"Business Day" means any day other than a Saturday, Sunday, public holiday or other day on which banks in Ontario are authorized or required by Law to be closed or any other day on which the administrative offices of the City are closed;

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"Canadian Business" is a vendor (including a supplier, manufacturer, or distributor) of any business that provides Goods and/or Services on a permanent basis in Canada. The business:

(i) has Permanent Offices or production facilities in any province or territory within Canada; or

(ii) has at least 70% of its workforce employed in Canada as of the bid closing date or contract award date, whichever comes first;

"City" means the City of Hamilton and includes its designated employees, officials and agents, and where an authority or discretion is conferred upon the City under the Contract, means the appropriate official of the City as designated or appointed under its governing by-laws, resolutions or policies from time to time;

"City's Representatives" includes the City's elected officials, officers and employees, and those agents, representatives, Independent Consultant and other persons expressly authorized by the City to act on its behalf, excluding the Successful Proponent and its Subcontractors;

"Closing Time" means the deadline by which to submit Proposals for this RFP set out in the RFP Notice, as may be amended by Addendum or other written notice of the City;

"Contract" means the contract arising upon the acceptance of a Proposal and award of the Contract by the City in accordance with the RFP, irrespective of when notice of acceptance of a Proposal is received by a Successful Proponent;

"Contract Documents" means those documents as set out in subsection 1(2) of the Instructions to Proponents;

"Contractor" shall have the same meaning as Successful Proponent; "Contractor" means the entity that submitted a proposal for the provision of the Work in accordance with and in response to the RFP which was subsequently evaluated and accepted by the City;

"Default" means any act or event of default as contemplated in article 36 of the General Conditions;

"Electronic Bidding" means a method of issuing this Request for Proposals and/or receiving Proposals where the process of using and/or receiving Proposals by internet is considered appropriate, and in particular includes the Bidding System operated by bids&tenders™ system operated by eSolutions Group, 455 Philip Street, Waterloo, Ontario N2L 3X2.

"Evaluation Team" means a team consisting of members of City staff and, where considered appropriate by the City in the exercise of an absolute discretion, Independent Consultants, who will perform the evaluation of each of the Proposals and make such reports and recommendations to the award of this RFP as they consider appropriate;

"Form of Proposal" means the proposal form relating to the Work, as the case may be, and for the sake of greater certainty includes the Proposal Form and Schedule of Prices.

"Goods" means any item of tangible personal property or computer software, and includes:

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(i) deeds and instruments relating to or evidencing the title or right to such personal property, or a right to recover or receive such property;

(ii) tickets or like evidence of right to be in attendance at a particular place at a particular time or times or of a right to transportation; and

(iii) energy, however generated;

(iv) items of tangible personal property that are intended for installation as a fixture or otherwise for incorporation into land, a building or structure, or that are ornamental or industrial trees, grass sod, flowering plants, shrubs, soil, seed or fertilizer;

“Independent Consultant” means any consultant, other than the Successful Proponent, retained by the City to advise or perform services on the behalf of the City with respect to the Work;

“Interlineation” means the act of writing between the lines of the document, to add something to the pre-printed text of the Form of Proposal;

"Law" means all statutes, laws, by-laws, regulations, requirements, ordinances, notices, rulings, orders, directives, policies and controls of the municipal, provincial, and federal governments and any other lawful authority and all court orders, judgments and declarations of a court of competent jurisdiction;

“Non-U.S. Business” is a vendor (including a supplier, manufacturer or distributor) of any business that does not meet the criteria of a U.S. Business or a Canadian Business;

“Permanent Office” is a fixed, physical place of business where business activities are conducted. Post office boxes, rental mailboxes, virtual offices, and home offices occupied by an employee will not be considered a fixed place of business;

“Procurement Manager” means the City’s Procurement Manager or the City’s Director of Financial Services;

“Project Manager” means the person designated by the City to manage the delivery or performance of the Work to which this Contract relates, or to oversee the Work and/or the City’s obligations under this Contract and when there is no such designate appointed by the City, the Procurement Manager shall be the Project Manager;

“Proponent” means any person submitting a Proposal in response to this RFP;

“Proposal” means a proposal made by a Proponent in response to this RFP;

“Proposal Submission Information” means the submission requirements and evaluation and selection process information for Proposals contained in this RFP;

“RFP” means the Request for Proposals including the Communications Notice, RFP Notice, Instructions to Proponents, Special Instructions, Proposal Submission Information, Form of Proposal, Schedule of Prices, Terms of Reference or Specifications, sample Contract for Work, General Conditions, Special Conditions, any other schedules and appendices, and all Addenda to the RFP together with all other documents expressly forming part of the RFP for

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the Work (also collectively referred to as “RFP Documents”);

“Services” means a service of any description required in order to complete the Work, whether commercial, industrial, trade, or otherwise, and includes all professional, technical and artistic services, and the transporting, acquiring, supplying, storing and otherwise dealing in Goods;

“Subcontractor” is a person or entity having a direct contract with the Successful Proponent to perform a part or parts of the Services or to supply Goods or Services with respect to the Work, upon the prior approval of the City;

“Successful Proponent” means the Proponent whose Proposal is selected and is awarded the Contract for this RFP by the City;

“Total Contract Price” means the fully inclusive, all-in total contract price, constituting the sum of all costs quoted by a Proponent in its Proposal with respect to the Work,

(iii) including the purchase price for all materials, labour costs, service costs, costs for temporary structures and facilities, utility costs, warranty costs, life cycle costs, operating and disposal costs; but

(iv) excluding any options or alternatives requested in the Contract Documents that the City elects not to purchase; and

(v) excluding Value Added Taxes or other applicable sales taxes, imposed under the Laws of Ontario and the Laws of Canada applicable therein;

“Unit Price” means any unit price or other component of the Total Contract Price;

“U.S. Business” is a vendor (including a supplier, manufacturer, or distributor) of any business that provides Goods and/or Services on a permanent basis in the United States of America (“USA”). The business:

(i) has Permanent Offices or production facilities in any state or territory within the USA; and

(ii) has at least 51% of its workforce employed in the USA as of the bid closing date or contract award date, whichever comes first;

“Value Added Taxes” means such sum as shall be levied upon the Total Contract Price by the federal or provincial or territorial government and is computed as a percentage of the Total Contract Price and includes the Goods and Services Tax, the Ontario Retail Sales Tax, the Quebec Sales Tax, the Harmonized Sales Tax, and any similar tax, the collection and payment of which have been imposed on the Proponent by the tax legislation;

“Work” means everything to be done, supplied or provided by the Successful Proponent under the Contract as applicable.

PROJECT SPECIFIC DEFINITIONS

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“City Staff” means City of Hamilton staff within the Tourism and Culture division.

“Event” means City of Hamilton Arts Awards Event – takes place annually as part of Hamilton Arts Week in June or July.

“Hamilton Arts and Culture Collective” refers to a community liaison group that includes Hamilton-based charitable arts organizations and arts-supporting organizations that individually provide programming and/or resources to support Hamilton's arts and cultural sector. The City of Hamilton, represented by tourism and culture division staff, are a non-voting member.

"Fixed Price" means the fixed dollar value for goods and services provided shall be fixed at a maximum allocation of forty thousand dollars ($40,000.00 CND) per Contract term as per the requirements of this RFP and the Terms of Reference and is excluding Value Added Taxes or other applicable sales taxes, imposed under the Laws of Ontario and the Laws of Canada applicable therein.

“Program” means the City of Hamilton Arts Awards program which includes the following five (5) phases:

1. Nomination phase
2. Adjudication phase
3. Marketing and communications phase
4. Event phase
5. Evaluation/assessment phase

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INSTRUCTIONS TO PROPONENTS

Request for Proposals

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These Instructions define your obligations and limit your rights.
Failure to follow the instructions may result in the disqualification of your Proposal.
Read carefully.

1. Interpretation

(1) Where in this RFP a reference is made to the express written agreement of the City, it shall be understood that the City shall not be deemed or construed to have agreed to any stipulation, specification, exclusion, limitation or other term or condition set out in a Proposal that deviates from a provision set out in any of the RFP Documents, unless that deviation is expressly confirmed in a written and express amendment to that agreement.

(2) In the event of a conflict or inconsistency between, or an omission or ambiguity with respect to, any term(s), condition(s) or provision(s) contained in any of the following Contract Documents, the term(s), condition(s) or provision(s) contained in the following documents shall apply and prevail in the following successive order of priority to the extent of such conflict, inconsistency, omission or ambiguity or incongruity:

(1) any Addenda to this RFP;
(2) Proposal Submission Information;
(3) Terms of Reference or Specifications;
(4) Definitions;
(5) Special Conditions;
(6) any contract drawings;
(7) Special Instructions;
(8) General Conditions;
(9) Instructions to Proponents;
(10) the sample Contract for Work;
(11) Form of Proposal, including Schedule of Prices;
(12) any other documents that form a part of the Request for Proposals;
(13) Successful Proponent's Proposal, as accepted by the City.

(3) Notwithstanding subsection 1(2) of these Instructions to Proponents, in the event of conflict between any of the provisions of the Contract Documents, the provision most favourable to the City, in the City's determination, shall prevail and apply.

(4) The City shall not be bound by any oral representation or communication whatsoever, including but not limited to any instruction, amendment or clarification of these Instructions to Proponents or any of the Contract Documents, or any information, advice, inference or suggestion, from any person (including but not limited to an elected official, employee, agent, Independent Consultant or representative of the City) concerning a Proponent's submissions, the RFP, the Contract Documents, the proposed Contract or any other matter concerning the RFP or Work. In addition, the

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City shall not be bound by any written representation whatsoever concerning a Proponent's submissions, the RFP, the Contract Documents, or any other matter concerning the RFP or Work, unless executed by the person designated and authorized in accordance with the Contract Documents or in accordance with a direction or authorization of City Council.

(5) In these Instructions to Proponents, Special Instructions, Proposal Submission Information and Form of Proposal, unless expressly provided otherwise,

(a) the provisions shall be read with changes of gender, number or corporate status as the context may require;

(b) a reference to any Law or to a provision thereof shall be deemed to include a reference to any Law enacted in substitution thereof or amendment thereof;

(c) the headings to each section are inserted for convenience of reference only and do not form part of the RFP;

(d) all accounting terms have the meaning recognized by or ascribed to those terms by the Canadian Institute of Chartered Accountants;

(e) all amounts are expressed in Canadian dollars and to be secured and payable in Canadian dollars;

(f) all references to time shall be deemed to be references to current time in the City;

(g) any reference to an officer of the City or to a person holding a specific position shall be construed to mean the person holding that office or position from time to time and shall include a designate, delegate or deputy of that person and successor to the office or position;

(h) any words and abbreviations, which have well-known professional, technical or trade meanings, are used in the Contract Documents in accordance with such recognized meanings;

(i) the number of days shall be calculated by,

(a) counting all days including Saturdays, Sundays and public holidays, provided, however, that if the final day of any period shall fall on a Saturday, Sunday or public holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or public holiday;

(b) where "month" is referred to, it shall be a calendar month.

2. Nature of the RFP

(1) The RFP is an invitation to Proponents describing the intent, purpose, requirements and concerns of the City and prescribes how Proponents are to respond to this RFP.

(2) This RFP may contain a general description of the City's requirements, including

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location constraints, information on space requirements, performance requirements and other technical specifications, warranty and maintenance requirements and other factors that the City intends to take into account in the award of the Contract.

(3) These Instructions to Proponents, the Proposal Submission Information and other RFP Documents explain how Proponents are to submit Proposals and address certain legal requirements and implications relating to the Proposal process and Contract and summarize how the Contract will be concluded.

(4) Without limiting any other right or privilege of the City contained in the RFP, the following rules shall govern the evaluation of Proposals:

i) The City may consider the full range of options, amenities and enhancement features offered by a Proponent when awarding the Contract. The City shall be the sole judge as to whether the added value offered in respect thereof justifies any additional expenditure. This RFP may be subject to possible cost constraints, which the City shall not be obliged to disclose to any Proponent, which may rule out the selection of a Proposal. While the City shall not be obligated to consider optional features, no optional features will be considered by the City unless the Proponent's submission fully complies with the RFP in all respects.

ii) The City reserves the right to award the Contract based solely upon considerations of Total Contract Price, or Total Contract Price with Options, or upon performance, technical, warranty, maintenance, compatibility and other considerations contained in section 11 (Reserved Privileges of the City), section 15 (Obligation of Suppliers to Deal in Good Faith) and section 16 (Record and Reputation), or any combination thereof, as the City considers it in its best interests to do so.

iii) Where compliance with any specified criteria is stated to be a condition precedent to the award of the Contract, that condition shall be deemed to be for the exclusive benefit of the City, which may elect to waive that condition in its absolution discretion, and the City shall not be liable to any person by reason of so doing.

iv) Based upon the evaluation criteria set by the City, all compliant Proposals shall be evaluated, and a recommendation may be made to Council (or the designated person with authority delegated by Council to approve the recommendation for award) to award the Contract to the Proponent whose Proposal best satisfies the criteria that have been established by the City, but where the City for any reason in its sole discretion decides that all Proposals received were unsatisfactory, or that the terms and conditions set out in the RFP or an Addendum cannot be realized with that Proponent whose Proposal best satisfies the criteria that have been established by the City, then the City reserves the absolute right, as it sees fit,

(a) to revise and reissue the RFP;

(b) to cancel the RFP,

And in no such case shall any person have any legal claim or recourse against the City and the City's representatives on any ground whatsoever. The exercise

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of a right by the City shall not preclude the exercise by the City of any other right.

v) The Proposals will be evaluated based on the criteria listed in this RFP and any Addendum or Addenda thereto. Unless a specific weighting is indicated in this RFP or any Addendum or Addenda thereto,

(a) The City may give such weighting to each of the identified criteria as the City considers appropriate; and

(b) It is within the exclusive discretion of the City to determine which of the features specified by a Proponent and any other features specified in the RFP or any Addendum or Addenda thereto offers the City the best value for money.

Subject to the foregoing, the criteria for the evaluation of Proposals shall be as specified by the City from time to time, and the City shall be the sole authority to determine how those criteria are to be interpreted and applied, and the weighting to be given to each criterion, if any.

vi) The Evaluation Team may include such members of the City's staff and outside Independent Consultants as the City considers is necessary or advisable to provide proper technical (including legal and financial) evaluation and analysis of the Proposals that have been made. Depending upon the background and expertise required, evaluators may not individually score every component. The Evaluation Team will meet as required to create a team score for each Proponent's Proposal. The Evaluation Team may modify the Evaluation Team's score to reflect additional information obtained during the clarification of Proposals or at any meetings or interviews scheduled with Proponents.

vii) The City shall not be obliged to disclose the evaluation scores of any individual member of the Evaluation Team, nor to justify any score awarded by that team or any member thereof. In the absence of evidence of manifest bad faith, any evaluation carried out by the Evaluation Team shall be considered to be fair and accurate for all purposes and shall not be subject to review by any court or other tribunal.

(5) The City wishes to fully understand each Proponent's Proposal. Therefore, each Proponent is encouraged to submit any additional material that it believes will facilitate the evaluation process, subject to any page quantity submission restrictions contained in this RFP. Furthermore, the Proponent must make available to the City additional evaluation information as requested by the City.

(6) At its election, the City may use the RFP process to identify a short-list of Proponents. Following an initial evaluation, the City may invite such number of the top-ranked Proponent(s) as it considers advisable, to present their concept to the Evaluation Team in a formal interview session. Performance in this interview may be taken into account in the evaluation process.

3. Proposal Submissions and Form of Proposal

(1) Every Proposal **shall**

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(a) be submitted on the City's prescribed Form of Proposal in its entirety;

(b) be legible;

(c) be completed in English;

(d) be submitted through the Bidding System;

(e) have all of the required blank spaces provided on the Form of Proposal completed by the Proponent;

(f) include all material, Goods, Services, equipment and labour, required to complete the Work; and

(g) state all prices in Canadian funds, unless otherwise stipulated.

(2) Electronic Proposal submissions only, shall be accepted and received by the Bidding System, on or before the closing date and time stated in this Request for Proposals.

A Proposal submitted by mail, in person, fax, e-mail or other electronic means, other than through the Bidding System, will not be accepted.

(3) Proponents shall have a Bidding System vendor account and must be registered as a plan taker for this Request for Proposals. Only plan takers will have access to download this Request for Proposals document, receive Addendum email notifications, download Addendum and to submit their Proposal electronically through the Bidding System.

If a Proponent has obtained the Request for Proposals document from a third party, the onus is on the Proponent to create a Bidding System vendor account and register as a plan taker for the bid opportunity.

(4) Time is of the essence with respect to the submission of a Proposal. It is the **sole** responsibility of each Proponent to ensure that its Proposal is received by the Bidding System on or before the closing date and time stated in the Request for Proposals document. The closing time shall be determined by the Bidding System web clock.

Proponents are advised that the timing of their Proposal submission is based on when the Proposal is **RECEIVED** by the Bidding System, not when a Proposal is submitted by a Proponent, as Proposal transmission can be delayed in an "internet traffic jam" due to file transfer size, transmission speed, etc.

(5) Proponents shall allow sufficient time to upload their Proposal submission, including any attachments. Late Proposal submissions shall not be accepted by the Bidding System.

(6) The Bidding System will send a confirmation email to the Proponent advising that their Proposal was submitted successfully. If an email confirmation is not received, contact technical support at bids&tenders™ via email: support@bidsandtenders.ca or by telephone 1-800-594-4798.

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(7) It is the exclusive responsibility of each Proponent to submit a complete Proposal in accordance with the Request for Proposals.

(8) All documents prepared and work carried out by a Proponent in preparing a Proposal, and all oral presentations to the City in connection with a Proposal, shall be without cost to the City, and neither the City's publication of a Request for Proposals nor the submission of a Proposal shall be construed to oblige the City to award a Contract.

(9) A Proposal should, where printed or typed, be set out in print no smaller than Arial 12 point or Verdana 12 point and except where otherwise directed.

(10) All words and phrases forming part of a Proposal should be written out in full, and abbreviations should not be used.

(11) No amendment may be made to a Proposal after it has been submitted, except in the circumstances set out in section 7 and subsection 10(4) of these Instructions to Proponents.

4. Confidentiality

(1) In accordance with the Municipal Freedom of Information and Protection of Privacy Act ("MFIPPA") and Personal Health Information Protection Act ("PHIPA"), this will notify the Proponents that any personal information Proponents provide is being collected under authority of the *Municipal Act, 2001*, SO. 2001, c. 25, as amended, and will be used in the evaluation process and, with respect to the Successful Proponent, for the purposes of the subsequent Contract. All correspondence, documentation and information provided to the City and/or the City's Representatives by any Proponent in connection with, or arising out of this RFP, and any Proposal submitted to the City will become the property of the City and a record of the City. The foregoing records and the Contract Documents are subject to the provisions of the MFIPPA and PHIPA and the City's obligations hereunder and may be released pursuant to such Acts. The Proponent's name at a minimum will be made public on request. In addition, certain contractual information must be disclosed to Council and accordingly may become part of the public record. All correspondence, documentation and information provided to the Evaluation Team may be reproduced for the purposes of evaluating the Proponent's submission to this RFP.

(2) For the purposes of MFIPPA, Proponents may mark as confidential any scientific, technical, commercial, proprietary or similar confidential information contained in their submission, the disclosure of which could cause them injury, except the Total Contract Price and their name. Complete Proposals are not to be identified as confidential. A watermark or rubber stamp imprint is suitable for this purpose. Subject to subsection (1), the City will use its best efforts not to disclose any information so marked but shall not be liable in any manner to a Proponent or any other person where information is disclosed by virtue of an order of the Privacy Commissioner, a court of competent jurisdiction or otherwise as required by Law. The City further makes no representations or warranties that the identification of a document as confidential will prevent its release under the provisions of MFIPPA, PHIPA or otherwise under Law. Any information in the Proponents' submissions that is not specifically identified as confidential may be treated as public information.

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(3) Information regarding the application of MFIPPA and PHIPA is available from the Access to Information and Privacy Section of the City Clerk's office at City Hall.

(4) Confidentiality of records and information of the City relating to the Work must be maintained at all times. All correspondence, documentation and information provided by City and/or the City's Representatives to any Proponent in connection with, or arising out of this RFP or the acceptance of any Proposal remains the property of the City; must be treated as confidential; and must not be used for any purpose other than for replying to this RFP and for fulfillment of any related subsequent Contract. Where any proprietary or confidential information belonging to or in the care of the City is disclosed to any Proponent in connection with the RFP, the Proponent shall

(i) safeguard all information provided by the City and the City's Representatives, or any other person at the request of the City;

(ii) maintain in strict confidence and not reproduce or disclose any such information to any person except as required by Law or as expressly permitted in advance by the City in writing;

(iii) return forthwith and without demand all such information as may be in documentary form or recorded electronically by the Closing Time; and

(iv) Not use any such information for any purpose other than the purpose for which it was provided by the City or by any other person at the request of the City.

5. Prices

(1) The City shall not be required to cause prices to be read out publicly on the opening of Proposals or at any other time.

(2) There is no public opening for this Request for Proposals. All Proposals shall be electronically opened and posted on the Bidding System, https://hamilton.bidsandtenders.ca, following the closing date and time of the Request for Proposals. Only the Proponents' name shall be posted for each Proposal received.

(3) Following the electronic opening, Proposals shall be reviewed further to determine compliance with the Request for Proposals.

(4) Unit Prices and other monetary components of the Total Contract Price will not be disclosed.

(5) Unless otherwise stipulated in the Special Instructions, all prices bid, including any Unit Prices, must be in stated in Canadian funds.

(6) All prices shall be quoted exclusive of Value Added Taxes and the City may adjust any price quoted contrary to this requirement, unless otherwise specified in the Form of Proposal or any Special Instructions.

