

RFP SCHEDULE 8

CCM GUIDELINES

A1. General

- A1.1 The fundamental rules and requirements with respect to the Commercially Confidential Meetings are set out in RFP Section C4.2.
- A1.2 Proponents are reminded that Commercially Confidential Meetings are not intended to be a question and answer session about the RFP Process or the RFP Documents (the RFI process outlined in RFP Section C2.2 is intended for this purpose) or the forum in which commercially confidential questions are submitted for oral responses. The Commercially Confidential RFI process outlined in RFP Section C2.2(a) is intended to serve that purpose.
- A1.3 The City views Commercially Confidential Meetings as a tool intended to facilitate frank and open communications between the Proponents and the City on key issues. These meetings are also intended as an important forum for getting input on terms and conditions of the Design Build Agreement to be signed between the parties, in an effort to ensure that the Design Build Agreement is commercially reasonable.

A2. Background and Purpose of Design Build Agreement CCMs

- A2.1 The primary purpose of the Commercially Confidential Meetings is to discuss the Design Build Agreement and the Proponent's suggested amendments to the Design Build Agreement and to solicit feedback from Proponents based on the comments received by the City and the agendas proposed by Proponents. It is likely that different Proponents may wish to discuss different matters with the City during the CCMs and the meetings are intended to be flexible enough to allow this. Proponents should note that they are expected to lead the discussion through their agendas and the City representatives may ask questions and provide responses as the meeting progresses.
- A2.2 As set out in RFP Section C2.3 and the RFP Schedule 1 - Data Sheet, Proponents are requested to submit comments on the Design Build Agreement as well as an agenda for each CCM. The deadlines to submit comments and an agenda for each round of CCMs are also set out in the RFP Schedule 1- RFP Data Sheet.
- A2.3 At the CCMs, Proponents may raise issues on certain commercial principles of the transaction by identifying and explaining problems and/or inconsistencies with those commercial principles. Proponents may also raise issues on specific sections of the Design Build Agreement or the Technical Requirements by identifying and explaining problems and/or inconsistencies with those sections. Proponents are strongly encouraged to propose solutions or revised drafting and rationale for consideration by the City.

A3. Background and Purpose of the Design Presentation Meetings

- A3.1 The purpose of the Design Presentation Meetings is to assist Proponents in developing designs that are compliant with the Technical Requirements. The Design Presentation Meetings will be chaired by the Proponent and will be attended by representatives and advisors of the City and other stakeholders (the Design Consultation Team). The Design Presentation Meetings are intended to provide Proponents with an opportunity to present their design submissions and request feedback on the compliance of their proposed

designs as well as to raise questions with regard to design requirements set out in the Technical Requirements. Proponents are reminded not to release or discuss any specific pricing or costing information during the Design Presentation Meetings.

- A3.2 The topics and submittals for each Design Presentation Meeting are set out in Attachment 1 to RFP Schedule 2 – Design Consultation Process. Proponents are expected to post an agenda for their Design Presentation Meeting in accordance with the instructions set out in Section A6.2 of RFP Schedule 2 – Design Consultation Process. At the end of each Design Presentation Meeting, the Proponent is to provide electronic and hard copies of the material presented at the meeting and all submittals for the meeting in accordance with the instructions set out in Sections A6.3 and A6.4 of RFP Schedule 2 – Design Consultation Process.
- A3.3 The City expects that the Proponent representatives in the first Design Presentation Meeting will be the same Proponent representatives in all subsequent Design Presentation Meetings, except where a subsequent Design Presentation Meeting focuses on subject matter not previously included as an agenda item or matter discussed in a prior Design Presentation Meeting.
- A3.4 The Design Consultation Team intends to provide Design Feedback to each Proponent within the timeline laid out in the RFP Schedule 1 - Data Sheet. The Design Feedback will consist of written feedback on the compliance of the Proponent's design with the Technical Requirements. Additionally, background information and context that might assist the Proponent in making decisions to ensure a compliant design may be provided. For example, the City may provide input on the intent of the Technical Requirements (i.e. why a material was chosen, etc.). The Design Consultation Team may also issue written responses to a Proponent addressing some or all of the questions raised by the Proponent during a Design Presentation Meeting. If the City makes a decision to amend the RFP Documents, the revisions will be communicated to all Proponents by Addendum. Proponents who wish to follow up on anything said or indicated at a Design Presentation Meeting or pursuant to any Design Feedback must do so by submitting an RFI. The Design Consultation Team will use reasonable efforts to distribute to all Proponents any new information provided to a Proponent during a Design Presentation Meeting or as part of a Proponent's Design Feedback.
- A3.5 As set out in Section A3.7 of RFP Schedule 2 – Design Consultation Process, the Design Consultation Team will not suggest alternatives or express preferences with regard to the Proponent's design during the Design Presentation Meetings, or pursuant to any Design Feedback, except to the extent that such preferences are embedded in the Technical Requirements.

A4. Questions During Commercially Confidential Meetings

- A4.1 The City may or may not respond to questions or comments during the Commercially Confidential Meetings, including the Design Presentation Meetings, and may request that a Proponent submit a question in writing pursuant to the RFI submission process. Subject to any questions submitted in writing to the City pursuant to the RFI submission process, the information provided by the Proponents in the Commercially Confidential Meeting will remain confidential with the City. If the City makes a decision to amend the RFP Documents, the revisions will be communicated to all Proponents by Addendum.
- A4.2 If a Proponent raises problems and/or inconsistencies in the Design Build Agreement, including the Technical Requirements, and the City is of the view that the Proponent has

misunderstood a particular provision of the Design Build Agreement or the City is of the view that the problem or inconsistency raised is covered in another provision, the City may direct the Proponent to certain provisions. If the Proponent has a question regarding the interpretation of a certain provision of the Design Build Agreement, the Proponent should raise the question either in its comments on the Design Build Agreement or in the form of a RFI.

A5. General Principles

- A5.1 Proponents are reminded that, as set out in RFP Section C4.2(d) and Section A2.2 of RFP Schedule 2 – Design Consultation Process, all Commercially Confidential Meetings and Design Consultations are non-binding and nothing said at the Commercially Confidential Meetings, or pursuant to any Design Consultation, by either the City or its advisors can amend any of the RFP Documents (including the draft Design Build Agreement), nor will anything said be binding on the City except when and only to the extent expressly confirmed in an Addendum to the RFP Documents.
- A5.2 Proponents are not evaluated on either their submissions for the Commercially Confidential Meetings, including the Design Presentation Meetings, or Proponent comments made during these meetings. Commercially Confidential Meetings are not interviews for the purpose of evaluation.
- A5.3 The Fairness Advisor will provide third-party independent oversight to the Design Consultation Process and will attend the Commercially Confidential Meetings.
- A5.4 All participants in Commercially Confidential Meetings, including Design Presentation Meetings, are obliged to treat all information received at the meetings in confidence in accordance with the terms and conditions of the Request for Proposals (see RFP Section C8.4).
- A5.5 Proponents are advised that a separate room will be available to accommodate break-out sessions as may be required by the City or the Proponent team.