

Athabasca Regional Multiplex Society Request for Proposals for Food Services Agreement

Issue Date: July 13, 2021
Amended: July 29, 2021

Contract Manager: Rhonda Alix
General Manager

Telephone: (780) 675-2967
Address: #2 University Drive
Athabasca, AB
T9S 0A3

E-mail: multiplexmanager@athabasca.ca

Closing Date and Time: **August 13, 2021**, at 1:00 p.m. (Mountain Standard Time)

Proposals will be received at Front Desk until 1:00 p.m. (Mountain Standard Time) on **August 13, 2021**.

Proposals shall be submitted to:

Athabasca Regional Multiplex Society
Attention: Rhonda Alix, General Manager
#2 University Drive
Athabasca, AB
T9S 0A3

Proposals should be clearly marked:

“Athabasca Regional Multiplex Society RFP Food Services Lease Agreement”

Proposals may be delivered to Front Desk by hand, courier or mail. No electronically transmitted Proposals will be accepted. Proposals that are received after closing time shall not be accepted and will remain unopened.

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PART I. INVITATION

The Athabasca Regional Multiplex Society (ARMS) invites Proponents to submit a formal proposal in response to this Request for Proposals (“RFP”) to provide food and beverage services at the Athabasca Regional Multiplex (the “Services”) with the intent to negotiate and enter into a Contract with the ARMS for the Services.

1. Introduction

There is a unique food and beverage opportunity available at the Athabasca Regional Multiplex. ARMS is entertaining proposals for an operator(s) to provide quality food and beverage services for the following spaces:

- Concession, lounge and/or catering services

ARMS is committed to providing a strong guest and customer service experience and expect the same from everyone that we partner with, including our food and beverage service providers.

Athabasca Regional Multiplex

The Athabasca Regional Multiplex Society is made up of representatives from Town of Athabasca and Athabasca County to manage the Multiplex facility located at #2 University Drive, which has been in operation for 12 years. The Multiplex facility houses a fully functional concession and commercial kitchen.

Features of the Athabasca Regional Multiplex include:

- Fieldhouse
 - Indoor track
- Aquatic Centre
 - 25m 6-lane pool, leisure pool, lazy river, whirlpool, steam room, waterslide and spray features
- Fitness Centre
- Ice Arena
- Curling Rink
 - 4 sheet curling rink
- Meeting Rooms
- Concession
- Lounge
- Baseball Diamonds
- Soccer Field
- Whispering Hills Daycare
- Located offsite: Nancy Appleby Theatre

Conveniently located beside Edwin Parr Composite School which has approximately 700 students in grades 7-12.

The Proponent would be responsible for supplying food services for all user groups and individuals utilizing the Multiplex.

The Proponent will be expected to help promote the facility and should be willing to take an active role in marketing their services.

2. Project Objectives

Customer service and satisfaction, quality, and price is critical to a business and essential to a successful partnership in the Multiplex. The food and beverage services provider will contribute to the vibrancy of the Multiplex and expected to be a key element in working collaboratively with the Multiplex and its stakeholders including community groups, athletics and sports organizations, events and bookings. Proponents should display an understanding of how their services complements the Multiplex, and their ability to be successful in their business endeavors and operations is reflected in the Proponent's business and service plan.

The minimum hours of operation will be as follows:

- a. The Proponent will guarantee to open the Multiplex concession from September 1 to March 30, Monday to Thursday 4:00 p.m. to 9:00 p.m., Friday 4:00 p.m. to 11:00 p.m., Saturday 8:00 a.m. to 11:00 p.m., and Sunday 8:00 a.m. to 5:00 p.m.
- b. Summer season hours of operation at the Multiplex Concession will reflect what is deemed to meet the needs of the facility. The Proponent will guarantee to be open for all special events.

Food and beverage service providers at minimum should be able to offer the following:

- product taste and consistency
- selection of food choices (including healthy and dietary options and/or locally produced items)
- food presentation
- portion sizes and options
- product freshness
- value for money
- facility cleanliness
- staff professionalism
- quick and efficient service

A site-tour can be scheduled at the request of the proponent, Monday through Friday 9am to 4pm.

3. Closing Date

Proponents are invited to submit a detailed Proposal to provide the Services. Proponents shall submit one hard copy, clearly marked "Request for Proposals for Food Services Lease Agreement". Proposals will be received at Front Desk until 1:00 p.m. (Mountain Standard Time) on **August 13, 2021** (the "Closing Date").