(7) Subject to subsection (6), all prices include all excise taxes, customs duties, customs clearance and brokerage fees, royalties and patent or licence fees.

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(8) The award of the Contract may be based on considerations other than price and may employ the utilization of a scoring method using evaluation criteria, as provided in this RFP.

(9) Once the Contract has been awarded, only the Total Contract Price of the Successful Proponent will be disclosed. Official notification will only be given to the Successful Proponent; however, persons who submitted a Proposal may obtain the Total Contract Prices for all Proponents upon request to the Procurement Specialist designated as the contact person for purposes of the RFP.

(10) Award information will be posted on the following website:

https://hamilton.bidsandtenders.ca

6. Conflict of Interest (Proponents)

(1) No employee of the City shall personally sell Goods or Services to the City, nor have a direct or indirect interest in a company that sells Goods or Services to the City.

(2) The City may reject any Proposal submitted, or cancel any contract awarded, in contravention of this section.

(3) Each Proponent respectively shall be deemed to have warranted that it has not employed or retained any person, other than a bona fide employee, agent or broker working for the Proponent, to solicit or secure the proposed contract, and that it has not paid or agreed to pay any person, other than a bona fide employee, agent or broker working solely for the Proponent, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award of that proposed contract, or as an inducement to be awarded that contract. Without prejudice to any of its other rights, the City reserves the right to annul any contract or other arrangement entered into with a Proponent where there is a breach of this warranty.

(4) Prior to the award of the Contract, no Proponent shall contact any elected official of the City or member of City staff or Independent Consultant retained by the City with respect to its Proposal, the RFP or the proposed Contract, except the Procurement Specialist or other person designated for that purpose in the RFP Documents.

(5) Except with the prior express written consent of the City,

(a) No Proponent shall act on behalf of the City with respect to any matter, issue or in connection with any property in which the Proponent or any director, officer, employee or Subcontractor of the Proponent has a direct or indirect pecuniary interest, including any contingent interest;

(b) Before submitting any Proposal to act on behalf of the City, the Proponent shall exercise reasonable due diligence to confirm that there is no conflict of interest within the contemplation of subsection (5) (a) or subsection (6);

(6) Each Proponent shall not act in any case where there may be any conflict of interest between it (or any of its directors, officers, employees or Subcontractors) and the City, and each Proponent shall notify the City, in writing, immediately of any potential

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conflict of interest that may arise prior to the award of the Contract and fully disclose any details thereof.

7. Withdrawal of Proposals by Proponent

(1) Proponents may withdraw their Proposal prior to the closing date and time of the Request for Proposals.

(2) Requests to withdraw Proposals received by the Bidding System after the closing date and time of the Request for Proposals will be disregarded.

(3) Proposals withdrawn may be edited and re-submitted prior to the closing date and time of the Request for Proposals. Proponents are solely responsible to ensure:

(a) any required adjustments are made to their Proposal;

(b) acknowledge all Addenda that have been issued for this Request for Proposal; and

(c) ensure the re-submitted Proposal is received by the Bidding System prior to the closing date and time of the Request for Proposals.

8. Proposals Open for Acceptance, Irrevocable, etc.

(1) Proposals shall not be opened until after the Closing Time of the RFP, and so far as practicable, all Proposals shall be opened at one time.

(2) Unless otherwise provided in a Special Instructions or Addendum to this RFP, a Proposal shall be irrevocable (i.e. open for acceptance by the City of Hamilton) for a period of **90 calendar days** following the closing date for the RFP.

(3) Despite any requirement for the formal execution of a Contract for Work, the Contract shall be deemed to arise upon the award of the Contract to the Successful Proponent. The Successful Proponent shall be responsible to the City for any costs, expenses, losses, damages and liabilities that the City may incur as a result of the Successful Proponent's failure or refusal to execute or perform the Contract as required.

9. Proponent's Responsibility

(1) Unless otherwise expressly agreed to by the City in writing, where technical information or details is provided by the City and forms part of the RFP or any Addenda thereto (including any quantity estimates, soil condition reports, ground water or drainage reports or geophysical data, archaeological and heritage information and documentation, samples, or other documents of a similar kind or nature as may be provided together with the RFP Documents or incorporated by reference therein),

(a) the City shall exercise reasonable care in the preparation of those estimates, documents and information but shall not be taken to warrant their accuracy and shall not be liable for any inaccuracy therein unless that inaccuracy is the result of the deliberate misrepresentation of the City or a member of its staff;

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(b) estimates, reports, data, or details shall be deemed to have been provided only as a guide for potential Proponents;

(c) Proponents are required to examine carefully that information and the responsibility for verification of the information so provided shall rest with each Proponent;

(d) the City shall not be responsible for the accuracy of information provided by the City from third party sources for use by a Proponent including the Successful Proponent. All such information shall be verified by the Proponent or the Successful Proponent before relying on same; and

(e) Proponents shall be deemed to have released and waived any rights and claims against the City and the City's Representatives for any negligent misrepresentation, error or omission.

(2) Where the Work is to be carried out on City occupied or owned property, Proponents shall be responsible for visiting the job site and no allowance shall be made by the City for failure by the Proponent to examine carefully all conditions relating to the site or Work.

(3) All persons submitting Proposals and all their Subcontractors shall be held to have thoroughly examined all RFP Documents and to have visited and inspected the site on which the Services and Work is to be carried out, and to have thoroughly familiarized themselves with all pertinent conditions before delivery of their respective Proposals, and no allowance shall be subsequently given by the City for or by reason of any error or omission on the part of any Proponent or Subcontractor with respect thereto. The City shall not be liable for any costs associated with any site inspection.

(4) Where clarification of any information, document or matter is required by a Proponent, it shall be the responsibility of the Proponent to seek clarification in a timely manner from the City, in sufficient time to permit the City to respond, and satisfy itself with respect to same before submitting a Proposal. Notwithstanding the foregoing, the City shall have no obligation to respond.

(5) It is the Proponent's responsibility to become familiar with and comply with all City procurement policies.

(6) A Proponent shall be deemed to have included in the Total Contract Price quoted in its Proposal, the entire cost of,

(a) all items that the Successful Proponent is responsible for under any of the Contract Documents, except where expressly provided otherwise;

(b) preparing and submitting such reports, drawings or documents as may be required by the City.

10. Addenda and Clarification of the Request for Proposals

(1) The City reserves the right at any time prior to the award of the Contract,

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(a) to withdraw or cancel the RFP;

(b) to extend the time for the submission of Proposals; or

(c) to modify the RFP,

by the publication of an Addendum, which shall become part of the RFP, and the City shall not be liable for any expense, cost, loss or damage incurred or suffered by any Proponent (or any other person) as a result of its so doing.

(2) Without limiting the City's right, subsection (1) may apply to situations where no Proposal is compliant or an insufficient number of Proposals have been received.

(3) Any Addendum shall be posted on the following website and is sufficiently served upon any prospective Proponent if so posted at:

https://hamilton.bidsandtenders.ca

(a) In addition to the above method of posting, the City may also notify prospective Proponents of any Addendum by any other method it deems appropriate, including email, telephone, fax, courier, hand-delivery or by personal delivery. The need for additional notification and the method(s) to be used shall be in the absolute discretion of the City and notification shall be to the co-ordinates provided by the Proponent to the City at the time it obtained the RFP from the City.

(b) It is the sole responsibility of each Proponent to check the website and ensure that it has received any and all Addenda issued by the City. Proponents shall confirm in the Form of Proposal that they have received, examined and provided for all Addenda issued under the RFP. Proponents may in writing, seek confirmation of the number of Addenda issued under the RFP from the Procurement Specialist named in the Communications Notice page.

(4) Where a Proponent submits their Proposal prior to the Request for Proposals closing date and time and an Addendum has been issued by the City, the Bidding System automatically **WITHDRAWS** the Proponent's Proposal submission and changes the Proposal submission to an **INCOMPLETE STATUS** (**NOT accepted by the City**). The withdrawn Proposal can be viewed by the Proponent in the "**MY BIDS**" section of the Bidding System. The Proponent is solely responsible to:

(a) Make any required adjustments to their Proposal;

(b) Acknowledge all Addenda that have been issued for this Request for Proposals; and

(c) Ensure the re-submitted Proposal is **RECEIVED** by the Bidding System before the closing date and time stated in the Request for Proposals.

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(5) Proponents shall acknowledge receipt of any Addenda when submitting their Proposal through the Bidding System. Proponents shall check a box for all Addenda and any applicable attachments that has been issued before a Proponent can re-submit their Proposal submission online.

(6) All communication between a Proponent and the City (including requests for information or clarification) **shall** be set down in writing and directed to the Procurement Specialist as instructed in the Communications Notice page.

(7) Any request directed to the City with respect to subsection (6) prior to the closing date of the RFP must allow sufficient time for a written response or clarification to be issued by the City prior to the closing date, should the City consider it necessary to issue such response or clarification.

(8) A written response or clarification of substance shall be shared with each Proponent and issued in the form of an Addendum.

(9) The City shall not be bound by any oral:

(a) instruction;

(b) amendment or clarification of the RFP;

(c) information; or

(d) advice or suggestion,

provided by any member of the City's staff or consultant to the City concerning the RFP or the manner in which the Work is to be carried out and the Proponent bears any and all risk in relying on such representation.

(10) If the City requires clarification of a Proponent's Proposal, that Proponent shall provide a written response to the City's request for clarification, in a timely manner, which shall bind the Proponent.

(11) Each Proponent shall identify one senior individual by name, address and telephone number who will act as the Proponent's primary contact with the City with regard to this RFP and any subsequent Contract and has the authority to bind the Proponent.

11. Reserved Privileges of the City

Without limiting or restricting any other right or privilege of the City, the City shall have the following reserved rights and privileges, which may be exercised or waived in its absolute discretion:

(1) the City may reject any Proposal, the lowest priced Proposal or all Proposals, or may cancel the RFP and require the submission of new Proposals for any reason within its absolute discretion;

(2) the City is not bound to accept the lowest priced compliant Proposal submitted and may accept another compliant Proposal which, in the City's opinion, is more beneficial

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to the City's interests notwithstanding that it may not be the lowest priced compliant Proposal;

(3) when evaluating Proposals and assessing Proposal prices in the evaluation of Proposals and the awarding the Contract, the City will consider its best interests and may exercise reasonable commercial judgment which may, but is not obliged to, include consideration of the following factors (without limitation):

(a) Proposal prices;

(b) the full lifetime cost implications to the City with respect to each Proposal, including life-expectancy, the inclusion or exclusion of alternate or optional equipment or configurations and the price implications thereof, training or re-training costs, length and scope of warranty coverage, and long-term maintenance requirements;

(c) the need to achieve economies of scale in supply;

(d) the need to diversify sources of supply;

(e) compatibility with existing equipment, such compatibility to be determined by tests conducted either by the City or by an independent testing agency satisfactory to the City;

(f) compatibility with existing computer software and hardware, and capability to generate reports suitable to the City's existing reporting requirements; such compatibility and capability to be determined by tests conducted either by the City or by an independent testing agency satisfactory to the City;

(g) potential cost savings to the City with existing City Contracts and other synergy benefits;

(h) any extraordinary or unjustified disparity between the lowest priced Proposal and the other Proposals received by the City;

(i) any prices contained in a Proposal that are, in the opinion of the Procurement Manager, below the Proponent's cost which do not appear to be offset by any other disclosed factors in the Proposal;

(j) any prices contained in a Proponent's Schedule of Maximum Hourly Rates for Additional Services that are, in the opinion of the Procurement Manager, unreasonable or excessive compared to industry standards for the quality or type of personnel proposed for such Services;

(k) the need to secure timely and reliable sources of supply;

(l) the need to discontinue reliance on obsolete technology and methods;

(m) the need to provide state of the art service to the residents of the City, or to integrate any aspect of City operations with those of its neighbours;

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(n) the need to avoid the use of unproven technology and methodologies;

(o) the need to spread and minimize risk to the City;

(p) the proximity of any service centre of a Proponent to the City;

(q) the benefit in employing suppliers who have a proven track record of successful delivery and good reputation within the business community for integrity and competence;

(r) the prior record of the Proponent as a vendor to the City;

(s) whether in the opinion of the City or its professional advisors, the Proponent possesses the experience, or financial, technical, personnel or other resources that may reasonably be expected to be necessary in order to carry out the obligations that the Proponent proposes to assume under the terms of its Proposal;

(t) alternate Proposals;

(u) such other considerations as would influence the decision of a reasonable and prudent purchaser in the particular circumstances of the City at the time when the Contract is awarded.

(4) in awarding the Contract the City may take into account the adherence or non-adherence of a particular Proponent to the social, economic or labour relations policies of the City;

(5) the City may waive compliance with any minor requirement governing the submission of Proposals;

(6) where in the view of the City, an insufficient number of Proposals have been received in response to a RFP, the City may publish a further such RFP (on the same or revised terms from the original request);

(7) the City may, in accepting any Proposal, impose conditions on such acceptance;

(8) where the lowest priced compliant Proposal exceeds the City's budgeted or estimated costs, the City in its sole and absolute discretion may, but is not obligated to:

(a) cancel the RFP;

(b) re-issue the RFP and accept new proposals based on revised specifications, terms and/or conditions;

(c) provide all Proponents, who submitted compliant Proposals to the RFP by the Closing Time, the opportunity to re-submit Proposals;

(d) enter into negotiations with the Proponent with the lowest priced compliant Proposal provided that the changes required to achieve a Proposal acceptable to the City will not materially change the general nature of the specifications, terms and conditions in the RFP;

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(e) where only one Proposal has been received or only one Proposal is compliant with the RFP but the price is in excess of budgeted funds, proceed to negotiate conditions with such Proponent which will reduce costs to a level acceptable to the City.

(9) where the Contract is awarded to the Proponent with the lowest priced compliant Proposal, the City may, at its sole discretion, negotiate amendments to the Contract or to Services or Goods to be supplied under the Contract and no other Proponent shall have any right to object that its Proposal would have been lower had the negotiated amendments been included in the original RFP or RFP Notice.

12. Review of Proposals

(1) All Proposals submitted by the Closing Time of the RFP will be examined by a representative of the City's Procurement Division to confirm that they are compliant and otherwise complete, subject to the City's exercise of any right or privilege contained in this RFP. Proposals which are complete and compliant will be evaluated in accordance with the provisions of the RFP, subject to the City's exercise of any right or privilege contained in this RFP. The City reserves the right to examine the compliance and completeness of Proposals in phases.

(2) At its sole discretion, the City may clarify any aspect of any Proposal received at any time and, without limiting or restricting the foregoing general right in any way, the purpose of such clarification may be to enable the City to determine whether the Proposal complies with the RFP and to resolve any ambiguity in the language used, or any other vague or uncertain aspect of the Proposal. No such clarification shall alter the Proposal or constitute negotiation or re-negotiation of the price or any aspect thereof, or the nature or quality of the Goods or Services to be supplied or performed as set out in the Proposal at the close of the RFP, and all correspondence with a Proponent for the purposes of such clarification shall be conducted through the Procurement Division.

(3) Where the lowest compliant Proposal contains an otherwise legible, clear and unambiguous change such as an erasure, strike out, white out, cross out or overwrite which has not been initialed, the Proponent will be required to initial such change within one Business Day of the City's request. Failure to comply with the City's request within the time line provided, will result in the rejection of the Proposal and the Proponent shall be banned from entering into or bidding on any contracts with the City for a period of one year in accordance with the City's Procurement Policy.

(4) Without limiting subsection (2), the City's right to clarify shall include the right to request additional information relating to the terms of the Proposal submitted.

(5) The right of clarification provided under this section is within the sole, complete and unfettered discretion of the City and is for its exclusive benefit, and may or may not be exercised by the City at any time and in respect to any or all Proposals.

(6) Notwithstanding the City's right to request clarification, the City shall have no obligation whatsoever to do so. Where in the opinion of the City a Proposal or any part thereof is ambiguous, incomplete, non-compliant, deficient, or otherwise not

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acceptable in any aspect, the City may reject such Proposal whether clarification has been sought, obtained or neither.

(7) The City's review of a Proponent's submission with a Proponent or its seeking of clarification under this section shall not, in any way, be deemed to be an acceptance of any term or provision so clarified or be deemed to be an acknowledgement of the compliance of the Proposal with the terms of the RFP; shall not constitute an acceptance of that Proposal or any other Proposal; and shall not oblige the City to enter into an Contract with that Proponent or any other Proponent.

(8) All clarifications provided by a Proponent pursuant to a request by the City under this section shall be in writing, in a clear and unambiguous form satisfactory to bind the Proponent, and satisfactory to the City.

(9) Any Proponent may be required to meet with officials of the City within 30 days of being so requested to explain details of the submission, at a place in Hamilton specified by the City, and the Proponent shall bear all costs of its attendance and the attendance of any of its representatives at such meeting including but not limited to transportation to and from the meeting.

13. Rejection of Proposals by City

(1) At its discretion, the City may (but shall not be obliged to) reject any Proposal that does not,

(a) comply with this RFP or any Addenda thereto; or

(b) contain in full all information required by this RFP, including all Appendices and all Addenda thereto.

(2) The City may reject any Proposal submitted by a Proponent or cancel any contract awarded to that Proponent without any compensation whatsoever payable to the Proponent, where:

(a) any information provided by the Proponent in its Proposal or as part of any pre-qualification procedure is determined by the City, in its sole opinion, to be false or otherwise misleading in any material respect; or

(b) where the Proponent's declaration in its Form of Proposal that it is in compliance with all City of Hamilton by-laws be untrue or incorrect, the City shall be entitled at its sole discretion to reject the Proponent's Proposal.

14. Guidelines Regarding Proposal Irregularities

As a guide to the Proponent, but without qualifying any rights and privileges reserved to the City, the Proponents Guidelines set out below is indicative of the manner in which discretion reserved by the City is to be exercised with respect to non-compliant Proposals. However, the City shall not be liable to any Proponent or other person where it elects to exercise a discretion, reserved privilege or right in a manner different from that indicated below.

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PROPONENTS GUIDELINES		
IRREGULARITY		**RESPONSE**
1.	Proposals not legible or in English.	Automatic rejection.
2.	Qualified or conditional Proposal (A Proposal restricted by a statement amending the RFP or alterations made to the RFP).	Automatic rejection unless the Request for Proposals specifically permit such qualification or condition.
3.	A Proposal received in a format not specified in the Request for Proposals such as hardcopy submission, fax, email, etc.	Automatic rejection.
4.	A Proposal received on documents other than those documents supplied by the Bidding System.	Automatic rejection.
5.	Proposal Security: Amount of Proposal Security provided by Proponent is insufficient, does not name correct Municipality as obligee, or no Proposal Security is provided or is not otherwise in compliance with the Request for Proposals requirements.	Automatic rejection.
6.	Execution of Proposal bond: Corporate seal or electronic signature of Proponent, or both, are missing. Corporate seal or electronic signature of bonding company, or both, are missing.	Automatic rejection. Automatic rejection.
7.	Proposal Security: Digital proposal bond not an electronically verifiable and enforceable e-Bond.	Automatic rejection.
8.	Where costing information is to be submitted separately from the Technical Proposal Submission but has been included in the Technical Proposal (a) Where the costing information can 1. be easily and physically removed from the Technical Proposal; and 2. where the removal does not change the Technical Proposal Submission in any way. (b) Where the above removal conditions are not met.	(1) Within one Business Day of notification, Proponent will be required to provide written authorization for the Procurement Manager to remove applicable pages and include them in Step 2 – Schedule of Prices. Any confirmation to proceed in this manner shall confirm that the Proponent waives its right to claim non-compliance or otherwise with the Request for Proposals. (2) Automatic rejection.

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PROPONENTS GUIDELINES		
IRREGULARITY		RESPONSE
9.	Other irregularities.	An irregularity that goes beyond the scope of the Proponents Guidelines may be considered by the Procurement Manager.

15. Obligation of Suppliers to Deal in Good Faith

(1) Each Proponent is required to deal with the City in utmost good faith with respect to the submission of its Proposal.

(2) Each Proponent shall meet the eligibility requirements of a vendor set out in the Procurement Policy By-law, Policy #1 Vendor Eligibility. Failure to meet those requirements shall entitle the City to exercise any remedies set out in the Procurement Policy By-law, the RFP Documents or otherwise at law or in equity.

https://www.hamilton.ca/build-invest-grow/buying-selling-city/bids-and-tenders/procurement-policy-by-law

16. Record and Reputation

(1) See the City of Hamilton Procurement Policy for specific requirements and obligations at:

https://www.hamilton.ca/build-invest-grow/buying-selling-city/bids-and-tenders/procurement-policy-by-law

17. No Lobbying and Single Point of Contact

(1) Each Proponent shall comply with the requirements and be entitled to the rights of a vendor set out in the Procurement Policy By-law, Policy #1 Vendor Eligibility and Policy #18 Vendor Complaint Resolution

https://www.hamilton.ca/build-invest-grow/buying-selling-city/bids-and-tenders/procurement-policy-by-law

18. Ownership of Documents, Use of Designs, etc.

(1) All maps, drawings, plans, specifications, computer disks and other documents,

(a) provided by the City to a Proponent shall remain the property of the City and shall be returned by the Proponent to the City (whether or not the Proponent submits a Proposal) upon demand by the City for their return; or

(b) prepared by the Proponent as part of its Proposal shall be the property of the City and may be disposed of by the City as it considers fit.

(2) Unless the City otherwise agrees in writing, where any plan, drawing or design is

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provided by a Proponent in connection with an RFP, then the submission of a Proposal by the Proponent shall be deemed to constitute a licence by that Proponent to construct one sample model of the work or project contemplated based upon that plan, drawing or design, where such a sample is required to make an informed decision concerning the attractiveness, functionality or other merit of the plan, drawing or design in question. The licence conferred herein shall not be deemed to constitute an assignment of any patent, copyright, trade mark or other intellectual property of the Proponent, unless otherwise provided in the RFP.

