

Albuquerque Rapid Transit (ART) Project Communication Protocol Agreement

November 3, 2015

To All Prequalified Proposers:

On September 24, 2015, the City of Albuquerque (City) notified you that, based on the City's evaluation of your Statement of Qualifications submitted in response to the City's Request for Qualifications issued on July 15, 2015, you have been prequalified in connection with the construction manager at risk procurement for the ART Project (the "Project").

This correspondence is to advise you of the rules and procedures of the communication protocol and to provide you certain information concerning the one on one meeting process. Upon receipt of your countersigned copy of this letter, as described below, you will be invited to a one on one meeting for the Request for Proposals ("RFP") for the Project issued on September 3, 2015. The RFP, Contract, Technical Provisions, Reference Materials and any Addenda thereto are collectively referred to as the "Procurement Documents". All capitalized terms used herein, but not defined herein, shall have the meaning ascribed to such term in the RFP.

The City will give each of the prequalified Proposers seeking award of the Contract for the Project the opportunity to (i) review and submit written questions regarding the Procurement Documents; and (ii) attend one-on-one meetings with The City and its representatives to discuss the Procurement Documents and the Project prior to submitting a Proposal.

It is City's intent to receive comments and questions from Proposers concerning the final Request for Proposal of the Procurement Documents. These comments and questions may, at the City's sole discretion, be incorporated into Procurement Documents.

Proposers are responsible to review the Procurement Documents, including the Reference Materials, as part of their due diligence. The City does not represent or warrant that the Reference Materials are accurate or complete, or constitute all documents, materials, and information relevant to understanding the Project or preparing a Proposal. Nothing contained in the Reference Materials shall be binding on the City or modify, alter or otherwise change the Project procurement process, the Procurement Documents or any existing or future agreement between the Proposer and the City.

One-on-One Meeting

The City intends to conduct one-on-one meetings with each Proposer on the dates set forth in the RFP amendment issued October 28, 2015, and on such other dates designated by the City in writing to the Proposers, to discuss issues and clarifications regarding the Project, the Procurement Documents, the procurement, and other communications provided by the City or the Proposers. The City reserves the right to disclose to all Proposers any issues or questions raised during the one-on-one meetings, except to the extent that the City determines, in its sole discretion, such disclosure would materially impair the confidentiality of information submitted as part of the procurement process or would reveal a Proposer's confidential business strategies. The City also reserves the right to make changes to the Procurement Documents as a result of a Proposer's questions, regardless of whether a question was confidential or proprietary.

The one-on-one meetings are **mandatory** for all prequalified Proposers. Unless otherwise specified in writing by the City, all one-on-one meetings shall be held in Albuquerque, New Mexico at a location determined by the City. Prior to each one-on-one meeting, the City shall notify each prequalified Proposer of the date, time, location, and expected duration of each meeting, and number of representatives from Proposer that may attend ("One-on-One Meeting Notice").

In advance of each one-on-one meeting, each Proposer is requested to submit the following documents to Dayna Crawford at dayna@cabq.gov the time specified in the One-on-One Meeting Notice.

- A. A written agenda and list of Proposer's one-on-one meeting attendees, not to exceed the number of members specified in the One-on-One Meeting Notice. This information shall include the name, title, and firm of each participant.

All Proposer representatives at each one-on-one meeting will be required to execute an Acknowledgment Regarding One-on-One Meetings in the form attached hereto as the Acknowledgement Regarding One on One Meetings. The City representatives and consultants participating in the one-on-one meetings shall also execute the Acknowledgement Regarding One on One Meetings.

The one-on-one meetings will adhere to the following:

- The meetings are intended to provide Proposers with a better understanding of the Project, the Procurement Documents, Project-related documents, the procurement, and other communications provided by the City or the Proposer.
- The City will not discuss with any Proposer any Proposal other than its own.
- The Proposers shall not seek to obtain commitments from the City in the meetings or otherwise seek to obtain an unfair competitive advantage over any other Proposer.
- The City will not guide the development of a Proposal or coach a Proposer on the development of its Proposal.