Proposals shall be submitted to:

Athabasca Regional Multiplex Society
#2 University Drive
Athabasca, AB T9S 0A3
780-675-2967 (telephone)

Proposals may be delivered to Front Desk by hand, courier or mail. No electronically transmitted Proposals will be accepted by ARMS. Proposals that are received after closing time shall not be accepted and will remain unopened.

All Proposals will be date and time stamped upon receipt. In the case of a date and/or time dispute the Multiplex clock will govern. The Multiplex is not responsible for the timeliness of documents delivered or delivered to a location other than the specified address.

4. Definitions

For the purposes of this RFP, the terms below shall be interpreted as follows:

- 4.1 "Business Day" means a day other than a Saturday, Sunday or statutory holiday in Alberta;
- 4.2 "Closing Date" means Wednesday, **August 13, 2021**, or such other date as determined by ARMS, at its sole and unfettered discretion;
- 4.3 "Closing Time" means 1:00 p.m. (Mountain Standard Time) on the Closing Date;
- 4.4 "Contract" means the written agreement negotiated and entered into by the Successful Proponent and ARMS to provide the Services contemplated by this RFP;
- 4.5 "Evaluation Committee" means representatives of ARMS, who are responsible for evaluating the Proposals and recommending Qualified Proponents, if any, to ARMS;
- 4.6 "Evaluation Criteria" means those criteria described in Part IV, paragraph 1.0;
- 4.7 "Invitation to Negotiate" means the last and final phase of the selection process where representatives of ARMS and a Qualified Proponent negotiate the Contract;
- 4.8 "Mandatory Requirements" means the minimum requirements that must be addressed or contained in a Proposal as described in this RFP;
- 4.9 "Proponent" means an individual, a corporation, a partnership or any combination of the foregoing, assembled for a common purpose that submits a Proposal to ARMS for evaluation in response to this RFP;
- 4.10 "Proposal" means all the information which is presented to ARMS by a Proponent for evaluation in response to this RFP;
- 4.11 "Qualified Proponent" means a Proponent selected to participate in the Invitation to Negotiate at the sole and unfettered discretion of ARMS;
- 4.12 "RFP" means this Request for Proposals for Food Services Agreement;
- 4.13 "Services" means the functions, duties, tasks, responsibilities, and deliverables upon which this RFP is based; and
- 4.14 "Successful Proponent" means the Proponent which ARMS selects to enter into the Contract with.

Headings are used for convenience only, and they do not affect the meaning or interpretation of the clauses.

Words in the singular include the plural and vice versa.

PART II. PROJECT REQUIREMENTS

1. Scope of Services

The Successful Proponent(s) will be responsible for, but not limited to:

- providing quality food and beverage services at reasonable prices
- providing all supplies, materials, equipment and labour - everything required for their operations
 - including but not limited to product shelving/storage, disposable products (e.g., napkins, plates, cutlery, cups, lids, etc.), point of sale machines, debit / credit card machines, specialty equipment (e.g., cash register, specialty appliances, etc.), signage (following Multiplex signage guidelines), menu / display boards, advertising, any and all required supplies, consumables, staffing and equipment required to operate, promote, and provide food and beverage services.
- complying with applicable municipal, provincial, and federal requirements (e.g., licenses, permits, etc.)
- responsible to clean and maintain the leased premises, including ensuring the common seating area tables are clean from food, spills, and waste
- purchasing cold beverage products from ARMS beverage supplier
- all business costs associated with their business / operations (e.g., lease costs, municipal property tax, provincial and federal business tax, etc.)

ARMS has an exclusive beverage supplier agreement which is applicable to all beverage retail sales in the Multiplex. The Successful Proponent(s) will be obligated to use the beverage supplier as directed by ARMS (Pepsico). The Successful Proponent will provide proof of account with Pepsico, purchase products directly from Pepsico, and sell Pepsico beverage products (or beverages approved by Pepsico) and provide regular volume reports to ARMS.

Catering: There is opportunity to provide quality catering services for meetings, tournaments, weddings and other events booked within the facility. Should Proponents be interested in providing catering services, in addition to providing quality food and beverage service operations, catering information is to be included in the Proposal. Proponents will include their experience, service capacity, menu offerings, prices, etc. relative to small and large scale catering services. Indicate in your proposal if you are looking for exclusive catering rights or preferred catering rights to all events within the Multiplex.