19. Copyright and Use of Documents

The Total Contract Price shall include all payments made or to be made to any third party in respect of any right, patent, design, trademark or copyright used for the purpose of the Successful Proponent performing the Contract.

20. Governing Law

This Contract shall be governed by, subject to and construed in accordance with the laws of the Province of Ontario and the laws of Canada, as applicable to the matters herein. Unless the City otherwise agrees in writing, any action or other legal proceeding arising under or with respect to the Contract (including any motion or other interlocutory proceeding) shall be brought in a Court or a tribunal, whichever may be applicable, sitting in Hamilton, Ontario. In the event that there is no applicable Court or tribunal sitting in Hamilton, the proceeding shall be brought in the court (or other forum) of competent jurisdiction nearest to the City of Hamilton within the Province of Ontario.

21. Applicable Law and Limit on Liability

(1) Without limiting any other rights or privileges of the City in this RFP with respect to delay, the Successful Proponent is not entitled to and releases and waives any rights to any remedies, claims, demands, costs, penalties, fines, fees, damages and causes of action, whether directly or indirectly related to any delays on the part of the City with respect to:

(a) awarding of the Contract; or

(b) providing notification to the Successful Proponent of award of the Contract.

(2) The Proponent agrees that,

(a) any action or proceeding relating to the RFP process shall be brought in an Ontario court of competent jurisdiction and any such action or proceeding shall be issued at the Hamilton, Ontario office of that Court and for that purpose each party irrevocably and unconditionally attorns and submits to the jurisdiction of that Ontario court at Hamilton, Ontario;

(b) it irrevocably waives any right to and will not oppose any Ontario action or proceeding relating to the RFP process on any jurisdictional basis, including forum non conveniens; and

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(c) it will not oppose, in any other jurisdiction, the enforcement against it of any judgment or order duly obtained from an Ontario court in Hamilton, Ontario as set out above.

(3) If a Proponent is required by applicable law to hold or obtain a licence, permit, consent or authorization to carry on an activity contemplated in its Proposal, neither acceptance of the Proposal nor execution of the Contract shall be considered to be approval by the City of carrying on such activity without the requisite licence, permit, consent or authorization.

(4) The Proponent agrees that if the City commits a material breach of the RFP (that is, a material breach of Contract A), the City's liability to the Proponent and the aggregate amount of damages recoverable against the City for any matter relating to or arising from that material breach, whether based upon an action or claim in contract, warranty, equity, negligence, intended conduct or otherwise, including any action or claim arising from the acts or omissions, negligent or otherwise, of the City, shall be no greater than the Proposal preparation costs that the Proponent seeking damages from the City can demonstrate.

22. Contract for Work

(1) The City may require the Successful Proponent to execute a formal Contract for Work with the City.

(2) The formal Contract for Work shall be based on the sample Contract for Work issued as part of the RFP.

(3) Within 10 Business Days of the City awarding the Contract to the Successful Proponent, or such later date as may be specified in the notice of award by the City, the Successful Proponent and the City will finalize and execute the formal Contract for Work.

(4) The City may finalize the terms and conditions of the formal Contract for Work with the Successful Proponent, and as part of that process, may, in the City's sole discretion, negotiate changes, amendments or modifications to the sample Contract for Work that are consistent with the RFP and in particular, the sample Contract for Work.

(5) Should the City not initiate any negotiations as described above, the Successful Proponent shall execute the Contract for Work in the same form and substance as the sample Contract for Work.

(6) If the City does not require the Successful Proponent to execute a formal Contract for Work with the City, the Contract shall be comprised of the sample Contract for Work issued as part of the RFP, together will all the documents identified therein, notwithstanding that a formal Contract for Work has not been physically executed by the parties.

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(7) The Successful Proponent shall, no later than 10 Business Days after the City has sent the notice of award to the Successful Proponent, or such later date as may be specified in the written notice given by the City:

(a) enter into and execute the formal Contract for Work, where required by the City;

(b) submit to the City a certificate of insurance which,
   a. references the Contract by name;
   b. confirms that the requirements set out in the Contract have been met;
   c. sets out any pertinent exclusions contained in the policy or policies; and
   d. is otherwise acceptable to City;

(c) provide the AODA statement specified in the Contract Documents;

(d) submit to the City a Workplace Safety and Insurance Board clearance certificate;

(e) submit a Certificate of Status from the Companies and Personal Property Security Branch of the Ontario Ministry of Government Services, or other Ministry acceptable to the City, which indicates that the Successful Proponent is an existing corporation and has not been dissolved; and

(f) submit any other documents required by the Contract.

(8) Any Proponent identified as a Successful Proponent acknowledges its obligation to finalize and execute the Contract for Work, where required by the City, in good faith based on its Proposal selected by the City.

(9) If the Successful Proponent fails or refuses to enter into the Contract or execute a Contract for Work and provide all security, insurance and other ancillary documents required under the RFP and the Contract Documents, then the City reserves the absolute right as it sees fit, in addition to all other rights and remedies that the City has under the Request for Proposals, including but not limited to the City's rights and remedies respecting the Proposal Security supplied by the Successful Proponent, to take one or more of the following actions:

(a) terminate discussions with the Successful Proponent;

(b) select another Proponent as the Successful Proponent and may enter into Contract discussions to finalize and execute the Contract for Work;

(c) revise and reissue the RFP or cancel the RFP;

(d) pursue any other rights or remedies available under the RFP, or otherwise at law or in equity.

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23. Accommodations for Proponents with Disabilities

(1) In accordance with the Ontario Human Rights Code, Ontarians with Disabilities Act, 2001 (ODA) and Accessibility for Ontarians with Disabilities Act, 2005 (AODA), the City of Hamilton will accommodate for a disability, ensuring full and equitable participation throughout the bid process.

(2) If a Proponent requires this Request for Proposals in a different format to accommodate a disability, the Proponent must contact the Procurement Specialist as soon as possible and in any event prior to the closing date. The Request for Proposals in the different format will be issued only to the requesting Proponent and all Addenda will be issued in such different format only to the requesting Proponent.

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SPECIAL INSTRUCTIONS

1. AWARD OF CONTRACT

Subject to the City's reserved rights and privileges set out in the Request for Proposals, the Contract shall be awarded to the compliant Proponent who has:

(a) met the Benchmark;

(b) met the minimum required score for each evaluation category, if any, as set out in Table 1: Criteria for the Evaluation of Technical Proposals of the Proposal Submission Information section of this Request for Proposals; and

(c) has the highest Technical Score

If there is a tie between a Proponent that is a Canadian Business or Non-U.S. Business and a Proponent that is a U.S. Business, then the Successful Proponent shall be the Canadian Business or Non-U.S. Business. If the tie is between a Canadian Business and a Non-U.S. Business, then the following tie-breaking measure will be used to select the Successful Proponent:

i. The Proposal with the highest points for Section 1.2. Corporate Work Experience - Arts Sector as set out in Table 1.

2. PROPOSAL SECURITY

A Proposal security is not required for this RFP.

3. NOMINATION OF SUBCONTRACTORS

(1) Unless otherwise stipulated in this RFP or any Addendum thereto, the Proponent shall indicate the names and addresses of all nominated Subcontractors that it proposes to use in the provision of Work contemplated by this RFP.

(2) The City reserves the right to reject any Subcontractor so nominated, without penalty or liability to the City of any kind whatsoever.

(3) No change shall be made to the list of nominated Subcontractors after the Closing Time of the RFP, without the prior written approval of the City and only on such terms and conditions as the City in the exercise of an absolute discretion may require.

(4) Any Proponent requesting the City's consideration of a change of Subcontractor shall be responsible for all costs of the City to review, investigate and approve, if acceptable, such change including but not limited to all of the City's internal staff costs and all legal, financial and consultant costs. No approval of the City shall be effective until the Proponent has first paid to the City its costs with respect to same.

4. ALTERNATE PROPOSALS AND OPTIONAL FEATURES ETC.

Alternate Proposals and Optional Features are not permitted for this RFP.

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PROPOSAL SUBMISSION INFORMATION

Contract Number: C3-01-26

Professional Arts Administration Services for the City of Hamilton Arts Awards Program Implementation

1.0 GENERAL

All costs and expenses related to the preparation, submission and presentation, including interviews and demonstrations, of a Proposal and the provision of additional information necessary for the evaluation of a Proposal shall be at the sole expense of the Proponent.

Proposals will be evaluated by the Evaluation Team according to the criteria and requirements set out in this RFP. In submitting the Proposal, Proponents agree that the decision of the Evaluation Team is final and binding and will not be subject to review by any court and any Proponent breaching this provision will indemnify the City for all its costs as a result of same, save and except where the City has acted in manifest bad faith.

Proposals shall not contain any external links and/or hyperlinks as any information contained in these links will not be considered and evaluated.

The RFP shall not obligate or commit the City to award a contract.

2.0 PROPOSAL SUBMISSION REQUIREMENTS
STEP 1 – TECHNICAL PROPOSALS

2.1 General

2.1.1 The Technical Proposal shall be uploaded in the Bidding System, in PDF format and not have a security password. It is the Proponent's sole responsibility to ensure all uploaded documents are not defective, corrupted, or blank and can be opened by the City. If the Technical Proposal cannot be downloaded by the City, the Proposal shall be rejected.

2.1.2 The Technical Proposal shall be evaluated in step 1. **No details of costs or rates are to be included in this part of the Proposal**.

2.2 Step 1 - Evaluation of Technical Proposals

2.2.1 During step 1 of the evaluation process, all Proposals will be initially reviewed to determine compliance with the RFP requirements.

2.2.2 Any Proposal not complying with the requirements of the RFP shall not be accorded any points or evaluated further, subject to the City exercising, in its absolute discretion, of any right or privilege it may have in this RFP, including without limitation its right to waive irregularities. The City may exercise its rights and privileges under the RFP and reject a Proposal in accordance with same

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notwithstanding that it may be compliant with the remaining requirements of this RFP.

2.2.3 The Evaluation Team will evaluate compliant (or deemed compliant as a result of the waiver by the City of any non-compliance) Technical Proposals, which have not been rejected by the City in accordance with a right or privilege of the City, and assign points up to a maximum of **133** points. Proposals will be scored by consensus of the Evaluation Team. Proposals meeting or exceeding the Benchmark will proceed to step 2.

2.2.4 An initial determination of compliance (including deemed compliance at step 1) shall not preclude a finding by the City of non-compliance at step 2, particularly with respect to non-compliance with the requirements for the Schedule of Prices or any other discovered non-compliance with the RFP requirements.

2.3 Step 1 - Evaluation Criteria

2.3.1 The criteria in Table 1 will be used in the step 1 evaluation. Proposal submissions must address these criteria in the identification and order protocol shown below. Not following this identification and order creates the risk to the Proponent that, even if the information has been provided, it may be overlooked and consequently not considered in evaluation of the Proponent's score.

2.3.2 The following is a table listing the evaluation categories, indicating:

i) the maximum score attainable in each category; and
ii) the required minimum score per category (if any) that must be attained in order to proceed to step 2 of the evaluation; and
iii) the overall minimum score that must be attained ("Benchmark") in order to proceed to step 2 of the evaluation.

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TABLE 1: CRITERIA FOR THE EVALUATION OF PROPOSALS

CRITERIA	Maximum Score
1.0 PROJECT TEAM AND WORK EXPERIENCE	
1.1 Project Team Members	
The Proponent is to identify a minimum of two (2) staff with demonstrated experience in planning and implementing a program of similar scope and complexity to the City's RFP, to be assigned to the project team. i. The Proponent is to identify by name the lead team member responsible for each of the following positions. (5 points) a. Overall lead team member (project lead) who will be the primary	**15**

CRITERIA	Maximum Score
contact for City Staff b. Nominations and community engagement lead c. Adjudication lead d. Event planning and implementation lead **Note:** The same team member can be named as the lead for one or more of the positions outlined above. ii. The Proponent is to provide resume or Curriculum Vitae (CV) for all team members to be assigned to the Work. CVs are to collectively demonstrate the following: (10 points) a. Proven experience implementing an arts program of comparable scale to the Program. b. Project management experience, including the ability to develop, implement and monitor paths and workplans. c. Proven experience working collaboratively on projects of similar nature to the Program. d. Written skills necessary to communicate well within the arts community. e. Experience in event coordination. f. Ability leading community outreach initiatives. g. Experience working collaboratively within a project team. h. Excellent written and verbal communication skills, facilitation skills and organizational skills. i. Experience working with volunteers. j. Knowledge and skills with Microsoft products including Word, Excel, and Outlook. **Note:** • Experience working within a municipal setting will be considered an asset. • Preference will be given where knowledge of and demonstrated collaborative working relationships within the Hamilton arts sector is demonstrated.	
1.2 Corporate Work Experience - Arts Sector	
The Proponent is to provide two (2) project examples that demonstrate the following areas of experience: A. **Inclusion, Diversity, Equity and Accessibility (IDEA) best practices:** Knowledge of IDEA best practices and experience successfully implementing IDEA measures in projects within the last seven (7) years. (3 points per project)	**22**

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CRITERIA	Maximum Score
B. **Arts-related projects and programs:** Experience working in the arts sector on projects or programs of comparable scale to the City of Hamilton Arts Awards within the last five (5) years. (5 points per project) C. **Community outreach:** Experience performing creative outreach to artists and/or arts groups identified as prospective active participants in a project to engage them. (3 points per project) Preference will be given to project examples with **Hamilton arts sector knowledge** demonstrating experience working with Hamilton artists and arts organizations of varied disciplines. For each of the project examples, the Proponent is to provide the following: i. Project team's names and roles, clearly identifying the project lead. ii. Client name, address, phone number and email of the Proponent's primary client contact. Please provide a secondary contact in the event we are not able to reach the primary. iii. Summary description of project. iv. Clear identification and description of experience area(s) outlined above. v. Project audience(s) and partners. vi. Approximate project budget. vii. Project timeframe. **Notes**: The same projects may be used to demonstrate different areas of experience – i.e. one project example may be used to demonstrate both arts sector work experience **(1.2)** and events work experience **(1.3)**. The City may contact the references provided to verify information.	
1.3 Work Experience – Events	
The Proponent is to provide two (2) project examples that demonstrate the following: A. **Event management:** Experience in event planning, coordination, and administration. (4 points per project) B. **Comparable event scale:** Clearly identify past experience planning and coordinating event of comparable scale and complexity to the City's RFP, completed in the last five (5) years. (3 points per project) C. **Volunteer management:** Identify at least one (1) experience	**18**

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CRITERIA	Maximum Score
collaborating with a team of volunteers. (2 points per project) For each of the project examples, the Proponent is to provide the following: i. Project team's names and roles, clearly identifying project lead ii. Client name, address, and phone number and email of the Proponent's primary client contact. Provide a secondary contact in the event we are not able to reach the primary. iii. Summary description of project. iv. Clear identification and description of experience area(s) outlined above. v. Project audience(s) and partners. vi. Approximate project budget. vii. Project timeframe. **Notes**: The same projects may be used to demonstrate different areas of experience – i.e. one project example may be used to demonstrate both arts sector work experience **(1.2)** and events work experience **(1.3)**. The City may contact the references provided to verify information.	
1.4 Work Experience – Adjudication	
The Proponent is to provide two (2) project examples that demonstrate the following: A. **Adjudication scope**: Identify a minimum of one (1) experience developing and implementing an adjudication process of a similar scope or scale and type to the proposed project. (5 points per project) B. **Transparency in Process:** Experience administering a clear and transparent adjudication process. (2 points per project) C. **Online adjudication:** Ability to administer online nominations and adjudication using submission management software such as submittable. (1 point per project) For each of the project examples, the Proponent is to provide the following: i. Project team's names and roles, clearly identifying project lead. ii. Client name, location (e.g. city or town), and phone number and email of the Proponent's primary client contact. Provide a secondary contact in the event we are not able to reach the primary. iii. Summary description of project. iv. Clear identification and description of experience area(s) outlined above. v. Project audience(s) and partners.	**16**

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CRITERIA	Maximum Score
1.5 Work Experience - Social Media / Graphic Design	
The Proponent is to provide evidence of the following: A. **Social media:** An active local-facing Social Media profile (Facebook, Instagram, and Twitter accounts) as demonstrated by a review of their social media handles, and number of followers. (2 points) **Note:** Refer to Proposal Submission Information Section 1.0 General regarding external links and hyperlinks. Screenshots are acceptable for this section. B. **Graphic design:** Experience working with graphic designers or demonstrated evidence of high caliber in-house design resources. (2 points) **Note:** A one paragraph description of experience or in-house resources is required here. Embedded graphics are acceptable for this section.	**4**
2.0 PROPOSED APPROACH, METHODOLOGY AND WORK PLAN	
The Proponent is to provide a written proposal (maximum 8 pages) that includes the following: A. A description of the project management approach that addresses the Terms of Reference and demonstrates an understanding of the overall scope of Work, related goals and objectives, and actions required to achieve deliverables.(2 points) B. A Work plan which shall include a description of deliverables and Services, divided by each phase (phases 1 through 5 with potential overlap) as identified in the Terms of Reference, with a Work breakdown for each task/phase and all activities under each task/phase of the overall project in sequential order from start to completion of all deliverables as described in this Terms of Reference. (2 points) C. An identification three (3) potential risks, constraints and/or challenges specific to the project and proposed efforts to mitigate their effects. (3 points) D. A statement outlining the Proponent's understanding of the role of the Hamilton arts community in the Program. (2 points) E. A statement outlining the Proponent's understanding of, and commitment to, arts community engagement, identifying compelling strategies for effective engagement, particularly of equity-seeking groups. (3 points) F. Proponent identifies a specific Hamilton-based graphic designer that they will hire and manage to execute design for the 2027 Program. (1 point)	**15**

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CRITERIA	Maximum Score
G. Proponent provides a detailed list of any services, resources and/or experience that can add value to the Program stated in the Terms of Reference. (2 points)	
3.0 PROJECT SCHEDULE	
Proponent to provide a project schedule presented in the form of a detailed Gantt chart or similar format. Please include key milestones, project tasks, meeting dates and critical path, sufficient buffer for review periods and significant deliverables identified. The Gantt chart or similar format to be consistent with the tasks/phases and activities identified in the Work plan and should be divided into Work required for each phase as identified in the Terms of Reference.	**10**
4.0 Business Attestation Form Proponents are required to self-identify as a Canadian Business, Non-U.S. Business or U.S. Business using the Business Attestation Form within the Bidding System. The response provided will be assessed as follows: 1. Proponents that self-identify as a Canadian Business or Non-U.S. Business shall be awarded full points. 2. Proponents that self-identify as a U.S. Business shall be awarded zero points.	**33**
Benchmark	**93**
Maximum Attainable Points	**133**

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2.4 **Reference Checks (if required)**

At its own discretion, City may attempt to contact the person identified as the reference three times. Should the City not be able to connect with the person identified as the reference, the Procurement Specialist will contact the Proponent who will be required to provide an alternate contact person for the same reference. If the City is still not able to make contact with the alternate reference after two attempts, then the Proponent will receive zero points for that reference.

2.5 Using the City of Hamilton as a Project Example

2.5.1 The City of Hamilton may be used as a project example.

2.5.2 If the primary contact provided by the Proponent for the City of Hamilton is a member of the Evaluation Team, the Evaluation Team will attempt to connect with the secondary contact provided.

2.5.3 If both the primary and secondary contacts noted are members of the

Evaluation Team, the contact responding to questions will be excluded from the evaluating that City of Hamilton project example.

2.6 Optional Interviews

2.6.1 Prior to step 2, the City, at its sole discretion, reserves the right to conduct interviews with Proponents who have met the Benchmark. The interviews will be held for the sole purpose of which will be to verify the scores which the Evaluation Team has applied to those Proponents being interviewed. The interviewers will ask questions relating to the criteria set out in step 1, the RFP Documents, and the Proponent's Proposal. Proponents are not permitted to present any information not previously included in their Proposal.

2.6.2 The Proponent's project leader and key members of the project team, as named in the Proposal submission must be in attendance at the interview. Proponents shall keep the number of presenters to the interview to no more than three people.

2.6.3 No scoring will be given directly to the interview. The Evaluation Team will consider its prior scoring of the Proposals and adjust any, all, or none of the criteria up or down as the Evaluation Team agrees in consensus.

2.6.4 Any interviewed Proponent falling below the Benchmark will not move on to step 2. All interviewed Proponents whose scores remain at or greater than the Benchmark will move on to step 2.

3.0 PROPOSAL SUBMISSION REQUIREMENTS
STEP 2 – SCHEDULE OF PRICES

3.1 General

3.1.1 The Schedule of Prices shall be evaluated in step 2, in conjunction with the Technical Proposal. The Schedule of Prices shall be provided and completed in the Bidding System and shall include any Cost Proposal Summary or additional costing information. Failure to complete the Schedule of Prices provided in the Bidding System shall cause your Proposal to be disqualified.

3.1.2 The Schedule of Prices must be completed in full.

3.1.3 The Schedule of Prices shall include all costs to complete the Work including any provisional costs.

3.2 Step 2 – Contract Award Recommendation

Only those Proponents who have met or exceeded the Benchmark and met the minimum required score(s), if any, will be recommended for an award. The final Contract shall be awarded as set out in Section 1. Award of Contract in the Special Instructions.

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4.0 PROPONENT DEBRIEFING

4.1 Unsuccessful Proponents may submit a written request for a debrief, addressed to the Procurement Specialist named in the Request for Proposals Notice page.

