



THE CITY OF WINNIPEG

REQUEST FOR PROPOSAL

RFP NO. 704-2009

**REQUEST FOR PROPOSAL FOR A LANDFILL GAS AND RESOURCE RECOVERY
PROJECT AT THE BRADY ROAD LANDFILL**

Proposals shall be submitted to:

The City of Winnipeg
Corporate Finance Department
Materials Management Division
185 King Street, Main Floor
Winnipeg MB R3B 1J1

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PART B - BIDDING PROCEDURES

B1. CONTRACT TITLE

- B1.1 REQUEST FOR PROPOSAL FOR A LANDFILL GAS AND RESOURCE RECOVERY PROJECT AT THE BRADY ROAD LANDFILL

B2. HISTORY

- B2.1 The Brady Road Sanitary Landfill (BRSL) is located in southeast Winnipeg. This area is zoned 'A' Agricultural in the City of Winnipeg Zoning By-Law 200/06. Adjoining land uses include residential to the north and northeast, and agricultural to the east, south and west, with the exception of CBC broadcasting towers on one parcel to the east. The vicinity receives an average of approximately twenty (20) inches of precipitation per year. The BRSL is a single Class 1 Waste Disposal Ground on approximately 790 hectares of land and refuse placement began in 1973. Waste accepted at the landfill includes commercial and residential waste, and construction/ demolition waste. Refuse is not segregated, one type from another, prior to disposal. Based on present disposal rates, BRSL has an estimated capacity sufficient to remain in operation at least until 2110.
- B2.2 The objective of this Request for Proposal (RFP) is to identify a responsible Contractor that will provide the greatest quantifiable benefit to the City of Winnipeg, subject to the continuous operation of the Brady Road Sanitary Landfill (BRSL) and to comply with all applicable regulations. The proposal shall include a mandatory Design, Build, Operate and Finance submission for a LFG collection and flaring system with a minimum mandated capacity of 1000 SCFM of Landfill Gas (LFG) for a twenty (20) year term.
- B2.3 In 2004 and 2005, a study, including field testing was completed and the resulting "Investigation of Landfill Gas Opportunities at the City of Winnipeg, Brady Road Landfill Site" report was prepared. A further assessment in 2008 based on this report examined the probable costs for collecting and flaring 1000 SCFM of the landfill gas. In July, 2009, the City obtained an Environment Act license for collecting and flaring 1000 SCFM of landfill gas at the Brady Landfill Site. All of the above reports are attached.
- B2.4 On November 25, 2009, Council approval was obtained to issue a request for proposals (RFP) for a landfill gas and resource recovery project.
- B2.5 The resource recovery option in this RFP stems from unsolicited expressions of interest that have been received for applying technologies to recover energy and/or material resources from various components of solid waste destined for the landfill. In some cases there may be synergies and benefits from considering such technologies together with a LFG project.
- B2.6 See E2 - Information Reports.

B3. REGISTRATION AND COMMUNICATION

- B3.1 Bidders wishing to gain access to additional information, not available on the City's public website must register with the City. Bidders must complete the non-disclosure agreement, attached as Appendix A, and submit same to the Contract Administrator identified in D4.1.
- B3.2 The City's Designated Representative may, acting reasonably, decline requests for registration.

B4. SUBMISSION DEADLINE

- B4.1 The Submission Deadline is 4:00 p.m. Winnipeg time, February 26, 2010.
- B4.2 Proposals determined by the Manager of Materials to have been received later than the Submission Deadline will not be accepted and will be returned upon request.

B4.3 The Contract Administrator or the Manager of Materials may extend the Submission Deadline by issuing an addendum at any time prior to the time and date specified in B4.1.

B5. SITE INVESTIGATION

B5.1 Further to C3.1, the Contract Administrator or an authorized representative will be available at the BRSL, 1901 Brady Road (South of PTH 100 between Brady Road and Waverley Street) in Winnipeg, Manitoba on January 15, **2010** at 9:30am to provide Bidders access to the Site. **NO ACCESS WILL BE ALLOWED ON SITE WITHOUT SUPERVISION.**

B5.2 The Bidder is advised that Site visits at other times will not be provided. There will be **ONLY ONE** pre-proposal Site visit.