Proposals are to include information which clearly articulates achievable plans for operations and compliance with applicable regulations. Proponents are to demonstrate the ability to implement and provide food and beverage operations that will meet or exceed the objectives of ARMS as well as demonstrate an understanding of opportunities and complexities of operating inside a recreational facility.

The primary goals are to develop a service-oriented food and beverage program which places customer satisfaction (service), reasonable pricing, consistent quality, reliability, collaboration, facility cleanliness, safe food handling practices, and revenue growth as its priorities.

Proponents will provide the following information as part of their proposal:

- Operations
 - Provide an outline of the services to be offered
 - Provide a business plan which describes the operations for food and beverage services

- Describe the proposed staffing models and strategies including:
 - the number of dedicated staff and determining staffing levels (ability to provide reliable and sufficient staffing levels to support operations)
 - recruiting and employment strategies to support operations during fluctuating peak events / high season alongside quieter periods between seasons
 - employment and training opportunities and practices in place that support diversity and inclusiveness
 - staff training programs
 - Provide the proposed operating days and hours for the Multiplex including seasonal, holiday, high and low seasonal activity. Describe willingness to increase capacity to meet additional hours during special events outside of regular operating hours (ability to expand operations based on special events).
 - Provide information on your customer satisfaction program including how you collect, solicit, evaluate, and respond to customer feedback (measure, maintain, improve).
 - Include any initiatives or services that would provide added value to the operations (services offered and value to customers). Include details of elements that make your proposal unique.
 - Leasehold alterations, renovations and improvements, including permits, are the full responsibility of the Successful Proponent and must be pre-approved by ARMS. Provide a detailed plan on any alterations or renovations to the existing space for which you will be seeking approval including scope and schedule. The Successful Proponent will not, without the prior written authorization of ARMS, make any facility improvements, alterations, or fixture changes.
- Menu
- Include proposed menu with products and prices. This should include all pre-packaged snacks, ready-made and made to order food, beverages, and more.
 - Include details of product offerings to address the different interests of various audiences
 - Provide catering menu and capacity with pricing (if applicable).
- Food Services Experience
- Provide details of verifiable experience in the management and operation of either a restaurant, lounge, concession, or catering business with comparable size / scope to the Multiplex operations and experience with business planning and marketing.
 - Number of years in food service operations including the roles served (owner, manager, supervisor, etc.).
 - Describe the type, size, and scope of the facilities the proponent has operated / worked in.
 - Provide details of Proponent's other current and upcoming food and beverage operations.
- Health and Safety
- Include information on the Proponent's safety policies and process (Occupational Health & Safety) – documented health and safety program.
 - Include information on food handling, cleanliness, sanitation, and ability to comply with all AHS and other applicable food handling regulations.
 - WCB (Alberta) account in good standing. Include a Workers Compensation Board (Alberta) Letter of Account.
- Including but not limited to:
- Provide a general statement of your financial condition and ability to fund the startup operations required for the space, including any changes to space, equipment and supplies.
 - Supporting documentation clearly outlining the Proponent's financial ability to manage this venture.

Business licensing: Businesses operating within the Town of Athabasca requires a valid business license.

Insurance: The Successful Proponent will provide a Certificate of Insurance including, but not limited to Commercial General Liability insurance of an amount not less than \$5,000,000.

ARMS will provide parking, facility (building) security (does not include lease space security), utilities, waste collection services (exception: Successful Proponent is responsible transporting their waste, oil, and recycling from their lease space to the disposal / recycling bins located at the site) and custodial of the common areas (e.g., public washrooms).

ARMS will be responsible for all waste, organics, recycling, and beverage container recycling through the bins provided throughout the facility. The Successful Proponent will be responsible for the waste, organics, recycling, and beverage recycling within their lease space.

2. Milestones/Time Frames/Schedule

The proposed lease agreement is for an initial term of 2 years, with an option to extend for additional terms (extensions must be mutually agreed to).

Proponents are to include a project schedule outlining the time needed to prepare the space for opening and operations.