4.2 All requests must be received within thirty calendar days after the earlier of the following dates set out below has occurred:

i) The date evaluation results have been posted to the Bidding System;

ii) The date of contract award has been posted to the Bidding System

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TERMS OF REFERENCE

1.0 SCOPE OF WORK

The City of Hamilton is seeking a qualified arts administrator with knowledge of the arts and events sector to work with City of Hamilton staff within the Tourism and Culture division to plan, develop, and implement the annual City of Hamilton Arts Awards Program within an annual fixed budget of $40,000.00 annually. The scope of Work to be undertaken comprises of five (5) Program phases as follows:

1. Nomination phase
2. Adjudication phase
3. Marketing and communications phase
4. Event phase
5. Evaluation/assessment phase

2.0 ARTS AWARDS PROGRAM

2.1 Background

The City of Hamilton Arts Awards have been presented annually since 1976, making the Program one of the oldest of its kind in Canada. A new Program format was established in 2021 based on public and program stakeholder feedback with the intent to make nominations easier for the public, allow for more flexibility in award categories and provide opportunities for the awards to be more inclusive and responsive in celebrating the evolving arts community each year.

The 2027 Program recognizes the exceptional artistic achievement and community contribution of up to 14 Hamilton artists and arts sector volunteers with civic recognition in three categories, financial awards in two categories and the Shirley Elford Emerging Artist Commission Prize (Shirley Elford Prize). The awards are presented at an Arts Awards ceremony and reception which takes place early to mid-June of each year as part of Hamilton Arts Week.

The annual Program is planned, developed, and implemented by the following two (2) parties:

i. City Staff;
ii. The Successful Proponent of this RFP.

2.2 Principles

2.2.1 Arts Awards Program Mission Statement

The mission of the Program is to recognize the full breadth of achievement that is generated by Hamilton's arts community, the individual artists and organizations who are its ambassadors, and the community members who support and engage in the work throughout our community.

2.2.2 Arts Awards Program Vision Statement

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The Program will serve to promote the City of Hamilton's pride in its arts community, to inspire and enhance success and foster growth in the arts sector, and to develop the talent that drives this vital part of the City.

2.2.3 Arts Awards Program Value Statement

The Program will consistently promote the core principle that the arts are central to Hamilton's identity, economy and civic pride, and the values of:

i. Inclusiveness and diversity
ii. Transparent and open processes
iii. Community building and public engagement

2.2.4 City of Hamilton Arts Awards Commitment to Inclusion and Representation

The City's arts sector encompasses diverse individuals and groups who represent many demographics and intersections of lived experience. They include individuals and collectives at different stages in their artistic careers, working in a wide diversity of disciplinary practices across Hamilton's 15 wards.

Hamilton's municipal Arts Awards program strives to represent the diversity of this sector through all aspects of the program including:

- Composition of:
  - Arts Sector Review Panel
  - Award Selection Panel
- Outreach to key individuals, organizations and community groups to encourage public nominations.
- Commissioning of artist programming for the Arts Awards event/celebration

2.3 Goals

The City's goals for the Program are to:

i. Deliver a Program that is well respected and a source of pride for the arts community, members of the general public who support the arts, City Staff and elected officials.
ii. Deliver the Event that is reflective of the arts community in scope, energy, enthusiasm, and importance.
iii. Embrace and promote a multi-year strategy of development for the Program.
iv. Ensure that the Program's processes (e.g. nominations, adjudication) and related outcomes are clearly communicated to the arts community and other key stakeholders.
v. Embrace the involvement of professional artists and arts administrators as nominators, nominees, arts sector review panel and award selection panel members and Event volunteers.
vi. Focus attention on making the Event accessible and reflective of Hamilton's diverse communities by connecting with artists, arts organizations and groups, creative industries and services, businesses and individuals that support the arts.

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vii. Actively reach out (in-person and through effective communication) to equity-seeking groups to ensure they are aware of the opportunity to nominate and address barriers to inclusion.

2.4 Award Categories and Recognition

The City of Hamilton Arts Awards are awarded to practicing artists, arts managers and arts sector volunteers who are residents of Hamilton in recognition of their significant contributions to Hamilton's arts community and the City at large (the City of Hamilton includes the communities of Ancaster, Flamborough, Glanbrook, Stoney Creek and Dundas).

There are three (3) award categories currently defined as:

a. Lifetime Achievement Award (1 Award, $2,500)
This award recognizes living artists and arts managers who have contributed substantially to the artistic vitality of the City over the course of a career, and have inspired others through their leadership, creativity, and artistic excellence. This individual's experience and impact may be local, national, or international in scope.

b. Creator Awards (8 Awards, $2500 per award)
This award recognizes living artists or artistic collectives working in any artistic discipline and at any career level. A minimum of eight creator awards will be given each year to recognize artistic excellence and/or innovation that contributes to artistic growth in the City, progresses the artform and expresses the cultural vitality and diversity of Hamilton's art scene.

c. Arts Champion Award (up to 4 Awards, non-monetary award)
This award recognizes living individuals who are outstanding supporters of the arts in Hamilton as volunteers, advocates, or board members. This is a non-monetary award, and recipients will be given a gift of recognition. This award is open to students and youth over 14 years old.

The City of Hamilton Arts Awards recipients are determined by a two-phase adjudication process implemented by the Successful Proponent.

I. Shirley Elford Emerging Artist Commission Prize
Two emerging artists (practicing professionally for five years or less in any artistic discipline) may each be awarded a commission fee to create an artwork that explores contemporary themes related to Hamilton's evolving identity. The completed commissions will be presented at the 2027 Event. The prize is presented by the Hamilton Community Foundation's Shirley M. Elford Artists' Fund and is intended to recognize artistic excellence, to help support emerging artists in furthering their work and to provide opportunities for artists to promote and showcase their work.

II. Awards to Artists
Creator and lifetime achievement award winners receive $2,500 each and a City of Hamilton Arts Award medallion. Arts Champion Award winners receive an artist-designed

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gift of recognition. Shirley Elford Prize recipients receive a $2,000 commission fee.

2.5 Presentation Event

The Event takes place each year in early or mid- June as part of Hamilton Arts Week.

Priorities for the Event:

i. Venue should showcase a cultural space.
ii. Event should facilitate networking and casual conversation amongst attendees.
iii. Event should be about building relationships amongst individual artists, arts organizations and groups, creative industries and services, City Staff, elected officials, business owners and members of the public that support the arts.
iv. Event should act as a showcase of the work of current and past awards nominees and recipients through programming such as performances, readings and exhibits and be reflective of the diversity of Hamilton artists practicing in various disciplines.

3.0 GENERAL REQUIREMENTS OF THE SUCCESSFUL PROPONENT

Successful Proponent shall fulfil the following requirements:

i. Employ at minimum two (2) or more qualified staff (including administrative support) to implement the Program phases according to timelines identified in this RFP.

ii. Ensure that a secondary staff person be available and briefed should the project lead not be available to perform their assigned duties.

iii. Be available and flexible for meeting times during the work week (Monday to Friday 8:30 am -4:30 pm).

iv. Be available and flexible evenings and weekends for arts sector review panel and adjudication meetings.

v. Provide office space, equipment, basic administrative materials, and office supplies to fulfill requirements of this RFP. Office space will not be provided by the City of Hamilton. Meeting spaces may be provided by the City of Hamilton upon request by Successful Proponent, pending availability.
vi. Use Microsoft software specifically Word, Excel, and Outlook to create and distribute all Program documents and other communications for each phase of Work.

vii. Use of social media platforms, specifically X (formerly Twitter), Facebook and Instagram to re-share Program announcements.

viii. Maintain a submittable account or other approved submission management software to receive and distribute nominations and adjudication materials. City Staff shall be given access to the account upon request.

ix. Maintain electronic records of all Program related documents produced.

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x. Provide and distribute accurate and timely information about the Program to City Staff, nominees, nominators, and panel members.

xi. Hire and manage work of graphic designer during each phase of the Program. Consult with City Staff before design materials are finalized. (Designer to be engaged as named in Successful Proponent's Proposal; a different designer may be engaged with authorization by City Staff).

xii. Coordinate printing and delivery of print materials including nomination collateral and Event poster, Event program, and signage recognizing sponsors, nominees and juries. Printing services to be invoiced to the City and paid outside of the scope of this Contract.

xiii. At the conclusion of the annual Program or phase of Work, submit all City of Hamilton Arts Awards related documents to the City in Microsoft applications, as well as any paper documentation and materials purchased directly for the Program planning and/or implementation.

xiv. Conduct business in accordance with all applicable municipal and provincial policies such as the Accessibility for Ontarians with Disabilities Act (AODA), Municipal Act, and Personal Information Protection Act.

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4.0 REPORTING STRUCTURE

4.1 To City of Hamilton

The Successful Proponent shall:

i. Report directly to the City of Hamilton's manager of Placemaking Public Art and Projects, in the Tourism and Culture division, or their designate.
ii. Prepare for and attend a maximum of ten (10) meetings with City Staff during each term of the Contract (in addition to arts sector review panel and award selection panel meetings).
iii. Provide Program update information within 3 Business Days upon request by City Staff.
iv. Provide final documents (e.g. adjudication plan, Event plan) and requested revisions to these documents.

5.0 ROLES, RESPONSIBILITIES AND SCOPE OF WORK

The Program has five (5) phases, each with specific responsibilities, tasks and timelines that must be met, as follows:

1. Nomination phase
2. Adjudication phase
3. Marketing and communications
4. Event phase
5. Evaluation/assessment phase

The Successful Proponent will have a strong collaboration role with City Staff and Hamilton

arts sector stakeholders in realizing the Program. As part of this project, the Successful Proponent will lead the planning and implementation of all phases of the Program, reporting directly to City Staff. City Staff will be responsible for tasks concerning City processes and leadership, securing the sponsorship revenue associated with the Program, as well as identifying and delivering sponsorship benefits. City Staff will be the first point of contact for the public (nominators and nominees) and will be responsible for posting on the City of Hamilton Arts Awards social media channels. A detailed breakdown of roles, responsibilities, tasks and general timelines for the Successful Proponent and City Staff are outlined in section 5.2 and 5.3 respectively.

5.1 SUCCESSFUL PROPONENT ROLES, RESPONSIBILITIES & SCOPE OF WORK

The Successful Proponent will act as the primary implementation body for the nomination, adjudication and Event programming phases of the Program, reporting directly to City Staff; refer to section 4.0 Reporting Structure.

5.1.1 Nomination Phase

Timeline: September- March of each term of the Contract

Nominations for the Program are collected through a two-stage process:

Phase One: Public Nomination (Long List) – Nominations Open September-December

Members of the public are invited to submit a nomination in any of the three categories: creators, arts champion and lifetime achievement. Nominations require basic nominee information and a brief nomination statement.

Phase Two: Arts sector review panel (Short List) January- February

An arts sector review panel comprised of approximately 30 local artists and arts professionals will review the public nominations and will be invited to add two new artists each to utilize the panel's sector-specific knowledge and expertise and fill in any gaps.

With the full long list created, each member of the arts sector review panel will rank their top 10 artists (across disciplines, genres, career levels, etc.). The votes will be aggregated to create a short list of approximately five (5) lifetime achievement, 30 creator and 10 arts champion category nominees.

Short listed nominees will be informed by City Staff that they were named to the Program short list and asked whether they would like to proceed. In order to be adjudicated they will be required to submit a nomination package to assist the award selection panel in selecting the Arts Awards recipients.

The Successful Proponent shall:

i. Update the nomination plan for review, discussion and approval by City Staff
ii. Implement the approved nomination plan
iii. Hire, contract and establish scope of work of graphic designer. Develop a graphic direction for the program year (in collaboration with City Staff), nomination materials, including public nomination package and promotional materials for approval by City

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Staff.

iv. Create online submission forms using submittable or other approved submission management software.

Phase One, Successful Proponent shall:

v. Develop outreach initiatives (e.g. meetings with leaders of discipline-specific Program awards and cultural organizations, outreach via discipline-specific social media groups and channels) to inform about opportunities for participation as nominators and/or nominees. Focus on nominee segments that had low nomination numbers in previous years to ensure greater inclusion (e.g. discipline, geographic or demographic representation).

vi. Identify community meetings or events to attend to promote nomination process.

vii. Revise nomination package documents including the public nomination form, submission requirements and timelines to reflect any changes identified in past years evaluation.

viii. Create and test online public nomination forms using submittable or other approved submission management software. Provide submittable links for City of Hamilton website updates.

Phase Two, Successful Proponent shall:

i. Utilize knowledge of the arts community, recruit 30-50 participants for arts sector review panel to review public Program nominations. Panel participants should be reflective of the community as outlined in the commitment to representation and inclusion, ensuring participation by those underrepresented in the previous year's program. Identify and track representation using a matrix, adding invitees as required in order to ensure diversity of panel.

ii. Create and distribute instructions for the arts sector review panel nomination and ranking process. Provide support to panel as needed and ensure deadlines are met. Create and test short listing tools (e.g. ranking) for arts sector review panel using submittable or other approved submission management software.

iii. Meet deadline for public nominations will be in mid-November for each term of the Contract, art sector review panel selections will be due by early February, and nomination packages end of March.

The Successful Proponent is additionally responsible for:

i. picking up hard-copy public nominations and nomination package submissions and inputting them into the submissions program;

ii. providing instructions and support to short list short listed nominees in preparing their packages;

iii. reviewing nominations for completion and eligibility (inform City Staff of any clarifications or follow up required);

iv. tracking nomination data (e.g. contact information for nominees, nominators and individuals who prepared letters of reference) on a spreadsheet;

v. emailing City Staff nomination data within 3 Business Days of public nomination and arts sector review panel submission deadlines.

<u>Shirley Elford Prize</u>

After public nominations close, the Shirley Elford Prize call for artists will be released January or early February. The Successful Proponent will work with the graphic designer

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to develop a separate call for artists package for the Shirley Elford Prize for approval by City Staff.

5.1.2 Adjudication Phase

Timeline: February – April of each term of the Contract

An award selection panel of up to 15 citizen representatives of the arts community recruited by the City based on recommendations from the Successful Proponent will adjudicate the short list to select the award recipients. The selection panel will evaluate the nominations based on the artistic excellence, career, and impact of the artist/artistic collective. A member of the Hamilton Arts and Culture Collective (HACC) will be invited to audit the adjudication session to ensure that a fair and transparent selection process is followed. In addition to adjudication, the role of the award selection panel is to monitor the program as advisors and evaluators and to assist in identifying trends in nominations and Hamilton's arts sector.

A separate adjudication process will take place for the Shirley Elford Prize.

The Successful Proponent shall:

i. Prepare nomination package instructions for short listed nominees who choose to proceed to adjudication.
ii. Provide instructions for preparing nomination package and work closely with short listed nominees who choose to proceed to assist them in assembling a package that provides the award selection panel with adequate information and/or materials to adjudicate. Reach out to nominees to offer assistance, clarify requirements, and if necessary, assist in seeking reference letter.
iii. Revise the adjudication plans (Program Shirley Elford Prize) for review, discussion, and approval by City Staff.
iv. Implement the approved adjudication plans.
v. Review, adjust and implement selection panel membership procedures; scope of work, conflict of interest and confidentiality forms, as required. Update planning documents such as the selection panel scoring sheets and award selection panel handbook to reflect any changes identified in the previous year's evaluation report.
vi. Award selection panel: Utilizing knowledge of the arts community, work with City Staff to identify 12-15 panelists that are reflective of the diversity of the community as outlined in the commitment to representation and inclusion, ensuring participation by those underrepresented in the previous year's Program. Members of the panel should be respected leaders in Hamilton's arts sector.
vii. Prepare and ensure selection panelists receive all the information they need to participate in the adjudication session; award selection panel packages, training material, etc.
viii. Receive and compile completed Program nomination packages and Shirley Elford Prize call for artist submissions through submittable or other approved submission management software and distribute to jurors as required.
ix. Coordinate and host in-person or virtual deliberation meetings. There will be three (3) selection panel meetings (dates approximate):
    - March - introductory meeting to explain the process;
    - Early April - first adjudication session: lifetime achievement and arts champion awards;

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- Mid-late April - second adjudication session: creator awards, Event discussion.

x. Invite one to two HACC members for monitoring each adjudication session; invite to introductory meeting.
xi. Organize catering needs and nomination materials for adjudication meetings. Catering to be invoiced to the City.
xii. Organize meeting rooms and audio-visual equipment for panel meetings occurring outside of City of Hamilton facilities.
xiii. Maintain clear and concise records during the adjudication process (notes from panelists, completed conflict of interest forms, selection panel meeting evaluations).
xiv. Prepare an award selection panel report highlighting any issues once adjudications are complete.

Shirley Elford Prize

Successful Proponent shall:

i. Review Shirley Elford Prize call for artist submissions for eligibility and completion, identifying any issues with City Staff for follow-up.
ii. Provide a summary of submissions received to City Staff.
iii. Utilizing knowledge of the arts community, identify 3-5 Shirley Elford Prize selection panelists that are reflective of the diversity of the community as outlined in the commitment to representation and Inclusion, ensuring participation by those working in mediums reflective of the call for artist submissions received. The Shirley Elford Prize selection panel should be composed of emerging arts professionals with some more established members.
iv. Coordinate and host a Shirley Elford Prize deliberation meeting in April or May, including an auditor selected by the Hamilton Community Foundation.
v. Organize catering needs and nomination materials for selection panel meeting. Catering to be invoiced to the City.
vi. Organize meeting rooms and audio visual equipment for panel meetings occurring outside of City of Hamilton facilities.
vii. Maintain clear and concise records during the adjudication process (notes from jurors, completed conflict of interest forms, panel meeting evaluations).
viii. Prepare a selection panel report highlighting any issues once adjudication is complete.

5.1.3 Marketing and Communications Phase

Timeline: The Program's marketing and communications largely occurs in two stages. September through mid-November focuses on nominations promotion. April to June involves short list and Event promotion. This applies to each term of the Contract.

Successful Proponent shall:

i. Develop and execute a marketing, communications and outreach plan (in consultation with City Staff) to guide promotion and public engagement during key Program phases. Work with graphic designer to develop advertisements and other communication pieces (City Staff to book and pay for any paid ads, boosts, etc. as directed by the recipient).
ii. Re-tweet/like/share messaging posted on the Program Facebook, Instagram and X (formerly Twitter) accounts.

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iii. Provide text content to City Staff, as required, for public/media content (e.g. promotional materials, website content etc.)
iv. Collect promotional materials from short listed nominees and Shirley Elford Prize recipients for social media promotion, City website updates and inclusion in Event presentation video.
v. Participate in local media interviews on television, radio, in local and regional print publications, upon request.
vi. Provide and draft update of the distribution list recommending organizations and individuals for City Staff review.
vii. Distribute nomination and Event phase marketing and communications materials to identified cultural hubs in person and via post. City Staff to distribute through internal City channels.
    a. Provide key updates to nominators using approved submissions management software. Hire, manage and pay photography company for nominee portraits and Event photography. Act as the key contact for scheduling individual photography shoots. Location to be determined in consultation with vendor and City Staff. The Successful Proponent is responsible for cost of the photography work.
    b. Hire, manage and pay social media vendor for Event and prepare social media announcements for City Staff review and approval - including live posting during Event announcing award recipients, arts programming, and other Event elements. Liaise with social media vendor in advance of Event to provide them with graphic and written content. City Staff will give vendor access to Program's social media accounts.

5.1.4 Event Phase

Timeline: February – June of each term of the Contract

The Successful Proponent shall:

i. Work with City Staff to plan, develop and implement the Event which will take place in early to mid-June in alignment with Hamilton Arts Week.
ii. Develop a draft Event plan outline for presentation to City Staff for review, discussion, and approval.
iii. Work with Shirley Elford Prize recipients to integrate their commissioned work into the Event plan – identifying technical support and associated costs.
iv. Develop a detailed Event plan for City Staff approval.
v. Implement the approved Event plan.
vi. Use local arts community knowledge to recommend, coordinate and manage Event emcee, performers, vendors and suppliers and artists (determined in consultation with the final jury, the broader community and City Staff) within the Program budget, following the City of Hamilton Procurement Policy. Emcee, performers, vendors and suppliers and artists to be paid separately by the City. Prepare letters of agreement and provide invoicing instructions in consultation with City Staff.
vii. Coordinate Event specific details as follows: catering, entertainment coordination, décor, technical, and Event documentation. Meet with artists and emcee early in planning stages to ensure they understand the Event, venue and other factors that may inform their preparations.
viii. Work with graphic designer to develop Event related print materials as needed for approval of City Staff
ix. Work with graphic designer to develop a digital version of the Event program (or

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alternative to be approved by City Staff). Add links to performer and recipient websites, social media, etc. to the digital magazine as relevant.

x. Communicate and coordinate technical needs for Event and performance staging implementation with host venue.

xi. Prepare digital presentation to support award presentation at the Event; presentation shall include:
   - graphic visuals related to the Program's annual graphic design;
   - voice over announcing short listed artists and award recipients,
   - visuals representing artists' work and careers,
   - sponsor recognition.

   City Staff to provide sponsor-related content for presentation production.

xii. Prepare instructions as needed for anyone contributing to presentation (e.g. absent award recipients, sponsors).

xiii. Prepare speaking notes (including pronunciation) for emcee review and final approval by City Staff. Meet with emcee prior to Event to ensure they understand the run of show.

xiv. Communicate Event costs to City Staff for budget tracking. Prepare initial budget and inform of any updates as new costs are incurred.

xv. Prepare production schedule for day of Event and communicate ongoing developments with technical and front of house teams at venue.

xvi. Develop staffing plan for day of Event working with City staff (up to four (4) City staff will be available to assist at the Event in roles such as front of house and councillor / sponsor liaison management).

xvii. Prepare instructions for award presenters and ensure run-through is provided prior to awards ceremony.

xviii. Draft email with Event information and map to be sent to nominees and nominators for City Staff approval. Prepare instruction email for City Staff to distribute to nominees and awards presenters re: the procedures at the Event. Successful Proponent to send invitations to arts sector review panel.

xix. Day of Event:
   - coordinate load in,
   - set up and tear down of Event venue lobby installations,
   - signage,
   - caterer stations, etc.
   - Ensure that Event is adequately staffed and all aspects of Event are running smoothly throughout the duration of the Event.

xx. Determine and execute Event attendance tracking measures as required.