- No aspect of these meetings is intended to provide any Proposer with access to information that is not similarly available to other Proposers, and no part of the evaluation of Proposals will be based on the conduct or discussions that occur during these meetings.
- The discussions or any statements made by either party shall not be binding on such entity.

During one-on-one meetings, Proposers may provide information and comments and may ask questions, and the City may provide responses. However, any responses the City provides during one-on-one meetings may not be relied upon unless questions were submitted in writing, or the City chooses to state the question in writing, and the City responds in writing as set forth above under “Responses to Questions; Confidential and Proprietary Information.” The questions and the City’s responses will be provided in writing to all Proposers, except to the extent such questions are deemed by the City to contain confidential or proprietary information related to a particular Proposer’s Proposal.

The City looks forward to working closely with the prequalified Proposers as we collectively move forward to the next phase of the Project process.

ACKNOWLEDGMENT REGARDING ONE-ON-ONE MEETINGS

The undersigned hereby acknowledge the following:

1. On July 15, 2015, the City issued a Request for Qualifications (as amended, the "RFQ") for the design and construction of the proposed ART Project ("Project").
2. On September 1, 2015, the City received Statements of Qualifications ("SOQs") from proposers for the Project, including the Proposer.
3. The City and prequalified Proposers for the Project, including the Proposer, intend to hold one-on-one meetings to discuss various issues relating to the Project.
4. Each person attending the one-on-one meetings has been given notice of certain rules and procedures as described herein or in the Communication Protocol Agreement dated as of **November 3, 2015** and sent by the City to the Proposer. Such rules and procedures are expressly incorporated herein and apply with full force and effect to these meetings.
5. The undersigned individuals representing the Proposer acknowledge and agree to comply with the rules and restrictions applicable to these meetings as set forth in the Communication Protocol Agreement, including the following:
 - a. The meetings are intended to offer the Proposer an opportunity to obtain a better understanding of the Project, the Procurement Documents, and Project-related documents or communications provided by the City, and to enable the Proposer to advise the City of comments and requested changes to the Procurement Documents and Project-related documents provided by the City.
 - b. The Proposer cannot rely on statements made by the City and/or its representatives at these meetings, including statements regarding interpretations of the Procurement Documents or any potential changes or modifications to the Procurement Documents provided by the City or statements relating to concepts discussed at the meeting. Any changes or modifications made to the Procurement Documents provided by the City or to any other aspect of the Project procurement process shall be made solely in writing by the City.
 - c. If the City, in its sole discretion, deems it advisable, it may issue written responses to all of the Proposers addressing questions or issues raised at the meetings and/or it may issue one or more addenda revising and/or supplementing the Procurement Documents provided by the City. If the City elects to issue such written responses, the City intends to not identify the Proposer(s) which raised the question or issue.

d. The Proposer may seek input from the City regarding potential Proposal approaches and their compliance with the terms and conditions of the Procurement Documents, but shall not seek to obtain commitments from the City in the meetings or otherwise seek to obtain an unfair competitive advantage over any other Proposer.

e. No aspect of these one-on-one meetings is intended to provide any Proposer with access to information that is not similarly available to other Proposers, and no part of the evaluation of information submitted by Proposers as part of this procurement will be based on the conduct or discussions that occur during these meetings.

f. The City shall not discuss with the Proposer any Proposal other than its own.

6. The undersigned City representatives agree to maintain as confidential, to the extent permitted by law and required for a fair process, any information disclosed by the Proposer during the one-on-one meetings concerning the Proposer's confidential business or business strategies which is determined to be confidential pursuant to the terms of the Communication Protocol Agreement.

This Acknowledgment is executed on _____, 2015.

City Representatives:

[Proposer Name] Representatives:

Name: _____

Name: _____