PART III. PROPOSAL DETAILED INSTRUCTIONS

1. Mandatory Submission Requirements

- 1.1. In responding to this RFP, Proponents shall submit one hard copy of their Proposal in a sealed envelope or package marked "Request for Proposals for Food Services Lease Agreement". ARMS requires that Proponents submit Proposals as follows.
- 1.2. The cover page must clearly identify the following:
 - a. The title of this RFP;
 - b. The Proponent's name and contact information; and
 - c. The date of submission.
- 1.3. Proposals shall be divided into sections identified as follows:
 - a. Executive Summary;
 - b. Proposal Narrative;
 - c. Proponent/Project Team Qualifications;
 - d. Proponent/Project Team References;
 - e. Fee Proposal; and
 - f. Other Pertinent Information.
- 1.4. Where requested, provide samples, drawings or references that will be used for clarification and confirmation of services being offered.
- 1.5. Proposals must include all relevant pricing on all items that are the responsibility of the Successful Proponent.
- 1.6. Proposals may be delivered by hand, courier or mail. No electronically transmitted Proposals will be accepted by ARMS.
- 1.7. Proposals will be opened following the Closing Time. Proposals will NOT be opened in public.
- 1.8. Proposals must include all required information.
- 1.9. Proponents must fully disclose, in writing to ARMS on or before the Closing Date of this RFP, the circumstances of any possible conflict of interest or what could be perceived as a possible conflict of interest if the Proponent were to become a contracting party pursuant to this RFP. ARMS shall review any submissions by Proponents under this provision and may reject any Proposals where, in the opinion of ARMS, the Proponent could be in a conflict of interest or could be perceived to be in a possible conflict of interest position if the Proponent were to become a contracting party pursuant to this RFP.

2. Executive Summary

1. This chapter should include each of the following items and be no more than two pages in length:
 - a. a brief description of the Services that are proposed;
 - b. a brief outline of the unique advantages of the proposed solution;

- c. corporate name
- d. a list of assumptions that affect the price, level of service/product or duration of the work.

3. Proposal Narrative

3.1 In this chapter of the Proposal, the Proponent must demonstrate an understanding of the key requirements of the project and outline the approach taken to completing all aspects of the Services. All assumptions made in preparing the Proposal should be identified clearly. These assumptions will be vetted by the Evaluation Committee and clarification may be required as necessary. This chapter gives the Proponent the opportunity to describe in detail the unique advantages of the Proponent's proposed solution that illustrates the "added value" that the Proponent has to offer. Be sure to address all of the requirements and specifications contained in the RFP.

4. Proponent Profile/Project Team Qualifications

4.1 The Proponent must indicate the Proponent's/project team's qualifications and capabilities to provide the Services, including past projects having similar requirements to the one being proposed. Include qualifications of the Proponent/project team members, including any subcontractors (if applicable). Specify how these staff will be organized and supervised on the project.

5. Proponent/Project Team References

5.1 The Proponent must provide three references from customers who have contracted with the Proponent. At least one reference from a publicly operated organization is desirable. Proponents are requested NOT to provide references from ARMS.

5.2 ARMS reserves the right to contact these references, or any other references known to ARMS, without prior notification to the Proponent. ARMS also reserves the right to contact any previous or current user of the Proponent's products or services, including ARMS own personnel.

6. Fee (Revenue) Proposal

6.1 The Proponent shall provide a revenue proposal at this time. The revenue proposal is the compensation model the Proponent is proposing for the space/opportunity (what the Proponent will pay to ARMS for the lease space). Proponents will propose a monthly base rent. Proponent is to provide any terms and conditions regarding payment/fee proposal.

6.2 All prices shall be quoted in Canadian dollars with GST identified separately.

7. Other Pertinent Information

7.1 The Proponent should provide any other pertinent information it deems necessary.

PART IV. EVALUATION CRITERIA

1 General

- 1.1 As a general framework, all Proposals presented by Proponents will be evaluated in the context of the overall value they bring to ARMS. The criteria to be considered by ARMS will include a combination of expertise, qualifications, fee and such other criteria as determined by ARMS at its sole and unfettered discretion (the "Evaluation Criteria"). ARMS shall use the Evaluation Criteria listed below as the basis for its evaluation of submitted Proposals.
- 1.2 The Evaluation Committee will utilize specific evaluation criteria to rate various requirements for evaluation purposes. Subject to the requirements of *Freedom of Information and Protection of Privacy Act* ("FOIPP"), such ratings shall be confidential, and no totals or scores of such ratings shall be released to any party.
- 1.3 As ARMS evaluates Proposals and bases any decision to award a contract on the contents of the Proposals as submitted, each Proposal shall include any and all information required as called for in the RFP. It shall be explicitly understood that there shall be no opportunity to make any material change to the Proposal, including any alteration, addition or deletion of any element within the Proposal as submitted by the Proponent after the RFP has closed.