5.1.5 Evaluation/Assessment Phase

Timeline: Final Report due June 30 of each term of the Contract.

i. Prepare nomination, adjudication and Event reports highlighting any successes, challenges and recommendations for improvements once phases are complete.

ii. Include analysis and recommendations in final report based on surveys, stakeholder feedback, statistical information, and any other data collected throughout the Program year and for the purposes of evaluation.

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5.2 CITY STAFF ROLES, RESPONSIBILITIES AND SCOPE OF WORK

General Duties

City Staff shall :

i. Directly supervise the Successful Proponent and their Work plan in order to manage allocation of Program resources and to ensure that Contract deliverables are met. This includes responding to the Successful Proponent with comments and direction on documents and plans within a mutually agreed time period.

ii. Develop a detailed Program implementation timeline, with planning milestones identified.

iii. Report on recommendations and facilitate discussion with the HACC regarding major changes to the Program.

iv. Provide information and guidance on all City policies, procedures and related legislation that may impact the planning and implementation of the Program. In particular:
   - Direction received from Council
   - Procurement Policy
   - Personal Information Protection Act
   - media relations policy and protocols
   - Municipal Act, where necessary

v. Serve as the first point of contact for the public, Program nominees, nominators, and sponsors regarding the Program, except where otherwise noted. The Successful Proponent may be responsible for ongoing communication once initial contact is made by City Staff.

vi. Establish and monitor the Program budget. Ensure that financial goals for the Program are met, including securing City annual allocation through Council budget process. City Staff will be responsible for securing the sponsorship revenue associated with the Program, as well as identifying and delivering sponsorship benefits.

vii. Provide information, progress reports and identify problems to the HACC, as required.

viii. Co-ordinate any communications and agreements with Hamilton Community Foundation and any other Program partners.

5.2.1 Nomination Phase

City Staff shall:

i. Contact the public nominees and nominators to resolve any eligibility issues by a certain date. Track compliance on spreadsheet created by Successful Proponent.

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ii. Send congratulations email to short listed nominees/nominators, request confirmation that they would like to proceed.

iii. Prepare letter of congratulations for short listed nominees and award recipients. Obtain the Mayor's signature on letter of congratulations within the mayor's office correspondence deadlines and send congratulations letters to short list nominees. Recipient letters to be provided at Event.

5.2.2 Adjudication Phase

City Staff shall:

i. Serve as the first point of contact with the new award selection panelists, inviting them to participate and providing an overview of the role. Schedule jury meetings. (Successful Proponent interfaces with returning panelists, provides instructions and manages adjudication).

ii. Organize meeting rooms and audio visual equipment for panel meetings occurring in City of Hamilton facilities.

iii. Where panelist needs cannot be met through the online submission manager (e.g. submittable), City Staff shall:

- Photocopy jury packages.
- Mail/courier jury packages to jurors.

iv. Collect address and other payment information and arrange for selection panel honorariums.

v. Inform recipients of their award, should the Event plan require notification prior to the Event.

5.2.3 Marketing and Communications Phase

City Staff shall:

i. Manage relationships with Council, sponsors and the HACC ensuring that they are properly informed and engaged with the Program. This includes approving and distributing Program materials and responding to questions, as required.

ii. Serve as the first point of contact for the media.

iii. Serve as the point of contact for all public inquiries regarding the Program.

iv. Serve as the first point of contact for all communications with Program nominees and nominators (unless delegated to Successful Proponent e.g. nomination package support; nominee portraits and promotional materials).

v. Work with City communication Staff to coordinate media advisory process, website updates, corporate social media announcements, ad purchases, etc.

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vi. Perform outreach to City partners (e.g. Hamilton Immigration Partnership Council, Indigenous Relations Department) to promote nomination call and Shirley Elford Prize.

vii. Create all public/media content, with information provided by the Successful Proponent. For example, website content, print ads, social media messaging, email campaigns, media releases, etc. Take the lead on development of sponsorship package for design and layout by graphic designer hired by the recipient.

viii. Distribute nomination and Event phase marketing and communications materials to internal City channels.

ix. Identify ongoing opportunities for social media campaigns (e.g. ten reasons to attend Event campaign, video portrait gallery on Facebook).

x. Update Facebook, Instagram, and X (formerly Twitter) accounts according to social media plan and as opportunities emerge and respond to engagement on these accounts.

xi. Upload Program content updates on City website and eNet.

xii. Prepare email campaigns (general list, divisional, Senior Leadership Team, arts sector review panel, the HACC, and Program participants) re: nominations and Event.

xiii. Identify wards of short list short listed artists and recipients and share with Councillors.

5.2.4 Event Phase

City Staff shall:

i. Execute Event venue contract and related insurance requirements once terms have been confirmed by the recipient.

ii. Liaise with Successful Proponent in producing Event program and digital magazine (or equivalent) re: letters from City officials, award selection panel, and sponsorship aspects of the Program.

iii. Requisition performer and award recipient cheques for delivery at the Event. Pay all invoices for approved Event related expenses when received.

iv. Ensure awards presenters are secured for all awards (including Councilors, sponsors, and members of City's senior leadership team) and produce schedule based on the Event plan.

v. Work with Successful Proponent to identify City staffing and volunteer roles required for Event and secure City Staff to fill key roles (e.g. sponsor liaison).

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vi. Prepare award packages: order award boxes, envelopes for award cheques and letters signed by the mayor for short listed nominees and recipients.

vii. Draft speaking notes for City Council members and City Staff. Successful Proponent to have input to ensure flow of Program.

viii. Send official invitation to members of Council and senior leadership team, the HACC, award selection panelists, sponsors, Program mailing list, and post on the City's social media account.

5.2.5 Evaluation/Assessment Phase

City Staff shall:

i. Prepare marketing and communications reports highlighting successes, challenges, and recommendations for improvements.
ii. Prepare survey questions in consultation with the Successful Proponent. Post and monitor online survey.
iii. Inform Councilors of short-listed artists and recipients in their ward.

6.0 PROGRAM BUDGET

The Program annual budget for 2026/2027 allows for expenditures in program areas outlined in Table 1 below. Amounts listed are exclusive of applicable taxes.

Table 1

Projected Program budget	
expenditures ($)	costs paid by City
awards to artists	$34,000
adjudication fees	$6,000
marketing and communications	$14,000
Successful Proponent's contract fee budget inclusions: -graphic design -photography -social media support (Event) -digital Event presentation	
Event delivery	$20,000
meeting costs and supplies	$2,000

Additional funding may be available for Event contingent on Program sponsorship. This sponsorship has ranged from $10,000 to $16,500 annually in previous years.

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6.1 Budget and Financial Note:

These expenses are the responsibility of Successful Proponent and are to be supplied within the Fixed Price, as follows:

i. Graphic design: graphic design services for all phases of the Program including print and digital promotional pieces for web and multiple social media platforms, nomination and application packages, and signage for Event. Designer may be in-house (if approved as part of Proposal), or sub-contracted.

ii. Photography: short listed nominee portrait photography and event photography. Historically the cost for photography has been $2,000 – contingent on partial sponsorship with a local photography vendor (managed by the City). Regardless of the status of photography sponsorship, the Successful Proponent will be responsible for $2,000 of photography costs with the City responsible for the balance of said costs.

iii. Social media support for Event: social media announcements during Event - including live posting during Event announcing award recipients, arts programming, and other Event elements. May be done in-house (if assigned staff is approved by City Staff) or subcontracted.

iv. Digital Event presentation: production of digital presentation to support award presentation at Event, including graphics, voice over announcing short list short listed artists and award recipients, and visuals representing artists' work and careers, sponsor recognition. May be in-house (if assigned staff is approved by City Staff) or subcontracted.

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THIS CONTRACT made the day of ,

CONTRACT FOR WORK

Request for Proposals C3-01-26

CITY OF HAMILTON
(the "City")

-and-

LEGAL NAME OF CONTRACTOR
(the "Contractor")

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WHEREAS:

A. The City issued a Request for Proposals C3-01-26 (the "RFP") with respect to professional arts administration services for the City of Hamilton Arts Awards Program implementation;

B. The Contractor submitted a proposal for the provision of such goods or services in accordance with and in response to the RFP which was subsequently evaluated and accepted by the City; and

C. The City and the Contractor wish to enter into a contract to clarify and provide the terms under which such goods or services shall be provided;

IN CONSIDERATION of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the City and the Contractor, the City and the Contractor mutually covenant and agree as follows:

ENTIRE CONTRACT

This Contract, including:

(1) All Addenda modifying the Contract, including the Special Conditions and General Conditions, in reverse chronological order
(2) Terms of Reference or Specifications
(3) Definitions
(4) Special Conditions
(5) any contract drawings
(6) General Conditions
(7) this Contract for Work
(8) Form of Proposal, including Schedule of Prices
(9) Contractor's Proposal, as accepted by the City;

constitutes the entire contract between the parties with respect to the subject matter contained in this Contract and supersedes all prior oral and written representations and agreements.

IN WITNESS WHEREOF, the parties have executed this Contract on the dates set out below.

CONTRACTOR'S LEGAL NAME
Signed for and on behalf of the Contractor by:

Signed_____(Witness)
Name:
Title:

Signed_____
Name:
Title:

Date_____

I have the authority to bind the corporation.

CITY OF HAMILTON
Signed for and on behalf of the City of Hamilton by:

Signed_____ Signed_____
Name: Name:
Title: Title:

Date_____ Date_____

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SPECIAL CONDITIONS

Revised: August 2, 2023

Request for Proposals C3-01-26

1.0 INTERPRETATION

1.1 The Contract shall be comprised of the following documents, and where there is any ambiguity, conflict or inconsistency between the terms and conditions contained in any of these documents, the order of precedence shall be as follows:

(a) All Addenda modifying the Contract, including the Special Conditions and General Conditions, in reverse chronological order
(b) Terms of Reference or Specifications
(c) Definitions
(d) Special Conditions
(e) any contract drawings
(f) General Conditions
(g) Contract for Work, if any
(h) Form of Proposal, including the Schedule of Prices
(i) Contractor's Proposal, as accepted by the City;

and notwithstanding the foregoing, in the event of any ambiguity, conflict or inconsistency between the terms and conditions contained in the documents comprising the Contract, the provision most favourable to the City, in the City's determination, shall prevail and apply.

1.2 If the City does not require the Contractor to physically execute a formal contract, then the Contract shall be deemed to consist of the documents set out in section 1.1 and shall be a binding contract between the City and the Contractor as of acceptance of the Contractor's Proposal by the City and award of the RFP to the Contractor.

2.0 TERM OF THE CONTRACT

The term of the Contract shall be for a period of approximately one year ("Term One") which will commence upon issuance of a purchase order to the Successful Proponent.

The term of the Contract may be extended by the City for a maximum of two, one-year terms ("Term Two" and "Term Three") at the sole discretion of the City. There is no obligation on the City to extend the Contract. Should the City decide to extend the Contract, such extension shall be on the same terms and conditions of the original Contract including price.

The term of the Contract shall be as follows:

Term One Upon the issuance of a purchase order to July 31, 2027

Optional renewals terms, if exercised, shall be as follows:

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Term Two August 1, 2027 to July 31, 2028
Term Three August 1, 2028 to July 31, 2029

3.0 PRICE AND PAYMENTS

3.1 The payments to the Contractor shall be based on the Total Contract Price (including but not limited to Unit Prices) as set out in the Contractor's Proposal. Unless expressly agreed in writing by the City, the prices listed therein shall be deemed to have been quoted on an all-in basis, and the Contractor shall accept such prices as full payment for furnishing:

(a) all necessary labour, goods, materials, services, tools, equipment, supplies, light, power, water, and other incidentals, and for performing the Work contemplated under this Contract; and

(b) all reports, drawings and documents as may be required by the City.

3.2 The payment of the Total Contract Price (including but not limited to Unit Prices) with respect to the Work performed by the Contractor shall be made in accordance with the City's Procurement Policy By-law. Payment of additional work shall be made in the same manner.

3.3 Progress payments for the Work performed by the Contractor shall be made only where expressly agreed in writing by the City.

3.4 A claim for a progress payment made by the Contractor shall not include any aspect of the Work not yet fully and properly performed.

3.5 If any Work is included by the Contractor in its progress claims as partially or fully completed, but it is not completed in accordance with this Contract, or is not completed to the City's satisfaction, the City may withhold from payment such part or the total cost of such Work until it is completed or corrected to its full satisfaction, and the City shall notify the Contractor in writing of its action and the reason for same.

3.6 The City reserves up to ten Business Days from the date of the receipt of the Contractor's invoice for reviewing, inspecting and confirming the receipt and performance of the Work in accordance with this Contract.

3.7 Where a contingency allowance is expressly provided for in this Contract, the Contractor shall not be entitled to payment of the whole or any part of that amount, except to the extent that it can be shown that extra or additional Work has been carried out by the Contractor beyond that contemplated within this Contract, and such extra Work has been approved, in advance, by the Project Manager.

3.8 Payments shall be subject to the Construction Act, as applicable.

4.0 PERFORMANCE AND/OR LABOUR AND MATERIAL PAYMENT SECURITY

4.1 Performance security is not required for the Contract.

4.2 Labour and Material Payment security is not required for the Contract.

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5.0 POLICE BACKGROUND CHECK

5.1 There are no police background check requirements for the Contract.

6.0 SUBCONTRACTING

6.1 The Contractor shall not enter into a contract with any Subcontractor or make any change to the list of nominated Subcontractors, without the prior written approval of the City, which may be granted with conditions.

6.2 The City reserves the right to reject any Subcontractor nominated by the Contractor, without penalty or liability to the City of any kind whatsoever. If the City requires the Contractor to change any nominated Subcontractor, the Contractor shall do so and in no event shall an increase in the Unit Price or Total Contract Price be permitted.

6.3 The Contractor shall be responsible for all costs of the City to investigate and consider a proposed Subcontractor, including but not limited to all of its internal staff costs and all legal, financial and consultant costs. Such costs shall be payable by the Contractor regardless of whether an approval is granted or not.

6.4 It shall be the Contractor's responsibility to co-ordinate, control and check the Work of its own forces and of all its Subcontractors and to ascertain that all Work is done in accordance with this Contract.

6.5 No subcontracting by the Contractor shall relieve the Contractor of any responsibility for the full performance of all its obligations under this Contract. The Contractor shall be fully responsible for every Subcontractor's activities, works, services and acts or omissions and shall receive all notices and communications as if the Contractor were performing the subcontracted portion of the Work with its own resources.

6.6 Neither the City nor the Project Manager shall be construed to have any contractual relationship with any of the Contractor's employees or Subcontractors.

7.0 INSURANCE REQUIREMENTS

7.1 Throughout the term of this Contract (including any renewal thereof), the Contractor shall obtain and maintain at its own expense, including the cost of any applicable deductible, the following policies of insurance:

(a) Commercial General Liability Insurance, written on IBC Form 2100 or its equivalent, including but not limited to bodily injury and personal injury liability, property damage, products liability, completed operations liability, owners & contractors protective liability, blanket contractual liability, premises liability, broad form property damage, employer's liability and voluntary compensation and contingent employer's liability coverage, having an inclusive limit of not less than $5,000,000 per occurrence. If a policy has an aggregate limit, the amount of the aggregate shall be double the required per occurrence limit. Coverage shall be included for injury/loss/damage, due to pollution arising from

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"hostile fires". The policy shall be endorsed to include the City of Hamilton as additional insured.
Where the description of the Work provides for or contemplates the use of a motor vehicle, including where any Good is to be delivered by the Contractor to the City, or where Work or Services are to be provided on property owned or occupied by the City,

(b) Standard Form Automobile Liability Insurance that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than $2,000,000 per occurrence for Third Party Liability, in respect of the use or operation of vehicles owned, operated or leased by the Contractor for the provision of services;

(c) Non-Owned Automobile Liability Insurance in standard form having an inclusive limit of not less than $2,000,000 per occurrence in respect of vehicles not owned by the Contractor, that are used or operated on its behalf for the provision of services under this Contract;

(d) Umbrella and/or Excess Liability Insurance policies may be applied to increase liability limits. Certificate(s) of insurance must specify the underlying policies to which the umbrella/excess coverages apply and indicate any applicable aggregates.

7.2 The Contractor shall maintain Property Insurance, as may be applicable, with respect to loss or damage (including fire, theft, burglary, etc.) of its own property and property in its care, custody and control, including but not limited to its equipment, tools, stock, used in connection with this Contract.

7.3 All polices of insurance within the scope of section 8.1 shall, subject to the terms of the indemnity provisions;

(a) be recorded as being a primary policy and shall be in a form and issued by an insurance company satisfactory to the City, that is licensed to carry on business in Ontario;
(b) show all values in Canadian funds;
(c) be maintained continuously during the course of carrying out the Work; or for such period of time as may be required after completion of the Work as deemed necessary by the City;
(d) identify all lines with a deductible greater than $25,000. The City reserves the right to request proof of the Contractor's ability to fund claims within their deductible amount;
(e) (except in the case of automobile liability insurance, non-owned automobile liability insurance, professional errors & omissions liability insurance, and medical malpractice liability insurance) include the City named as an additional insured, to the extent of the Contractor’s obligations to the City under this Contract;
(f) contain cross liability and severability of interest provisions, as may be applicable;
(g) preclude subrogation claims against the City and any other person insured under the policy as may be applicable; and

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(h) provide that at least 30 days' prior written notice (15 days, in the case of automobile liability insurance, and 10 days in the event of non-payment of premiums) shall be given to the City by the insurer before the insurer or Contractor takes any steps to cancel, terminate, fail to renew, amend or otherwise change or modify the insurance or any part thereof.

7.4 The City reserves the right to require the Contractor to purchase such additional insurance coverage as the City's Risk Management Services Office may reasonably require. The City reserves the right to request such higher limits of insurance or otherwise alter the types of coverage requirements due to material or significant change arising from such matters as the nature of the work, contract value, industry standards, and availability of insurance) as the City may reasonably require from time to time.

7.5 Any insurance coverage acquired under this Contract shall in no manner discharge, restrict or limit the liabilities assumed by the Contractor under this Contract. The dollar limit of insurance coverage shall not be limited by the dollar amount of this Contract.

7.6 The Contractor shall pay all premiums on the policies as they become due provided that the City may pay premiums as they become due and deduct the amount thereof from moneys due from the City to the Contractor should the Contractor fail to do so.

8.0 PROOF OF INSURANCE

(1) The Contractor shall deposit with the City such evidence of its insurance as required under this Contract,

(a) at the time of execution of the Contract for Work (if any), or

(b) in any event prior to commencing the Work; and

(c) and thereafter during the term of this Contract, no later than 20 Business Days prior to the renewal date of each applicable policy, the Contractor shall deposit with the City's Procurement Manager an original certificate of insurance originally signed by an authorized insurance representative, confirming thereon relevant coverage information including but not limited to name/description of City contract, name of insurer, name of broker, name of insured, name of additional insureds as may be applicable, commencement and expiry dates of coverage, dollar limits of coverage, deductible levels as may be applicable, cancellation/termination provisions; or (at the City's election) a certified copy of the insurance policy or policies. Certificate Holder will be addressed as the City of Hamilton, City Hall, 71 Main Street West, Hamilton, Ontario L8P 4Y5; Attn: Manager - Placemaking, Public Art and Projects, Planning and Economic Development. All certificates, cancellation, nonrenewal or adverse change notices should be mailed to this address.

(2) The Contractor shall not do or omit to do anything that would impair or invalidate the insurance policies.

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(3) Delivery to and examination or approval by the City of any certificates of insurance or policies of insurance or other evidence of insurance shall not relieve the Contractor of any of its indemnification or insurance obligations under this Contract. The City shall be under no duty either to ascertain the existence of or to examine such certificates of insurance or policies of insurance or to advise the Contractor in the event such insurance coverage is not in compliance with the requirements set out in this Contract.

9.0 NOTICE

All notices, requests, demands and other communications under this Contract shall be in writing and shall be deemed to have been given:

(a) on the day of delivery when delivered by hand;

(b) if transmitted by facsimile or e-mail, on the day of sending if sent on a Business Day during regular business hours (8:30 a.m. to 4:30 p.m.), or on the next Business Day if sent after regular business hours; or

(c) on the fifth Business Day after posting, if sent, during normal postal conditions, by registered or certified mail to the party for which it is intended and addressed as follows:

to the Contractor at:

the address, fax number or email address and to the attention of the individual set out in the Form of Proposal

to the City at:
City of Hamilton
71 Main Street West
Hamilton, ON L8P 4Y5
Attention: Office of the City Clerk

with a copy to:
City of Hamilton
71 Main Street West Hamilton, ON L8P 4Y5
Attention: Manager, Placemaking, Public Art and Projects, Planning and Economic Development

Unless otherwise indicated in this Contract or otherwise specified in writing, the name and contact information for the Contractor above shall be the Contractor's primary contact with the City with regard to this Contract.

Each party may change their address by giving five Business Days prior written notice of such change to the other party in the manner prescribed above.

10.0 FIXED PRICE CONTRACT

The City has established a Fixed Price for the award in the amount of $40,000.00 to

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the Successful Proponent for each term of this Contract.

Successful Proponent will supply all materials, labour and equipment to perform the Work.

The Fixed Price shall remain firm for each term of the Contract. City shall not allow for price increases for the optional renewal terms of the Contract.