B5.3 The Bidder shall not be entitled to rely on any information or interpretation received at the Site investigation unless that information or interpretation is the Bidder's direct observation, or is provided by the Contract Administrator in writing.

B5.4 The City will consider proposals from firms that did not attend this Site visit.

B5.5 The Bidder is responsible for determining:

- (a) the location of any utility which can be determined from the records or other information available at the offices of any public authority or person, including a municipal corporation and any board or commission thereof, having jurisdiction or control over the utility;
- (b) the nature of the surface and subsurface conditions at the Site;
- (c) the location, nature, quality or quantity of the materials to be removed or to be employed in the performance of the Work;
- (d) the nature, quality or quantity of the Plant needed to perform the Work;
- (e) all matters concerning access to the Site, power supplies, location of existing services, utilities or materials necessary for the completion of the Work; and
- (f) all other matters which could in any way affect his Proposal or the performance of the Work.

B6. ENQUIRIES

B6.1 All enquiries shall be directed to the Contract Administrator identified in D4.1.

B6.2 If the Bidder finds errors, discrepancies or omissions in the proposal, or is unsure of the meaning or intent of any provision therein, the Bidder shall promptly notify the Contract Administrator of the error, discrepancy or omission at least five (5) Business Days prior to the Submission Deadline.

B6.3 If the Bidder is unsure of the meaning or intent of any provision therein, the Bidder should request clarification as to the meaning or intent prior to the Submission Deadline.

B6.4 Responses to enquiries which, in the sole judgment of the Contract Administrator, require a correction to or a clarification of the Request for Proposal will be provided by the Contract Administrator to all Bidders by issuing an addendum.

B6.5 Responses to enquiries which, in the sole judgment of the Contract Administrator, do not require a correction to or a clarification of the Request for Proposal will be provided by the Contract Administrator only to the Bidder who made the enquiry.

B6.6 The Bidder shall not be entitled to rely on any response or interpretation received pursuant to B6 unless that response or interpretation is provided by the Contract Administrator in writing.

B7. CONFIDENTIALITY

- B7.1 Information provided to a Bidder by the City or acquired by a Bidder by way of further enquiries or through investigation is confidential. Such information shall not be used or disclosed in any way without the prior written authorization of the Contract Administrator.
- B7.2 The Bidder shall not make any statement of fact or opinion regarding any aspect of the Request for Proposals to the media or any member of the public without the prior written authorization of the Contract Administrator.

B8. ADDENDA

- B8.1 The Contract Administrator may, at any time prior to the Submission Deadline, issue addenda correcting errors, discrepancies or omissions in the Request for Proposal, or clarifying the meaning or intent of any provision therein.
- B8.2 The Contract Administrator will issue each addendum at least two (2) Business Days prior to the Submission Deadline, or provide at least two (2) Business Days by extending the Submission Deadline.
- B8.2.1 Addenda will be available on the Bid Opportunities page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt/bidopp.asp>
- B8.2.2 The Bidder is responsible for ensuring that he has received all addenda and is advised to check the Materials Management Division website for addenda regularly and shortly before the Submission Deadline, as may be amended by addendum.
- B8.3 The Bidder shall acknowledge receipt of each addendum in Paragraph 9 of Form A: Proposal. Failure to acknowledge receipt of an addendum may render a Proposal non-responsive.

B9. PROJECT PLAN

- B9.1 A Mandatory bid on Alternate One is required, Landfill Gas Collection, Flaring and Project Financing – (Design, Build, Operate, Finance) (DBOF).
- B9.2 Bidders have the option to submit proposals for the following only if B9.1 is met:
Alternative Two - Landfill Gas Collection, Flaring, Utilization and Financing;
Alternative Three - Other Resource Recovery Options;
Alternative Four - Land Lease/ Base Rent.