Evaluation Criteria	Points	Score	Total
<p>Quality and Food Services:</p> <ul style="list-style-type: none"> • Menu: pricing, products, quality, variety; special event menu and pricing • Proponent's definition and expectation of customer service; process for soliciting and addressing customer comments, requests, and complaints • Ability to enhance the Multiplex patron experience 	25 Pts		
<p>Experience and Performance History:</p> <ul style="list-style-type: none"> • Proponent experience in delivering similar services • Professional experience & qualifications of owners, managers, and staff required to meet daily operations and special events; capability, skills, and qualifications of the Proponent, staff, subcontractors, key partners, etc. • Capacity: ability to support operations to meet requirements (daily and special events) • Number of years in business • References: business / operational references 	25 Pts		

Business Plan and Suitability: <ul style="list-style-type: none"> Understanding of project requirements / objectives Understanding and knowledge of the Facility's opportunities and challenges Business model to deliver required services Ability to build and foster key partner and stakeholder relationships including but not limited to staff, patrons, user groups, event organizers, etc. General suitability to operate Food and Beverage Services in the Multiplex Proposal completeness, detailed plan, and presentation 	20 Pts		
Financial Fitness <ul style="list-style-type: none"> Financial strength / stability 	15 Pts		
Revenue / Compensation <ul style="list-style-type: none"> Proposed revenue / compensation model 	15 Pts		
Evaluation Criteria	Points	Score	Total
Interview (short-list only - <i>*short-list / interviews will be as determined by ARMS</i>): understanding and knowledge to deliver the services; abilities, skills and experiences of the Proponent/project team; team "fit".	25 Pts		
TOTAL	125 Pts		

SCORE		DESCRIPTION
5	Excellent	Exceeds the requirement of the criteria significantly in a way that is beneficial to ARMS needs.
4	Very Good	Exceeds the requirement of the criteria in a way that is somewhat beneficial to ARMS needs.
3	Good	Fully meets the requirement of the criteria.
2	Average	Adequately meets most of the requirement of the criteria; may be lacking in some areas that are not critical.
1	Poor	Minimally addresses some, but not all, of the requirements of the criteria; lacking in critical areas.
0	Very Poor	Does not satisfy the requirements of the criteria in any manner.

- 1.4 By submitting a Proposal, the Proponent acknowledges and agrees that:
- 1.4.1 ARMS has, and is hereby entitled to exercise, the sole and unfettered discretion to award the points for the evaluation of the Evaluation Criteria; and
 - 1.4.2 it waives any right to contest in any legal proceedings or otherwise the decision of ARMS to award points in respect of the Evaluation Criteria.

PART V. SELECTION PROCESS

1. Process Stages

The Successful Proponent will be selected through the following process:

- Stage One – Request for Proposal;
- Stage Two – Evaluation and Interview (optional – short-list only);
- Stage Three – Invitation to Negotiate (one or (if necessary) more Qualified Proponents); and
- Stage Four – Award of Contract.

1.1. Stage One

- 1.1.1. An RFP will be issued by ARMS to potential Proponents as determined by ARMS in its sole and unfettered discretion;
- 1.1.2. Any questions raised by potential Proponents during this stage shall be submitted in writing and must be received by ARMS no later than **August 9, 2021**.
Submitted to: multiplexmanager@athabasca.ca;
- 1.1.3. The Proponent has the responsibility to notify ARMS, in writing, of any ambiguity, divergence, error, omission, oversight, contradiction, or item subject to more than one interpretation in this RFP, as it is discovered, and to request any instruction, decision, or direction required to prepare the Proposal;
- 1.1.4. Verbal responses to any inquiry are not binding on either party.

1.2. Stage Two

- 1.2.1. Following the initial review, and clarifications, if any, ARMS may, in its sole and unfettered discretion interview any one, or more of the Proponents that have submitted a Proposal in response to this RFP. This interview may be virtual or in-person; and
- 1.2.2. By submitting a Proposal, each Proponent acknowledges and agrees that the holding of an interview shall not constitute an express or implied representation, warranty or undertaking on the part of ARMS as it relates to the content of the Proposal submitted by the Proponent, and ARMS expressly rejects any express or implied representation, warranty or undertaking which may arise as a result of the Proponent submitting a Proposal in response to this RFP.