11.0 CANCELLATION OF PROJECT PHASE

Should the City of Hamilton decide to cancel any phase of this Project, then the Successful Proponent will be required to submit all Work product completed for the Project up to the notice of cancellation date.

All Work products shall be the intellectual property of the City of Hamilton.

The Successful Proponent will be paid for all Work completed up to the cancellation notification, in accordance with Fixed Price for the term.

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GENERAL CONDITIONS

1.0 DEFINITIONS

Definitions used in this Contract are as set out in the Definitions section of the Contract.

2.0 SCOPE OF CONTRACT

2.1 The Contractor agrees to do and perform or provide the whole of the Work mentioned and described in this Contract, including without limitation those set out in the General Conditions, Terms of Reference and Specifications (if any), including to:

(a) render all Services and provide all Goods necessary to perform same;

(b) furnish all labour, Services, Goods, materials, equipment and all incidentals;

(c) pay all applicable taxes and all other charges as specified; and

(d) fully, properly, diligently and in good faith undertake, perform and complete all of the Contractor's duties, obligations and responsibilities under this Contract,

with reasonable diligence and in a thoroughly competent manner, in strict accordance with this Contract, and shall furnish all labour, materials, equipment, tools, skill and all other things required for this Contract to the satisfaction of the City.

2.2 The Contractor shall be responsible for and shall give adequate attention to the provision, performance and completion of the Work in accordance with the terms of this Contract and in strict conformity to the Terms of Reference and Specifications (if any) and shall only alter the Work performed at the request of the City. Defective Work or equipment must be corrected whenever discovered by the Contractor or brought to its attention.

3.0 REPRESENTATIONS AND WARRANTIES OF CONTRACTOR

The Contractor makes the following representations and warranties to and for the benefit of the City:

3.1 The Contractor:

(a) if a corporation: is a duly incorporated, organized and subsisting corporation and has all requisite powers, capacities, authorities, permits, licences and permissions under its governing legislation and any other Law applicable to it, and under its Articles of Incorporation and by-laws under which it is organized, to carry on all businesses in which the Contractor is engaged; and enter into, exercise its rights and perform and comply with its responsibilities and obligations under this Contract; and that all actions, conditions and things have been done, taken or fulfilled with respect thereto, that are required by Law, contract or otherwise; or

(b) if other than a corporation: is duly registered as a business under all applicable

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legislation, and as such has all requisite powers, capacities, permits, licences and permissions under its governing legislation and the other Law applicable to it, to carry on all businesses in which the Contractor is engaged; enter into, exercise its rights and perform and comply with its obligations under this Contract; and that all actions, conditions and things have been done, taken or fulfilled with respect thereto, that are required by Law, contract or otherwise.

3.2 The Contractor and its Subcontractors and the respective workforce of each are fully qualified to perform the Work and hold all requisite permits, licences, franchises and other authorizations required by this Contract, and by Law, contract and otherwise with respect thereto.

3.3 The Contractor is not a party to any contract under the terms of which the Contractor is prohibited or restricted from entering into any of the obligations assumed, liabilities imposed, or restrictions accepted by the Contractor under this Contract.

3.4 To the best of the Contractor's information and belief and after making diligent inquiries,

(a) the information concerning the business, affairs and financial and other condition of the Contractor that are contained in all documents, memoranda, records, statements made, sent or given by the Contractor to the City prior to entering into this Contract, and in its current regulatory filings, are true and accurate in all material respects; and

(b) the Contractor is not aware of any material facts or circumstances having a bearing upon its ability to perform its obligations under this Contract which have not been disclosed to the City in writing.

3.5 The Contractor shall forthwith advise the City in writing in the event it becomes aware of any material fact or circumstance which may arise, at any time, that may have a bearing upon its ability to perform or assume its obligations under this Contract.

3.6 The Contractor has the skill, ability and experience to perform the obligations set out in this Contract according to the usual practices of the profession or industry and promises to carry out its obligations in accordance with those standards.

3.7 The Contractor shall employ properly qualified and experienced workers to carry out the Work, and shall cause its Subcontractors to do the same.

3.8 The Contractor shall have an adequate work force with proper equipment in good working condition, and shall have ready access to all materials, equipment and accessories required to perform its obligations under this Contract in a diligent and timely manner, and shall cause its Subcontractors to do the same.

3.9 The Contractor has not employed or retained any person, other than a bona fide employee, agent or broker working for the Contractor, to solicit or secure this Contract, and it has not paid or agreed to pay any person, other than a bona fide employee, agent or broker working solely for the Contractor, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the entering into of this Contract, or as an inducement to enter into this Contract. No elected official, officer,

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employee of the City shall enjoy a direct or indirect interest in this Contract or any subcontract under this Contract, nor does any such official, officer or employee have a direct or indirect interest in the Contractor. Without prejudice to any of its other rights, the City reserves the right to cancel this Contract where there is a breach of this warranty.

4.0 CONFIDENTIALITY

4.1 The Contractor shall not disclose any information regarding this Contract or the Work to a third party except:

(a) where prior written consent of the City has been provided, which consent may be unreasonably withheld;

(b) where such disclosure is necessary to perform the Work, is only to a person directly engaged in performing the Work under this Contract and is only to the extent required for the Work to be performed; or

(c) is required to be disclosed by Law.

4.2 The Contractor shall oblige its employees and Subcontractors to comply with these confidentiality provisions.

4.3 The Contractor shall refer all inquiries from whatever source relating to this Contract or the Work to the Project Manager.

4.4 The disclosure of information relating to this Contract and this Contract itself are governed in accordance with the disclosure requirements of applicable Law, including the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

4.5 In accordance with MFIPPA, this will notify the Contractor that any personal information it provides to the City during the performance of the Work is being collected under the authority of the Municipal Act, 2001.

4.6 All correspondence, documentation and information provided to the City will become the property of the City and a record of the City. The foregoing records and this Contract are subject to the provisions of MFIPPA and the City's obligations hereunder and may be released under such Act. The Contractor's name at a minimum will be made public on request. In addition, certain contractual information must be disclosed to Council and accordingly may become part of the public record.

4.7 For the purposes of MFIPPA, the Contractor may mark as confidential any scientific, technical, commercial, proprietary or similar confidential information, the disclosure of which could cause it injury. Its complete Proposal is not to be identified as confidential. A watermark or rubber stamp imprint is suitable for this purpose.

4.8 The City makes no representations or warranties that the identification of a document as confidential will prevent its release under the provisions of MFIPPA or otherwise under any Law. Any information provided to the City by the Contractor whether or not

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it is identified as confidential may be treated by the City as public information. The City shall not be liable in any manner to the Contractor or any other person if information is disclosed by virtue of an order of the Privacy Commissioner (as defined under MFIPPA), a court of competent jurisdiction or otherwise as required or permitted by Law.

4.9 Information regarding the application of MFIPPA is available from the Access to Information and Privacy Section of the City Clerk's office at City Hall.

4.10 All correspondence, documentation and information provided by the City to the Contractor remains the property of the City and must not be used for any purpose other than for the fulfillment of the Contractor's obligations under this Contract.

4.11 Confidentiality of records and information of the City relating to the Work must be maintained at all times throughout the term of this Contract and thereafter. Where any information belonging to or in the care of the City is disclosed to the Contractor, the Contractor shall

(7) safeguard all such information;

(8) maintain in strict confidence and not reproduce or disclose any such information to any person except as required by Law or as expressly permitted in advance by the City in writing;

(9) return forthwith and without demand all such information as may be in documentary form or recorded electronically, upon the termination of its Work as a Contractor;

(10) not use any such information for any purpose other than the purpose for which it was provided; and

(11) not deposit, store or hold any personal or confidential information of the City in such a manner that it is subject to seizure or disclosure under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA Patriot Act) and other similar foreign legislation.

5.0 INFORMATION PROVIDED BY THE CITY

5.1 Unless expressly provided otherwise in this Contract, all information supplied by the City or on behalf of the City to the Contractor for purposes of performing the Work shall be provided solely for information purposes and does not form part of this Contract. The information is not guaranteed or warranted to be accurate by the City, nor is it necessarily comprehensive or exhaustive. The City accepts no responsibility for and/or liability with respect to the completeness and accuracy of such information. The Contractor shall take all steps that it deems appropriate to satisfy itself of the accuracy of any such information and shall not make any claim against the City because of any error or inaccuracy that might exist in such information.

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6.0 EXCESSIVE CLAIMS

6.1 The City may review and disallow an invoice, or reduce the amount of an invoice, submitted for hourly labour costs, or for material supplied, where the Project Manager concludes on reasonable grounds that the amount of that invoice is excessive, taking into account the time and materials that would ordinarily be required by a competent professional or tradesman to carry out the Work to which the invoice relates.

6.2 Prior to disallowing or reducing an invoice under section 6.1, the City shall notify the Contractor in writing of its intention to review the invoice in question, and shall allow the Contractor to make written or oral representations to the Project Manager as to whether the amount invoiced is excessive. The Project Manager shall take those representations and all other relevant facts into account before reaching any conclusion under section 6.1. Any decision made by the Project Manager under this section is final and conclusive between the parties.

6.3 No invoice shall be disallowed under this section where the billing to which it relates is in strict accord with the terms of this Contract.

7.0 SET-OFF

7.1 The parties agree that the City has the contractual right to set-off against any amounts owing by the City to the Contractor under this Contract, any amount owed to the City by the Contractor, whether such amount arises from this Contract or under any other contract between the City and the Contractor, irrespective of whether or not those contracts are related or arise at equity or Law. This right of set-off shall be subject to the Construction Act, as applicable.

8.0 TAXES

8.1 All prices set out in the Contractor's Proposal are exclusive of Value Added Taxes, unless otherwise specified in this Contract.

8.2 Subject to section 8.1, all prices include all excise taxes, customs duties, customs clearance and brokerage fees, royalties and patent or licence fees.

9.0 ELECTRONIC FUNDS TRANSFER

9.1 In this section, the term "EFT" refers to electronic funds transfer and may also include the payment information transfer. All payments made by EFT shall only be made as a direct deposit to a Canadian financial institution.

9.2 **Method of Payment**

All payments by the City under this Contract shall be made by electronic funds transfer (EFT) save and except where:

(a) the funds payable under the terms of this Contract are only payable in a single lump sum and not payable by installments or progress payments or otherwise than a single lump sum payment; or

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(b) the City is unable to release one or more payments by EFT, in which case the Contractor agrees to either:

(i) accept payment by cheque or some other mutually agreeable method of payment; or

(ii) request the City to extend payment due dates until such time as the City makes payment by EFT,

subject to section 9.4 Suspension of Payment.

9.3 **Mandatory Submission of Contractor's EFT Information**

(a) The Contractor is required to provide the City with the information required for the City to make payment by EFT. A purchase order may not be issued to the Contractor without this requisite information.

(b) In the event that the EFT information changes, the Contractor shall be responsible for providing forthwith the updated information to the City.

9.4 **Suspension of Payment**

(a) The City is not required to make any payment under this Contract until its designated officer has received the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract payment request shall be deemed not to be a proper invoice or valid request for the purpose of payment under this Contract. No interest or any other manner of claim whatsoever for delayed or non-payment shall be permitted as a result of incorrect EFT information or improper delivery of EFT payment information.

(b) If the EFT information changes after submission of correct EFT information, the City shall have 30 days within which to update the changed EFT information after its receipt by the designated officer to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is implemented by the City's payment office. If such suspension would result in a late payment under any payment terms of this Contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

9.5 **Liability for Uncompleted or Erroneous Transfers**

(a) If an uncompleted or erroneous transfer occurs because the City used the Contractor's EFT information incorrectly, the City remains responsible for making a correct payment.

(b) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of City's release of the EFT payment transaction instruction, and

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(i) funds are no longer under the control of the City's payment office, the City, after providing reasonable assistance to recover the funds, shall be deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) if the funds remain under the control of the City's payment office, the City shall not make payment and the provisions of section 9.4 Suspension of Payment shall apply.

9.6 **EFT and Timely Payment**

A payment shall be deemed to have been made in a timely manner in accordance with the payment terms of this Contract if, in the City's EFT payment transaction instruction released to its bank, the date specified for settlement of the payment is on or before the last date for due payment under the terms of this Contract, provided the specified payment date is a valid date when the City's bank is open for business.

10.0 CONTRACTORS COSTS

10.1 Without limiting the generality of any other provision of this Contract, unless otherwise provided in this Contract, the Contractor shall be required to provide and pay for (as applicable):

(a) all material, labour and service costs, charges for use of software, intellectual property, tools and equipment whether owned, licensed or rented, and where any Work is to be carried out on property owned or occupied by the City, all protective and safety provisions, site signs and site conveniences, together with all Work and associated equipment and materials or other incidentals whether shown or specified or required by best practices (as applicable);

(b) insurance, licences, permits and inspections; all applicable taxes, worker's compensation and all other applicable labour-compensation charges necessary to carry out its duties with respect to the Work;

(c) all other Work required to carry out the Contractor's responsibilities and duties with respect to the Work, in accordance with this Contract and all instructions given by the City thereunder, in accordance with governing regulations and codes and in compliance with best industrial and commercial practices for first class workmanship.

11.0 QUANTITIES AND ESTIMATES

11.1 Unless otherwise expressly stated in this Contract, where technical information or details form part of this Contract (including any quantity estimates, samples or other documents of a similar kind or nature as may be provided in this Contract or incorporated by reference therein),

(a) the City shall exercise reasonable care in the preparation of those estimates and information but shall not be taken to warrant their accuracy and shall not be liable for any inaccuracy therein unless that inaccuracy is the result of the deliberate misrepresentation of the City or a member of its staff;

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(b) estimates, reports, data, or details shall be deemed to have been provided only as a guide for the Contractor;

(c) the City does not guarantee, represent or warrant a minimum amount of Work.

12.0 SITE INSPECTION

12.1 Where the Work is to be carried out on City occupied or owned property, the Contractor shall be responsible for visiting the job site and no allowance shall be made by the City for failure by the Contractor to examine carefully all conditions relating to the site or Work.

12.2 The Contractor and all its Subcontractors shall be held to have thoroughly examined this Contract and to have visited and inspected the site on which the Work is to be carried out, and to have thoroughly familiarized themselves with all pertinent conditions before entering into this Contract, and no allowance shall be subsequently given by the City for or by reason of any error or omission on the part of the Contractor or Subcontractor with respect thereto. The City shall not be liable for any costs associated with any site inspection.

13.0 OCCUPATIONAL HEALTH AND SAFETY

13.1 The Work shall be conducted in a safe manner. The Contractor and all Subcontractors used on the Work shall comply with all Law, including but not limited to the Occupational Health and Safety Act, and all applicable regulations thereunder.

13.2 Without limiting any of the foregoing, the Contractor shall have both a written occupational health and safety policy and program to implement that policy, and that all of its employees, Subcontractors and any other persons performing the Work shall be appropriately trained, licensed and certified, as required to perform the Work.

13.3 The City shall in no way be considered the constructor with respect to any part of the Work for the purposes of the Occupational Health and Safety Act.

14.0 PERMITS, LICENCES AND APPROVALS

14.1 The Contractor shall be responsible for applying for, obtaining and maintaining, at its own cost (other than the building permit fees, municipal site plan approval or committee of adjustment application fees) all necessary permits, licences, consents and approvals relating to the Work in accordance with this Contract and shall not do or suffer to be done anything in violation of any such permits, licences, consents and approvals. If the attention of the Contractor is called to any such violation on the part of the Contractor, or of any person employed or engaged by the Contractor, the Contractor shall immediately desist from and correct such violation.

14.2 The Contractor shall be licensed to practice in the area in which the primary services under this Contract are to be provided, by the applicable professional body. In the case of architects, pursuant to the Architects Act, the Contractor shall be licensed by the Ontario Association of Architects. In the case of engineers, pursuant to the Professional Engineers Act, the Contractor shall be licensed by the Association of Professional

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Engineers Ontario.

14.3 The Contractor shall, upon request of the City, provide proof of compliance satisfactory to the City, at the Contractor's own cost.

15.0 STANDARD WARRANTY

15.1 The Contractor shall promptly repair or replace, at no cost to the City, all defects in materials or workmanship of which the Contractor has been properly notified within a period of one year from the date of completion of the Work.

15.2 This warranty shall not apply where a different warranty is specified in the Cover Contract, Terms of Reference or Specifications.

16.0 STANDARD OF CARE

16.1 The standard of care for all professional services performed or furnished by the Contractor and its employees under this Contract will be the care and skill ordinarily used by members of the Contractor's profession or trade in Ontario.

17.0 COMPLIANCE WITH LAW

17.1 The Contractor shall be familiar with and comply with all Law applicable to the Work, including but not limited to all City procurement policies. The Contractor shall, upon request of the City, provide proof of compliance satisfactory to the City, at the Contractor's own cost.

18.0 INDEMNIFICATION

18.1 The Contractor shall indemnify, defend, and hold the City, including its elected officials, officers, employees, agents, affiliates and representatives (collectively referred to as the "Indemnified Party") harmless against any and all claims, demands, costs (including legal costs on a substantial indemnity basis), penalties, fines, fees, royalties, damages (including indirect, special, remote, and/or consequential damages) and causes of action, including, without limitation, proprietary or personal injury (including death) that arise from, either directly or indirectly, or relate to,

(a) the Contractor, its officials, directors, officers, employees, agents, affiliates, partners (general or limited), joint venturers, contractors, Subcontractors, and other representatives (collectively referred to as the "Indemnifying Party"), under this Contract,

(i) negligently carrying out any obligation to which it is subject,

(ii) failing to carry out any obligation to which it is subject,

(iii) negligently exercising any right to which it is entitled, or,

(iv) exercising any right to which it is entitled in a manner which is inconsistent with the terms and conditions of this Contract,

or any combination thereof, except to the extent that the same are caused by

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the negligence or deliberate wrong-doing of the Indemnified Party, or

(b) any patent, trademark, copyright infringement or other breach of any intellectual property right of any person, for which the Indemnifying Party is responsible.

18.2 The City shall notify the Contractor upon receipt of any such claim or demand that it receives. No settlement shall be made nor consent to judgment given without prior written approval of Contractor and its insurers, which approval shall not be unreasonably withheld.

18.3 The rights to indemnity contained herein shall survive the early termination or expiry of this Contract.

18.4 The City may enforce the rights of indemnity conferred on any Indemnified Party under section 18.1 on their behalf and to the same extent as if they were parties to this Contract.

18.5 The rights to indemnity provided for in this section shall be deemed to be in addition to any rights with respect to insurance in favour of the Indemnified Party provided in this Contract.

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19.0 WSIB

19.1 The Contractor prior to commencing the Work,

(a) shall submit to the City an original Clearance Certificate from the Ontario Workplace Safety and Insurance Board and shall provide additional certificates with respect to such coverage as often as the City deems necessary during the term of this Contract to ensure continued good standing with the Workplace Safety and Insurance Board; or

(b) furnish proof in a form satisfactory to the City from the Workplace Safety and Insurance Board that the Contractor does not require Workplace Safety and Insurance Board insurance, but in such a case if the Contractor changes its status during the term of this Contract so that such coverage is required, the Contractor shall immediately provide the City with the certificate required under paragraph (a).

19.2 Where a substantial portion of the work to be done under this Contract is to be carried out by a Subcontractor, the City may require the Contractor to furnish the same evidence as provided under section 19.1 for that Subcontractor.

20.0 NON-PERFORMANCE

20.1 The City reserves the right to determine of non-performance or poor quality of Work. The opinion of the City in this regard shall be final in all instances.

21.0 TIME FOR COMPLETION

21.1 Subject to the occurrence of any Force Majeure, the Contractor shall

(a) commence the Work by the start date specified, or within the time provided in this Contract, and

(b) complete fully the Work with due expediency and due diligence by the date specified in this Contract or otherwise as stipulated by the City.

21.2 Where a Force Majeure occurs, the City shall determine in its reasonable discretion the number of days (if any) to be allowed by reason thereof in accordance with the force majeure provisions of this Contract. The Contractor may propose a number of days to be allowed for this purpose which the City shall consider but shall not be bound to. Where the City rejects the proposal made by the Contractor, it shall provide a written explanation for so doing.

21.3 The Contractor shall prepare and submit to the City a Work schedule that indicates the timing of the major activities relating to the Work and provides sufficient detail of the critical events and their inter-relationship to demonstrate the same will be performed in conformity within the time provided in section 21.1.

21.4 Where the Contractor fails or neglects to commence or to proceed with the Work diligently and at a rate of progress that in the opinion of the City will ensure entire completion within the time provided for in this Contract or fails to meets a time requirement provided for in this Contract, the City shall be entitled to recover from the Contractor all losses, damages and expenses incurred by the City or may be incurred by the City by reason of such default by the Contractor.

22.0 DELAY

22.1 Without limiting any other rights or privileges of the City in this Contract with respect to delay, the Contractor is not entitled to and releases and waives any rights to any remedies, claims, demands, costs, penalties, fines, fees, damages and causes of action, whether directly or indirectly related to any delays on the part of the City with respect to the commencement of the Contractor's Work.

23.0 MODIFICATIONS OF METHODS AND EQUIPMENT

23.1 The Contractor shall make such alterations in its methods, equipment and working forces, as the City in writing directs, without cost to the City, if at any time the methods or equipment or working force are found by the City to be: not in compliance with the requirements of this Contract; unsafe; or inadequate to ensure the protection, safety, or quality of the Work or to ensure a rate of progress sufficient in the reasonable opinion of the City to fully complete the Work within the completion time required under this Contract or with due diligence.

24.0 USE OF CITY PROPERTY AND CHARACTER AND CONDUCT OF EMPLOYEES

24.1 Where any part of the Work is to be carried out on property owned or occupied by the City, the Contractor shall,

(a) use that property and require its employees and Subcontractors to use that property, only for such purposes as are reasonably within the scope of this Contract;

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(b) refrain from committing waste on that property and use reasonable care to avoid causing any damage to any person or thing on that property or any neighbouring property;

(c) employ only orderly, experienced and competent persons to perform the Work; and

(d) comply, and cause its agents, directors, officers, employees and Subcontractors to comply, with the City's zero tolerance of violence policy.