1.3. Stage Three

- 1.3.1. After Stage One and Two have concluded, the Evaluation Committee may select the Qualified Proponent with the most attractive Proposal to participate in the Invitation to Negotiate ("ITN");
- 1.3.2. During the ITN stage, ARMS will engage in bilateral negotiations with the Qualified Proponent selected to participate in the ITN. At the conclusion of these negotiations, ARMS, in its sole and unfettered discretion, may select the Successful Proponent based on the terms agreed to as a result of their negotiations;
- 1.3.3. Should the bilateral negotiations with the above-mentioned Qualified Proponent does not result in an executed contract, ARMS reserves the right to contact the Qualified Proponent with the next most attractive Proposal to participate in the ITN as set out above;

- 1.3.4. The Proposals received shall remain open for acceptance for a period of 90 days following the Closing Date in order to allow ARMS to undertake the evaluation of the Proposals received, to conduct the interviews noted above, and to enter into the ITN;
- 1.3.5. However, as stated previously, until the Contract is actually executed, ARMS reserves the right to terminate negotiations, cancel the project, and proceed with the project on different terms, all without compensation to the Proponents; and
- 1.3.6. ARMS reserves the right to determine the location, date and times of all meetings related to the negotiation of the Contract.

1.4. Stage Four

- 1.4.1. The award of contract by ARMS for the Services occurs once the Successful Proponent receives a Notice of Award of Contract letter duly executed by ARMS.

PART VI. RFP ADMINISTRATION TERMS AND CONDITIONS

1. Reservation of Rights

- 1.1. The fee will be only one of the determinants for acceptance of a Proposal by ARMS. The fee proposal will not necessarily be accepted, and ARMS reserves the right to reject any or all Proposals at its sole and unfettered discretion.
- 1.2. ARMS also reserves the right to accept conditions to be offered by and/or negotiated with the Successful Proponent which are not specifically contained in this RFP. Such options and/or alternatives shall be included in the Proposal review process as part of the evaluation but shall not be used to revise the Fee.
- 1.3. At all times, ARMS reserves the right to seek written clarifications of a Proponent. Such clarification shall be deemed an amendment to such Proponent's Proposal and be binding upon the Proponents.

2. Disclaimer of Liability and Indemnity

- 2.1. ARMS, its directors, officers, servants, employees, agents and consultants expressly disclaim any and all liability for representations, warranties (express or implied), errors or omissions in the RFP package or in any written or oral information transmitted or made available at any time to a Proponent or on behalf of ARMS.
- 2.2. By submitting a Proposal, a Proponent agrees:
 - 2.2.1. To be responsible for conducting its own due diligence on data and information upon which its Proposal is based;
 - 2.2.2. that it has fully satisfied itself as to its rights and the nature extended to the risks it will be assuming;
 - 2.2.3. that it has gathered all information necessary to perform all of its obligations under its Proposal;
 - 2.2.4. that it is solely responsible for ensuring that it has all information necessary to prepare its Proposal and for independently verifying and informing itself with respect to any terms or conditions that may affect its Proposal;
 - 2.2.5. to hold harmless ARMS, its elected officials, officers, employees, insurers, agents or advisors and all of their respective successors and assigns, from all claims,

liability and costs related to all aspects of the RFP process;

- 2.2.6. that it shall not be entitled to claim against ARMS, its elected officials, officers, employees, insurers, agents or advisors on grounds that any information, whether obtained from ARMS or otherwise (including information made available by its elected officials, officers, employees, agents or advisors, regardless of the manner or form in which the information is provided) is incorrect or insufficient;
- 2.2.7. that ARMS will not be responsible for any costs, expenses, losses, damages or liability incurred by the Proponent as a result of or arising out of submitting a Proposal or due to ARMS acceptance or non-acceptance of its Proposal; and
- 2.2.8. to waive any right to contest in any proceeding, case, action or application, the right of ARMS to negotiate with any Proponent for the Contract whomever ARMS deems, in its sole and unfettered discretion, to have submitted the Proposal most beneficial to ARMS.