24.2 The Contractor and its employees, agents, servants and Subcontractors shall neither bring onto nor allow the introduction or use of tobacco (except in strict compliance with the City's Smoking By-law), alcohol, cannabis and its derivatives, or illegal narcotics or controlled substances or any paraphernalia associated with any of these substances, upon any City property.

24.3 The Contractor agrees to accept the Work site in its present condition and acknowledges and agrees that the City has not given any representation, warranty or condition, express or implied, in fact or by Law, as to the state, quality or condition in, on, or of the site, whether with respect to environmental matters or otherwise, or as to any other matter or thing, whether or not related to the foregoing. Furthermore, the Contractor assumes any and all risks relating to the physical condition of the site. Neither the Contractor nor any permitted occupant shall have any recourse to the City as a result of the nature or condition of the Work site, whether or not the City has or had actual or imputed knowledge of such nature and condition as at the commencement of this Contract or at any other time during the term of this Contract.

25.0 CONFLICT OF INTEREST

25.1 See the City of Hamilton Procurement Policy By-law for specific requirements and obligations at:

https://www.hamilton.ca/build-invest-grow/buying-selling-city/bids-and-tenders/procurement-policy-by-law

25.2 The Contractor shall act ethically and fairly in all of its dealings with the City and all elected officials, officers, employees and independent consultants of the City, and co-operate with them in respect of the discharge of their duties to the City.

25.3 The Contractor shall act in strict compliance with all applicable Law and conform to the rules of conduct and performance of any trade association or professional regulatory body of which the Contractor is a member or which otherwise governs the provision of such kind of work.

25.4 The Contractor shall not act in any case where there may be any conflict of interest between it (or any of its directors, officers, employees) and the City. The Contractor shall notify the City of and fully disclose to the City, in writing and immediately upon same becoming known to the Contractor, any potential or actual conflict of interest that may arise or has arisen prior to entering into this Contract or during the performance of its duties under this Contract.

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25.5 If the City determines that a conflict of interest exists, the City may, at its sole discretion, suspend or defer the Work until the conflict is removed to the satisfaction of the City or terminate the Work. If, during the course of the Work, the Contractor is retained by another client for a new assignment, giving rise to a potential conflict of interest, then the Contractor shall so inform the Project Manager immediately. If the Project Manager determines that a conflict of interest exists, the Contractor shall refuse the new assignment or shall take such steps as are necessary to remove the conflict of interest and, where the Contractor fails to do this within a reasonable time, the City may terminate the Work. The Contractor shall be responsible and indemnify the City for all of the City's costs, expenses, losses and damages whatsoever which may be incurred or arise as a result of the Contractor's breach of its obligations herein including but not limited to all costs incurred to replace the Work of the Contractor, all delay costs, legal and other professional service costs, and lost revenue and opportunities.

25.6 Without limiting the foregoing provisions, except with the prior written consent of the City,

(c) the Contractor shall not act on behalf of the City with respect to any issue or in connection with any property in which the Contractor or any director, officer or employee of the Contractor has a direct or indirect pecuniary interest, including any contingent interest;

(d) before accepting any retainer to act on behalf of the City, the Contractor shall exercise reasonable due diligence to confirm that there is no conflict of interest within the contemplation of this section;

(e) the Contractor shall accept no commission, gratuity or other payment of any kind from any person, other than the City's payment for Work in accordance with this Contract, in respect of its performance or intended performance, duties or exercise or intended exercise of any influence, power or discretion associated with its provision of Work to the City; and

(f) within two years of the date of performing Work for or on behalf of the City relating to any identifiable piece of land within the City (or any building or structure upon such land), the Contractor shall not enter into any contract with any other person under which the Contractor or any director, officer, employee or nominee of the Contractor may acquire any interest in that land (or building or structure).

25.7 This section shall apply to all Subcontractors of the Contractor with necessary modifications.

26.0 ASSIGNMENT

26.1 The Contractor shall not assign, transfer or encumber in any manner this Contract or part thereof, without the prior written approval of the City. Any attempt to assign, transfer or encumber any of the rights, duties or obligations of this Contract without such approval of the City is void. An "assignment" herein includes any reorganization, amalgamation, bulk sale of assets, dissolution, any transfer or issue by sale, assignment, bequest, inheritance, operation of law, or other disposition, or by subscription, of any part, or all of, the shares or units of the Contractor which would

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result in any change in the direct or indirect control of the Contractor, or other restructuring of any material kind.

26.2 No assignment by the Contractor shall relieve the Contractor of any responsibility for the full performance of all its obligations under this Contract.

26.3 The Contractor shall be responsible for all costs of the City to investigate and consider a proposed assignee including but not limited to all of its internal staff costs and all legal, financial and consultant costs. Such costs shall be payable by the Contractor regardless of whether an approval is granted or not.

26.4 The City may, at its sole discretion, assign this Contract.

27.0 PROJECT IDENTIFICATION

27.1 The Contractor shall not use the City's logo or other insignia identifiable with the City without the prior written approval of the City.

28.0 LIENS TO BE DISCHARGED

28.1 The Contractor shall pay punctually all amounts owing to its suppliers in respect of all services and materials supplied by them with respect to this Contract, including any applicable interest, taxes, costs and other charges, and shall forthwith cause every lien preserved or perfected by any person with respect to this Contract or the subject matter of this Contract to be vacated or discharged, and as between the Contractor and City all costs relating thereto shall be paid by the Contractor and shall be at its expense.

29.0 OWNERSHIP OF DOCUMENTS, USE OF DESIGNS, ETC.

(3) All maps, drawings, plans, specifications, computer disks and other documents,

(a) provided by the City to the Contractor shall remain the property of the City and shall be returned by the Contractor to the City upon demand by the City for their return; or

(b) prepared by the Contractor as part of its Proposal shall be the property of the City and may be disposed of by the City as it considers fit.

(4) Unless the City otherwise agrees in writing, where any plan, drawing or design is provided by the Contractor in connection with this Contract, then the submission of such plan, drawing or design shall be deemed to constitute a licence by the Contractor in favour of the City to:

(a) construct one sample model of the work or project contemplated based upon that plan, drawing or design, where such a sample is required to make an informed decision concerning the attractiveness, functionality or other merit of the plan, drawing or design in question; and

(b) to use that plan, drawing or design for its intended purposes.

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The licence conferred herein shall not be deemed to constitute an assignment of any patent, copyright, trade mark or other intellectual property of the Contractor, unless otherwise provided in this Contract.

30.0 INTELLECTUAL PROPERTY

30.1 The Total Contract Price shall include all payments made or to be made to any third party in respect of any right, patent, design, trademark or copyright used for the purpose of the Contractor performing this Contract.

30.2 No illegal commerce or gray market Goods shall be supplied to the City, and every person supplying Work to the City shall be deemed to have warranted that they are genuine and lawfully supplied.

31.0 DEVIATION FROM CONTRACT DOCUMENTS AND "GOOD PRACTICE"

31.1 The Contractor shall not deviate from the Contract without the prior written consent of the City.

31.2 The Contractor covenants that it shall inspect, and shall cause all of its Subcontractors to do so as well, all elements, parts, items or surfaces affecting or involving their work and inform the City immediately, in writing, of any and all deviations from the drawings and specifications approved by the City and/or from accepted good practice and standards involving or affecting their work. Without limiting the Contractor's obligations and responsibilities under this Contract, neither the Contractor nor any of its Subcontractors shall proceed with their work if these deviations will influence or affect the appearance or quality of their work or any aspect of the Work until same are corrected by the Contractor. The Contractor shall bear the cost of any delay caused by a deviation by it or any of its Subcontractors from this Contract or any accepted practice or standard required under this Contract, without the prior consent of the City. Nothing herein shall alter or derogate from the responsibility of the Contractor under this Contract.

32.0 PERFORMANCE REVIEW

32.1 Where the Procurement Manager so directs, the City and the Contractor shall carry out a periodic performance review in accordance with this section concerning the Work of the Contractor.

32.2 Performance under this Contract shall be assessed by reference to the following criteria:

(a) general responsiveness of the work relationship;

(b) conformity of the Work with this Contract;

(c) general conformity with the reasonable expectations of the City under the terms of this Contract in their entirety;

(d) general dependability of the Work supplied;

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(e) turn-around time on the placement of orders (to the extent applicable);

(f) accuracy of carrying out instructions.

32.3 The respective representatives of the City and Contractor shall meet at mutually agreeable times within ten Business Days of the end of each consecutive six month period of Work under this Contract.

32.4 Where a performance review is conducted under section 32.3, each of the agreed aspects of the Contractor's performance shall be ranked by the City at one of the following standards:

(a) Satisfactory (performance in accordance of general standard of City suppliers);

(b) Unacceptable (performance well below the general standard of City suppliers).

32.5 At any performance review under this section, the Contractor shall be entitled to identify any aspect of the City's operations that is undermining the Contractor's ability to deliver at least a satisfactory level of performance with respect to some criteria of assessment, and where the City concludes that this is in fact the case, the ranking given to the Contractor with respect to that criteria of assessment will be adjusted accordingly.

32.6 Where at a performance review, one or more criteria of assessment are ranked as unacceptable,

(a) the parties shall agree at the time of the conduct of the review or within ten Business Days thereafter, on the measures to be taken by the Contractor during the ensuing contract review period to improve its performance to at least a good standard;

(b) within ten Business Days of agreeing on those measures, the Contractor shall confirm in writing that the measures in question have been implemented.

32.7 Where the Contractor fails or refuses to implement measures as provided in section 32.6, it shall be deemed to be in default under this Contract, and the City may take such remedies as provided for in this Contract or are otherwise available at Law or in equity.

32.8 In addition to the regular performance review provided for under sections 32.2 through 32.7, where in the opinion of the Procurement Manager the performance of the Contractor is not satisfactory, then in addition to such other rights and remedies to which the City may be entitled to by Law or under this Contract, the City may,

(a) issue an oral warning to the Contractor, identifying the non-compliance with the specifications or other grounds of unsatisfactory performance, and requiring the Contractor to correct the same;

(b) issue a written notice, setting a time period for the Contractor to correct the unsatisfactory performance, and warning that this Contract may be terminated without further warning if the unsatisfactory performance is not corrected within

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the time allowed;

and until the City is satisfied that the unsatisfactory performance has been corrected, the City may holdback from any payment an amount sufficient to rectify the unsatisfactory performance until its requirements have been met.

32.9 Where the unsatisfactory performance of a supplier is not corrected within the time allowed under section 32.8,

(a) the City may apply any holdback retained under that subsection towards the correction of the unsatisfactory performance and may thereupon cancel this Contract with the Contractor without further warning; and

(b) that fact may be taken into account by the City with regard to the award of any future contract.

32.10 Nothing in sections 32.8 or 32.9 shall restrict the right of the City to terminate this Contract at any time under any other provision of this Contract or under any rule of Law, but any such right may be exercised by the City in its absolute discretion.

33.0 OBLIGATION OF CONTRACTOR TO DEAL IN GOOD FAITH

33.1 The Contractor shall deal with the City in utmost good faith with respect to the performance of this Contract.

33.2 The Contractor shall meet the eligibility requirements of a vendor set out in the Procurement Policy By-law, Policy #1 Vendor Eligibility. Failure to have met those requirements prior to the commencement of this Contract or to meet those requirements during the term of this Contract shall entitle the City to exercise any remedies set out in this Contract, the Procurement Policy By-law or otherwise at law or in equity.

https://www.hamilton.ca/build-invest-grow/buying-selling-city/bids-and-tenders/procurement-policy-by-law

34.0 RECORD AND REPUTATION

34.1 See the City of Hamilton Procurement Policy By-law for specific requirements and obligations at:

https://www.hamilton.ca/build-invest-grow/buying-selling-city/bids-and-tenders/procurement-policy-by-law

35.0 CONTRACTOR'S DEFAULT AND CITY REMEDIES

35.1 The provisions of this section are in addition to any other rights, privileges and remedies to which the City is entitled by Law, in equity or otherwise in this Contract.

35.2 The following shall constitute, without limitation, acts or events of default ("Default") by the Contractor (including any of its employees, officers, agents, partners or any

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other representative performing Work) under, or otherwise connected with, the subject matter of this Contract:

(a) where the Contractor fails or neglects to commence or to proceed with the Work diligently and at a rate of progress that in the opinion of the City will ensure entire completion within the time provided for in this Contract;

(b) where the City determines reasonably that the Contractor has abandoned its duties with respect to the Work;

(c) where the Contractor publicly disparages the City, its Councillors and/or its officers, directors or employees;

(d) where the Contractor has made any material misrepresentation with respect to this Contract;

(e) where the Contractor fails to comply with or perform any provision, condition or obligation, or breaches any warranty, of this Contract;

(f) where the Contractor fails to comply with any instruction or direction of the City;

(g) where a lien arises with respect to the Work undertaken by the Contractor under this Contract and remains unpaid by the Contractor after demand to pay therefor, unless vacated or discharged and released by payment into a court of competent jurisdiction or otherwise, within five Business Days of such demand, save and except a valid lien of the Contractor registered against the property affected by this Contract;

(h) where any of the goods, chattels or effects of the Contractor shall at any time during the term of this Contract be seized or taken in execution of attachment; or if a writ of execution shall be issued against the goods, chattels or effects of the Contractor; or if the Contractor shall make any assignment for the benefit of creditors; or if the Contractor shall be adjudged bankrupt or insolvent, commit any act of bankruptcy or insolvency or make any proposal under or take advantage of any of the provisions of any act or statutes whatsoever that may be in force regarding bankrupt or insolvent debtors or debtors who are not able to or do not pay their debts promptly and in full; or if a receiving order or winding up order shall be made against or in respect of the Contractor; or if any actions or proceedings shall be taken to wind up, dissolve or liquidate the Contractor or its assets by, against or in respect of the Contractor; or where a resolution is passed or any other act undertaken for the winding up of the Contractor; or a receiver, manager or trustee is appointed in respect of the business or assets of the Contractor, or any part of thereof, by a court of competent jurisdiction, or under any contract;

(i) where the Contractor ceases or threatens to cease to carry on its business, or where the Contractor makes or agrees to make a bulk sale of its assets; or defaults in payment of any indebtedness or liability to a bank or other lending institution, whether secured or not.

35.3 In the event of a Default, the City may, without prejudice to any other right or remedy

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the City may have, notify the Contractor in writing that the Contractor is in default of the Contractor's contractual obligations and instruct the Contractor to correct the Default within five Business Days, or such greater or lesser period of time determined by the Project Manager in their sole discretion, following the receipt of such notice.

35.4 If the Default cannot be corrected in the five Business Days or other time period specified, the Contractor shall be in compliance with the City's instructions if the Contractor:

(a) commences the correction of the Default within the specified time;

(b) provides the City with an acceptable schedule for such correction; and

(c) corrects the Default in accordance with such schedule.

35.5 If the Contractor fails to correct the Default to the satisfaction of the City in the time specified or subsequently agreed upon, without prejudice to any other right or remedy the City may have, the City may do any one or more of the following:

(a) itself correct the Default or retain one or more third parties to correct the Default, and deduct the cost thereof from any payment then or thereafter due to the Contractor;

(b) itself perform the Contract or any part thereof or retain one or more third parties to perform the Contract or any part thereof, and deduct from any payment then or thereafter due to the Contractor the costs incurred by the City in excess of what would have been owed to the Contractor for the applicable part of the Work for the period of time and the extent of the Work provided;

(c) suspend the performance of the Contract by the Contractor;

(d) terminate all payments to the Contractor to the extent that the Work is performed by the City or by one or more third parties;

(e) suspend all payments to the Contractor;

(f) enforce any performance security provided by the Contractor, but such enforcement shall not preclude the City from recovering any further amounts or damages incurred by the City as a result of the Default by the Contractor;

(g) terminate the Contractor's right to continue with the Work in whole or in part or terminate the Contract; and

(h) ban the Contractor from competing for or entering into any City contracts for a period of up to ten years, or take the Contractor's default into account with regard to the award of any future contract.

35.6 The Contractor upon receiving notice of suspension or termination from the City shall suspend the Work as soon as reasonably possible except Work which, in the Contractor's opinion, acting reasonably, is necessary for the safety of personnel and

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for the care and preservation of the Work.

35.7 During the period of suspension, the Contractor shall not remove from the City's property any part of the Work, vehicles, equipment or other materials without the prior written consent of the Project Manager.

35.8 A waiver of a Default shall not extend to, or be taken in any manner whatsoever to affect the rights of the City with respect to any subsequent default, whether similar or not.

35.9 The remedies provided in this section are in addition to all other legal, equitable or statutory remedies to which the City is otherwise entitled, as well as any other remedies stipulated in this Contract, and the taking of any one remedy shall not preclude the taking of any other remedy.

35.10 All costs of the City herein shall be deemed an additional charge due to the City and shall be paid by the Contractor upon demand and, if not so paid, shall bear interest at the Canadian Prime Interest Rate plus five percent (5%) calculated from the time the funds were due and payable to the City. "Canadian Prime Interest Rate" means the rate of interest publicly quoted from time to time by the Royal Bank of Canada as its prime rate for Canadian dollar commercial loans made at its main branch in Toronto Ontario, or the corresponding rate of such other Canadian chartered bank as the City of Hamilton may designate from time to time.

36.0 FORCE MAJEURE

36.1 In this section, "Force Majeure" means a delay in the performance of the Work occurring other than as a result of the deliberate act or negligence of either party respectively, and which

(a) could not have been reasonably foreseen, and

(b) was caused by an event beyond the reasonable control of each party respectively,

and for the sake of greater certainty shall include any one or more of the following:

(a) acts of God, His Majesty the King or His enemies;

(b) civil war; insurrections or riots;

(c) fires; floods; explosions; earthquakes or serious major accidents;

(d) unusually severe weather; epidemics or quarantine restrictions;

(e) governmental priorities or allocation regulations or orders affecting materials, labour, equipment and facilities;

(f) fuel shortages or freight embargoes; or

(g) strikes or labour troubles causing cessation, slowdown, interruption of Work or other similar events relating to a person other than the Contractor (or any

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Subcontractor).

36.2 Financial difficulties experienced by the Contractor or the City will not be considered Force Majeure under this Contract.

36.3 In the event of the occurrence of a Force Majeure,

(a) the time for completing that portion of the Work, or the completion of the Work, which has been delayed by reason of the Force Majeure shall be extended by a period equal to the delay so caused;

(b) the date for the payment of any portion of the price or any costs or fees shall be adjusted accordingly, without adjustment of the price; and

(c) the party claiming the relief of a Force Majeure shall use its best efforts to remedy any delay or non-performance caused by the Force Majeure;

but subject to the foregoing, each party shall be excused from performance so long as the Force Majeure persists, and shall not be considered to be in default under this Contract, if and to the extent that its failure of, or delay in performance is due to that Force Majeure.

36.4 Where a Force Majeure remains in effect for more than 90 days, either party may terminate this Contract upon at least 30 days' written notice to the other party, provided at the time when that notice is given the Force Majeure is then continuing.

36.5 While a Force Majeure exists which prevents the Contractor from performing its obligations with respect to the Work, the City may engage another contractor or supplier to perform those obligations on an interim basis. If the City exercises such right, the City shall not be obligated to make any payments or compensation to the Contractor during the time that such right is exercised by the City. The City shall have no liability to the Contractor or any other person for any claims, demands, actions, causes of action, interest, costs, damages, expenses, fines, penalties, loss, suits or other proceedings for loss, damage, injury or death resulting from any such action or performance of this Contract, or any part thereof, by the City or another contractor or supplier retained by the City, except to the extent that such loss, damage, injury or death results from the negligence or wilful misconduct of the City, the substituted contractor or supplier.

37.0 ACCOMMODATIONS FOR CONTRACTOR WITH DISABILITIES

37.1 In accordance with the Ontario Human Rights Code, Ontarians with Disabilities Act, 2001, and Accessibility for Ontarians with Disabilities Act, 2005, the City will accommodate for a disability, ensuring full and equitable participation throughout this Contract.

37.2 If the Contractor requires this Contract in a different format to accommodate a disability, the Contractor must contact the Project Manager as soon as possible.

38.0 ONTARIANS WITH DISABILITIES ACT, 2001 (ODA) AND ACCESSIBILITY FOR

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ONTARIANS WITH DISABILITIES ACT, 2005 (AODA)

38.1 The Contractor shall comply with the Accessibility for Ontarians with Disabilities Act, 2005 and the Integrated Accessibility Standards Regulation 191/11 (together the AODA") as applicable to the City as an "organization", "obligated organization", "designated public sector organization", and "large designated public sector organization". The Contractor represents and warrants that any deliverables including without limitation goods, services, reports, and/or facilities supplied hereunder (the "Deliverable(s)") shall comply with the requirements applicable to the City under the AODA. The Contractor shall be responsible for any costs of ensuring all Deliverable(s) are compliant with the AODA requirements and shall advise the City forthwith if any AODA requirements conflict with the Contract. Should any Deliverable(s) not comply with the AODA requirements applicable to the City, the Contractor shall be responsible for the reasonable costs of rectifying such non-compliance. Pricing of accessibility design, criteria, and features not specifically required by the AODA or the Contract but that would further the City's compliance with its general obligation to incorporate accessibility design, criteria and features in procured goods, services and facilities where practicable to do so, shall be separated out and the City shall have the discretion to determine whether to include or exclude such costs from the scope of the Contract.

Contractors are required to comply with all relevant/applicable and any future additions or modification to legislation as they become enacted to Accessibility standards and regulations.

38.2 The Contractor must understand and deliver, as appropriate for each requirement, accessible goods, services and/or facilities consistent with the Ontario Human Rights Code (OHRC), the Ontarians with Disabilities Act, 2001 (ODA) and the Accessibility for Ontarians with Disabilities Act, 2005 (AODA) and Ontario Regulation 191/11 (IASR). This includes all the requirements as applicable under the IASR standards of Customer Service, Information and Communications, Employment, Transportation and the Design of Public Spaces.

38.3 Where the Contractor is providing digital documents, including but not limited to reports, documentation and presentations, this content must be produced in an accessible format compliant with PDF/UA and Web Content Accessibility Guidelines 2.0 Level AA requirements.

38.4 The Contractor shall ensure that all of its employees, agents, volunteers and any Subcontractors comply with all applicable accessibility laws, regulations and by-laws and support relevant obligations of the City thereunder, including but not limited to the Ontarians with Disabilities Act, 2001 (ODA) and the Accessibility for Ontarians with Disabilities Act, 2005 (AODA), and Ontario Regulation 191/11 (Integrated Accessibility Standards), during the term of this Contract.

38.5 Without limiting the generality of the foregoing, the Contractor shall ensure that all of its employees, agents, volunteers and any Subcontractors who, as part of this Contract:

(a) deal with members of the public or other third parties, or

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(b) participate in developing policies, practices and procedures governing the provision of goods or services to members of the public or other third parties,

receive training about the provision of its goods or services to persons with disabilities. The Contractor shall ensure that such training includes, without limitation, a review of the purposes of the ODA and AODA as well as the requirements of Ontario Regulation 191/11.

38.6 Prior to commencing Work, the Contractor shall provide a Statement of Acknowledgement to the City that it has read and understands the City's AODA Customer Service Standard Handbook; that it has provided the training required by said Handbook; and that it will comply with the requirements of said Handbook and applicable accessibility laws, regulations and by-laws.

38.7 The City reserves the right to inspect the Contractor's training records relating to Ontario Regulation 191/11, 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 determines the training is not compliant with the requirements of Ontario Regulation 191/11.

38.8 See City of Hamilton's AODA Customer Service Standard Handbook at: Accessibility Guidelines & Policies | City of Hamilton

38.9 In the event that the Contractor does not comply with the Ontario Human Rights Code (OHRC), the Ontarians with Disabilities Act, 2001 (ODA), Accessibility for Ontarians with Disabilities Act, 2005 (AODA) as well as the requirements under the Integrated Accessibility Standards Regulation 191/11, they shall be responsible for any costs associated with ensuring the good, service or facility is compliant with all applicable requirements.

39.0 GENERAL

39.1 **Amendment.** No amendment of this Contract shall be deemed valid unless reduced to writing and signed by both parties.

39.2 **Waiver.** The failure of the City to enforce any term or covenant or obligation of the Contractor shall not be deemed to be a waiver of the term, covenant or obligation or permission for any subsequent breach and the City may at any time enforce the term, covenant or obligation and exercise any remedy arising from such breach of this Contract. No term, covenant or obligation contained in this Contract may be waived by the City, unless the waiver is in writing and executed by the Project Manager.

39.3 **Entire Agreement.** This Contract constitutes the entire agreement between the parties pertaining to the subject matters herein. There are no warranties, conditions, or representations (including any that may be implied by statute) and there are no agreements in connection with this subject matter except as specifically set forth or referred to in this Contract. No reliance is placed on any warranty, representation,

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opinion, advice or assertion of fact made by the City or the Contractor or its directors, officers, employees or agents except to the extent that it has been reduced to writing and included as a term of this Contract. Accordingly, there shall be no liability, either in tort or in contract, assessed in relation to any warranty, representation, opinion, advice or assertion of fact, except to the extent as stated above.

39.4 **Number.** Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

39.5 **Further Assurances.** Each party shall, from time to time, and upon reasonable request by the other party, execute, perform and make or cause to be executed, performed and made all such further acts, deeds, assurances and things as may be reasonably required in order to give full effect to this Contract.

39.6 **Reference to Law.** A reference to any Law or to a provision thereof shall be deemed to include a reference to any Law enacted in substitution thereof or amendment thereof.

39.7 **Attornment.** The parties agree that

(a) any action or proceeding relating to this Contract (including any motion or other interlocutory proceeding) shall be brought in a court or a tribunal, whichever may be applicable, sitting in Hamilton and for that purpose each party irrevocably and unconditionally attorns and submits to the jurisdiction of that court;

(b) in the event that there is no applicable court or tribunal sitting in Hamilton, the proceeding shall be brought in the court (or other forum) of competent jurisdiction nearest to Hamilton;

(c) they irrevocably waive any right to, and will not, oppose any action or proceeding relating to this Contract as aforementioned on any jurisdictional basis, including forum non conveniens; and

(d) they will not oppose the enforcement against them, in any other jurisdiction, of any judgment or order duly obtained from the court as contemplated by this section.

39.8 **Headings.** The headings to each section are inserted for convenience of reference only and do not form part of this Contract.

39.9 **Rights Cumulative.** All rights and remedies of the City recognized in this Contract are cumulative and may be exercised at any time as specified in this Contract and from time to time independently or in combination. Neither the expiry nor termination of this Contract shall prejudice or affect any right of action, privilege or remedy which shall have accrued or shall thereafter accrue to the City.

39.10 **Accounting.** All accounting terms have the meaning recognized by or ascribed to those terms by the Canadian Institute of Chartered Accountants.

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39.11 **Currency.** Unless otherwise expressly provided, all amounts in this Contract are stated and shall be paid in Canadian currency.

39.12 **Invalidity.** If any provision or provisions of this Contract or parts thereof or the application thereof to any person or circumstances shall be found by any court to any extent to be invalid or unenforceable or to be void or illegal, such provision or provisions or parts thereof shall be deemed severable and all other provision or provisions or parts of this Contract shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found void and/or illegal. The remainder of this Contract and its application to any person or circumstances shall not be affected thereby; and the parties hereto shall negotiate in good faith to amend this Contract to implement the intentions set forth herein. Each provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

39.13 **Current Time.** All references to time shall be deemed to be references to current time in the City.

39.14 **Officers of the City.** Any reference to an officer of the City shall be construed to mean the person holding that office from time to time, and the designate or deputy of that person, and shall be deemed to include a reference to any person holding a successor office or the designate or deputy of that person.

39.15 **Abbreviations.** Any words and abbreviations, which have well-known professional, technical or trade meanings, are used in this Contract in accordance with such recognized meanings.

39.16 **Applicable Law.** This Contract shall be construed and enforced in accordance with the Law of the Province of Ontario and the federal laws applicable therein.

39.17 **Survival.** All obligations of the parties shall expressly, or by their nature, survive termination or expiry of this Contract until, and unless, they are fulfilled, or by their nature expire or until the parties mutually agree to a release of the obligation.

39.18 **Time of the Essence.** Time is of the essence hereof.

39.19 **Approvals.** Anything in this Contract requiring the approval of the City or Project Manager, shall not be undertaken until such approval is given. Where this Contract requires the Contractor to submit a plan, schedule, design, document, information or any other thing which requires the approval of the City or Project Manager, and where the City or Project Manager requires revisions to the plan, schedule, design, document, information or other thing before providing its approval, the Contractor shall forthwith undertake such revisions and again seek the City's or Project Manager's approval and shall continue undertaking revisions until the City's or Project Manager's approval has been given. The City or Project Manager may exercise absolute

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discretion in granting or withholding such approval and may require the Contractor to apply for such approval using form(s) prescribed by the City or Project Manager.

39.20 **No Exclusivity.** Unless otherwise expressly provided in this Contract, no contract shall be deemed or construed to confer upon the Contractor an exclusive right to supply the Work to the City.

39.21 **Relationship Between Parties.** This Contract shall not be construed to constitute an agency, partnership or joint venture between the Contractor and the City.

39.22 **Enurement.** This Contract shall be binding upon and shall enure to the benefit of the City and the Contractor and their respective heirs, executors, administrators and permitted assigns and successors.

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C3-01-26 - Proposal for Professional Arts Administration Services for the City of Hamilton Arts Awards Program Implementation

Opening Date: December 31, 9999 11:59 PM

Closing Date: December 31, 9999 11:59 PM

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***** *IMPORTANT* *****

Proponents are advised to review and confirm their bids&tenders™ vendor account is set up in the Proponent's correct LEGAL name.

This name must exactly match the name on all documentation required of the Successful Proponent, eg; insurance certificate, WSIB certificate.

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Schedule of Prices

* Denotes a "**MANDATORY"** field

Do not enter $0.00 dollars unless you are providing the line item at zero dollars to the City of Hamilton (unless otherwise specified).

If the line item and/or table is "**NON-MANDATORY**" and you are not bidding on it, leave the table and/or line item blank. Do not enter a $0.00 dollar value.

C3-01-26- Fixed Price: Term One

Line Item	Description	Unit of Measure	Total Price
1	Fixed Price: Term One	lump sum	$ 40,000.00
		Subtotal:	$ 40,000.00

C3-01-26- Fixed Price: Term Two

Line Item	Description	Unit of Measure	Total Price
1	Fixed Price: Term Two	lump sum	$ 40,000.00
		Subtotal:	$ 40,000.00

C3-01-26- Fixed Price: Term Three

Line Item	Description	Unit of Measure	Total Price
1	Fixed Price: Term Three	lump sum	$ 40,000.00
		Subtotal:	$ 40,000.00

Summary Table

Bid Form	Amount
C3-01-26- Fixed Price: Term One	$ 40,000.00
C3-01-26- Fixed Price: Term Two	$ 40,000.00
C3-01-26- Fixed Price: Term Three	$ 40,000.00
Total Contract Price:	

Specifications

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Proponent's Business Structure

The City of Hamilton reserves the right to verify the business name and structure of the Proponent, whether or not this section is completed, to ensure that the Proponent is an existing legal entity. If the Proponent is not an existing legal entity, the Proposal will be rejected.

Business Structure of Proponent *	If 'Corporation' Selected, Specify Where Incorporated:	If 'Other' Selected, Specify Business Structure:	Registered Business Name of Proponent (if applicable):
Select A Value			

Business Attestation Form

Proponents must complete the following attestation confirming if the business meets the definition of a Canadian Business, U.S. Business, or a Non-U.S. Business as defined below.

Definitions

"Canadian Business" is a vendor (including a supplier, manufacturer, or distributor) of any business that provides Goods and/or Services on a permanent basis in Canada. The business:

- has Permanent Offices or production facilities in any province or territory within Canada; or
- has at least 70% of its workforce employed in Canada as of the bid closing date or contract award date, whichever comes first.

"U.S. Business" is a vendor (including a supplier, manufacturer, or distributor) of any business that provides Goods and/or Services on a permanent basis in the United States of America ("USA"). The business:

- has Permanent Offices or production facilities in any state or territory within the USA; and
- has at least 51% of its workforce employed in the USA as of the bid closing date or contract award date, whichever comes first.

"Non-U.S. Business" is a vendor (including a supplier, manufacturer, or distributor) of any business that does not meet the criteria of a U.S. Business or a Canadian Business.

"Permanent Office" is a fixed, physical place of business where business activities are conducted. Post office boxes, rental mailboxes, virtual offices, and home offices occupied by an employee will not be considered a fixed place of business.

	Select One *
Our business meets the definition of a:	Select A Value

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Documents

It is your responsibility to ensure the uploaded file(s) is/are not defective or corrupted and are able to be opened and viewed by the City. If the attached file(s) cannot be opened or viewed, your Bid shall be rejected.

TECHNICAL PROPOSAL SUBMISSION

No details of costs or rates are to be included in the Technical Proposal (unless otherwise specified in the Request for Proposals document). Failure to follow this instruction may result in the disqualification of your Proposal.

- Technical Submission * (mandatory)

Form of Proposal

The Proponent/Bidder hereby acknowledges and agrees:

1. Submission of Proposal

I/we the undersigned Proponent, having carefully examined the RFP Documents, hereby proposes and offers to render all Services and provide all things necessary to perform same; to furnish all labour, service, Goods, materials, equipment and all incidentals; to pay all applicable Value Added Taxes and all other charges as specified; and to fully, properly, diligently and in good faith undertake, perform and complete all of the Proponent's (and upon any award of the Contract those of the Successful Proponent) duties, obligations and responsibilities under the Contract Documents, in full accordance with the Contract Documents.

Receipt of the RFP Documents from the City is hereby acknowledged.

2. Total Contract Price

I/we confirm all prices provided in this Proposal are in Canadian dollars and do not include Value Added Taxes. Value Added Taxes payable (as defined in the RFP Document) are for the account of the City and are in addition to the Total Contract Price.

3. Addenda

I/we have made any necessary inquiries with respect to Addenda issued by the City and have ensured that we have received, examined and provided for all Addenda to the Request for Proposal in this Proposal.

4. Commencement and Completion

If awarded the Contract, I/we, the Proponent, agrees to commence and complete the Work as per the Contract documents. I/we undertake that:
- I/we will provide all necessary documents required as set forth prior to the commencement of this project;
- Completion of the Work will be achieved within the time allowed for completion as prescribed in the Terms of Reference.

5. Contract

It is understood and agreed by me/us that a binding Contract shall come into being upon acceptance of this Proposal by the City. The subsequent execution of any agreement or Contract for Work, if any, is a formality and not a condition precedent to the existence of a binding Contract. The Contract Documents for this RFP shall constitute the Contract, including any Addenda issued, subject to such modifications as may be agreed to in writing between the parties.

6. Execution

If this Proposal is accepted by the City and the City is proceeding with the internal approvals for the award of the Contract, then I/we shall provide required proof of Insurance, WSIB clearance certificate, performance of contract security and a labour and material payment bond as required by the Contract Documents, my/our health & safety manual and any other document identified in the award letter as being required by the City prior to it being able to issue a purchase order, and to execute the Contract for Works if applicable, in quadruplicate, all within 10 Business Days after the City has issued its award letter or within such longer time period as the City may specify.

7. Additional Work

I/we also agree that if this Proposal is accepted, I/we shall execute whatever additional or extra work that may be required, in accordance with the RFP Documents.

8. Time Open for Acceptance

I/we agree and confirm that this offer is irrevocable and is to continue open to acceptance by the City for the time period specified in the Request for Proposals after the date and time set for closing of Proposals. The City may at any time within the open for acceptance period accept this Proposal whether or not any other Proposal has previously been accepted, upon notice of acceptance in writing to me/us personally delivered or mailed to me/us by ordinary prepaid mail to the address provided in this Proposal submission and any notice so mailed shall be deemed to have been received on the date of mailing thereof and

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any notice so delivered shall be deemed to have been received on the date the notice is so delivered.

9. Electronic Funds Transfer

I/we acknowledge and agree to provide the City with the information required for the City to make payment by EFT.

10. Occupational Health and Safety

I/we understand and agree that the Work must be conducted in a safe manner. Accordingly, I/we confirm that I/we and all Sub-Consultants used on the Work for the City of Hamilton will comply with all applicable laws, regulations and by-laws of Canada, the Province of Ontario and the City of Hamilton, including but not limited to the Occupational Health and Safety Act, and all applicable regulations thereunder. Further, without limiting any of the foregoing, I/we confirm that I/we have both a written occupational health and safety policy and program to implement that policy, and that all of our employees, Sub-Consultant and any other persons performing the Work are appropriately trained, licenced and certified, as required to perform the Work.

11. No Collusion / Conflict of Interest

I/we hereby declare that no person, firm or corporation other than me/us has any interest in this Proposal or in the proposed Contract(s) for which this Proposal is made. I/we further declare that this Proposal is made without any connection to, comparison of figures, arrangements with or knowledge of, any other corporation, firm or persons making a Proposal for the same work and is in all respects fair and without fraud or collusion.

I/we confirm that we have complied with section 15 of the Instructions to Proponents, including Policy #1 of the Procurement Policy By-law regarding affiliates and corporations which are not at arm's length.

I/we declare that no member of the City of Hamilton, and no officer, employee or agent of the City of Hamilton has or will have an interest indirectly or directly as a contracting party, partner, shareholder, surety or otherwise in the performance of the Contract(s), or in the supply, work or business to which they relate or in any portion of the profits thereof, or in any of the monies to be derived there from.

12. Interpretation

I/we confirm that I/we have received no oral communication, representation, information, instruction or advice (collectively referred to as "representation") from any officer, employee, agent, or any other person acting on the behalf of or at the direction of the City which in any way amends or modifies the content of this Request for Proposals, any Addenda thereto, or any performance of Services, works, obligations or responsibilities or the exercise of any rights thereunder or with respect thereto.

I/we specifically release and waive any right and claim I/we may have to a claim for negligence, misrepresentation, misstatement or otherwise for any oral communication or representation whatsoever. I/we represent that I/we have not been induced by any oral communication or representation whatsoever to submit this offer and acknowledge that the City is relying on the representations and waiver made by us herein. I/we further acknowledge that I/we have carefully reviewed, understand and agree to the communication provisions of the Instructions to Proponents.

I/we acknowledge and agree that I/we have not assumed that any information concerning our operations, business or personnel or any other information required to be provided by me/us when submitting our Proposal is known to the City, regardless of whether such information may be actually previously known to the City or not. Further, I/we acknowledge and agree that all information to be provided by me/us is to be complete and full and in such detail as required.

13. Accessibility for Ontarians with Disabilities Act, 2005

I/we confirm that I/we and all Sub-Contractors used on the Work for the City of Hamilton will comply with all applicable accessibility laws, regulations and by-laws of Canada, the Province of Ontario and the City of Hamilton, including but not limited to the Ontarians with Disabilities Act, 2001 (ODA), the Accessibility for Ontarians with Disabilities Act, 2005 (AODA), Ontario Regulation 429/07 (Accessibility Standards for Customer Service) and Ontario Regulation 191/11 (Integrated Accessibility Standards), throughout the term of the Contract. Without limiting the generality of the foregoing, I/we shall provide to the City, prior to commencing Work, a Statement of Acknowledgement that I/we have read and understand the City's AODA Integrated Accessibility Standards and Customer Service Standard Handbook (the "Handbook"), that I/we have provided the training required by the Handbook, and that I/we will comply with the requirements of the Handbook and applicable accessibility laws,regulations and by-laws. See City of Hamilton's AODA Integrated Accessibility Standards and Customer Service Standard Handbook at: **https://www.hamilton.ca/people-programs/equity-diversity-inclusion/accessibility-**

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services/accessibility-guidelines-policies#policies-procedures.

14. Compliance with the City of Hamilton By-laws

I/we declare that I/we are in compliance with all municipal by-laws as they pertain to the City of Hamilton in respect of the operation of my/our business and in respect of the Work described in the Request for Proposals. I/we understand and agree that if this statement is untrue or incorrect, the City of Hamilton shall be entitled at its sole discretion to reject this Proposal, or if such untruth or incorrectness comes to light after this Proposal is accepted, to terminate or refuse to enter into, as applicable, any Contract and to pursue any other legal recourse the City deems appropriate, and that such untruth or incorrectness shall be a default under the Contract.

15. Procurement Policy

In submitting a Proposal in response to the RFP, I/we agree and acknowledge that I/we have read and will be bound by the terms and conditions of the City's Procurement Policy. I/we understand that the City's Procurement Policy can be viewed on the City's website at: **https://www.hamilton.ca/build-invest-grow/buying-selling-city/bids-and-tenders/procurement-policy-by-law.**

16. Barrier Free Design Guidelines (BFDG) 2006

I/we are familiar with the BFDG, I/we will be incorporating the Guidelines, if specified by the Request for Proposals, and that they are to be used as a minimum standard. I/we acknowledge that I/we will provide the Accessibility Features list and that I/we require that City approval is required prior to proceeding with each phase of development.

17. Proposal Security

I/we have submitted the Proposal Security as specified in the Request for Proposals. The Proposal Security shall be irrevocable for the time period specified in the Request for Proposals after the date and time set for closing (submission) of Proposals.

In the event of default or failure of my/our part to execute the Contract as required above and to provide the specified security required under the Request for Proposals and the Contract, I/we agree that the City may at its discretion do one or more of the following: declare the Proposal Security forfeited, annul the award or terminate the Contract, accept the next qualified Proposal, advertise for new proposals, or carry out the Work in any manner deemed in the best interests of the City. In such a case, if required by the City, I/we shall pay the City the difference between the Total Contract Price and any greater sum that the City may be obligated to pay by reason of that default or failure, including the cost of any advertisement for new proposals.

18. Business Type Attestation

I/we, the undersigned, on behalf of the Proponent, declare and confirm that I/we have thoroughly reviewed the definitions of the Business Type Attestation Form section and confirm the information completed is true. I/we acknowledge and understand, on behalf of the Proponent, that failure to provide this information accurately or truthfully may result in the disqualification of my Proposal and any future bids I may have with the City of Hamilton. Additionally, it may result in termination of any resulting contract and the payment of any damages.

☐ I/WE agree to be bound by the terms and conditions and have authority to bind the Bidder and submit this Bid on behalf of the Bidder.

Conflict of Interest
Except with the prior express written consent of the City, **prior to submitting this Bid**, vendors are required to notify the City in writing, of any potential conflict of interest that may arise prior to the award of any contract and fully disclose any details thereof. Failure on the part of a vendor to declare a conflict of interest to the City and to obtain the City's prior express written consent to waive the conflict of interest shall result in the vendor being ineligible to Bid and shall form a basis for rejection of a Bid submitted to the City.

Do you have a potential conflict of interest? ○ **Yes** ○ **No**

Acknowledgement of Addenda

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The Bidder acknowledges and agrees that any Addenda below form part of the bid document.

Please check the box in the column "**I have reviewed this addendum"** below to acknowledge each of the Addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
There have not been any addenda issued for this bid.		

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