- 2.3. The Successful Proponent shall release, indemnify and hold harmless ARMS and its elected and appointed officers, servants, agents, employees, or contractors, from and against any and all losses, claims, demands, payments, suits, actions, damages, judgments and expenses (including solicitor's fees), of every nature and description brought or recovered against or incurred by ARMS and its elected and appointed officers, servants, agents and employees, arising out of or related to the Successful Proponent's breach of the Contract, or by reason of any act or omission or alleged act of omission of the Successful Proponent, its agents, employees or contractors in the performance of the Contract, or arising from the exercise of any rights or remedies of ARMS.

3. No Tender and No Contractual Relationship

- 3.1. This selection process is not a tendering process. It is part of an overall selection process intended to enable ARMS to identify a potential Successful Proponent. The submission of a Proposal does not constitute a legally binding agreement between ARMS and any Proponent. For greater certainty, by submission of its Proposal, the Proponent acknowledges and agrees that there will be no initiation of contractual obligations or the creation of contractual obligations as between ARMS and the Proponent arising from this RFP or the submission of a Proposal.
- 3.2. Further, the Proponent acknowledges and agrees that this procurement model is not a tender but a Request for Proposal. A Proposal may be rescinded by a Proponent at any time prior to the execution of the Contract.

4. Discretion

- 4.1. Notwithstanding any other provision of this RFP to the contrary, the provisions in this Part VI, paragraph 4.0 prevail, govern and override all other parts of this RFP. ARMS is not bound to accept any Proposal. At any time prior to execution of the Contract, ARMS may, in its sole and unfettered discretion, or for its own convenience, terminate the selection process, cancel the Project and proceed with the Project on different terms. All of this may be done with no compensation.
- 4.2. ARMS reserves the right to accept or reject any and all Proposals, all without giving reasons, not necessarily accept the lowest priced Proposal, and not accept any Proposal. ARMS reserves the right to determine, in its sole and unfettered discretion, whether any Proposal meets the Mandatory Requirements. Selection of the Successful Proponent, if any, is at the

sole and unfettered discretion of ARMS.

- 4.3. ARMS is not bound to negotiate with any Proponent.
- 4.4. ARMS is not bound to grant an interview to any Proponent.
- 4.5. ARMS reserves the right, at its sole and unfettered discretion, to:
 - 4.5.1. negotiate the specific contractual terms and conditions, including but not limited to the Fee;
 - 4.5.2. waive any formality, informality or technicality in any Proposal, whether of a minor and inconsequential nature, or whether of a substantial or material nature;
 - 4.5.3. negotiate with any or all Proponents; and
 - 4.5.4. receive, consider, negotiate and/or accept any Proposal, regardless of whether it complies (either in a material or non-material manner) with the Mandatory Requirements or not.

5. Representations and Warranties

- 5.1. ARMS makes no representations or warranties other than those expressly contained herein as to the accuracy and/or completeness of the information provided in this RFP. Information referenced in this RFP, or otherwise made available by ARMS or any of its elected officials, officers, employees, agents or advisors as part of the selection process, is provided for the convenience of the Proponent only.
- 5.2. The Proponent is required to immediately bring forth to ARMS any conflict or error that it may find in the RFP.
- 5.3. Proponents are hereby required to satisfy themselves as the accuracy and/or completeness of the information provided in this RFP.

6. Information Disclosure and Confidentiality

- 6.1. All documents submitted to ARMS will be subject to the protection and disclosure provisions of the *Freedom of Information and Protection of Privacy Act* ("FOIPP"). FOIPP allows persons a right of access to records in ARMS custody or control. It also prohibits ARMS from disclosing the Proponent's personal or business information where disclosure would be harmful to the Proponent's business interests or would be an unreasonable invasion of personal privacy as defined in sections 16 and 17 of FOIPP. Proponents are encouraged to identify what portions of their submissions are confidential and what harm could reasonably be expected from its disclosure. However, ARMS cannot assure Proponents that any portion of the Proponent's documents can be kept confidential under FOIPP.

7. Disqualification

- 7.1. The failure to comply with any aspect of this RFP (either in a material way or otherwise), including, but not limited to, the instructions to Proponent, shall render the Proponent subject to such actions as may be determined by ARMS, including disqualification from the selection process, suspension from the selection process and imposition of conditions which must be complied with before the Proponent will have its privilege of submitting a Proposal reinstated.