B10. PROPOSAL REQUIREMENTS

- B10.1 A responsive Bidder is one who shall provide the information requested in this RFP. Failure to provide the information requested may result in elimination of the Bidder from consideration.
- B10.2 Proposals
- (a) Are submitted at the Bidder's sole risk and discretion. The City is not responsible for the Bidder's cost of proposal preparation;
 - (b) Received in response to this RFP become the property of the City upon receipt;
 - (c) May contain more than one Financial Offering for each Technical Proposal. Each Financial Offering will be evaluated separately. Failure to provide clear indication of which Financial Offering is associated with which Technical Proposal is cause for rejection of those Financial Offerings;
 - (d) Delivered to the City after submission deadline will be returned unopened and will not be received; and
 - (e) Will not be opened prior to the submission deadline identified herein.

B11. PROPOSAL SUBMISSION

- B11.1 Bidders may propose more than one LFG utilization method or recovery options, e.g. electrical generation, CNG, etc. If so elected, each proposal shall be submitted separately, with both Part A (Technical Proposal) and Part B (Financial Offering) for each utilization method.
- B11.2 The Proposal shall consist of the following components:
- (a) Form A: Proposal;
 - (b) Form B: Prices;
 - (c) Technical Proposals;
 - (d) Financial Offering(s);
 - (e) Risk.
- B11.3 All components of the Proposal shall be fully completed or provided, and submitted by the Bidder no later than the Submission Deadline, with all required entries made clearly and completely, to constitute a responsive Proposal.
- B11.3.1 Bidders should submit one (1) unbound original (marked "original") and eight (8) copies.
- B11.4 Technical Proposal (8 copies)
- (a) Submit one package for each technical proposal including Form B Prices. Label this package:
 - Technical Proposal
 - Proposal for the Development of a Landfill Gas Project
 - At the Brady Road Sanitary Landfill
 - Proposing Firm's Name
- B11.5 Financial Offering and Addenda (8 copies):
- (a) The package shall contain the financial offering. Label this package:
 - Financial Offering
 - Request for Proposal for a Landfill Gas and Resource Recovery Project
 - Proposing Firm's Name
- B11.6 Bidders are advised not to include any information/literature except as requested in accordance with B11.2.
- B11.7 Bidders are advised that inclusion of terms and conditions inconsistent with the Proposal document, including the General Conditions, will be evaluated in accordance with B23.1(a).
- B11.8 The Proposal shall be submitted enclosed and sealed in an envelope clearly marked with the RFP number and the Bidder's name and address.
- B11.8.1 Samples or other components of the Proposal which cannot reasonably be enclosed in the envelope may be packaged separately, but shall be clearly marked with the RFP number, the Bidder's name and address, and an indication that the contents are part of the Bidder's Proposal Submission.
- B11.9 Proposals submitted by facsimile transmission (fax) or internet electronic mail (e-mail) will not be accepted.
- B11.10 Proposals shall be submitted to:
- The City of Winnipeg
 - Corporate Finance Department
 - Materials Management Division
 - 185 King Street, Main Floor
 - Winnipeg MB R3B 1J1

B12. PROPOSAL

- B12.1 The Bidder shall complete Form A: Proposal, making all required entries.
- B12.2 Paragraph 2 of Form A: Proposal shall be completed in accordance with the following requirements:
- (a) if the Bidder is a sole proprietor carrying on business in his own name, his name shall be inserted;
 - (b) if the Bidder is a partnership, the full name of the partnership shall be inserted;
 - (c) if the Bidder is a corporation, the full name of the corporation shall be inserted;
 - (d) if the Bidder is carrying on business under a name other than his own, the business name and the name of every partner or corporation who is the owner of such business name shall be inserted.
- B12.2.1 If a Proposal is submitted jointly by two or more persons, each and all such persons shall identify themselves in accordance with B12.2.
- B12.3 In Paragraph 3 of Form A: Proposal, the Bidder shall identify a contact person who is authorized to represent the Bidder for purposes of the Proposal.
- B12.4 Paragraph 11 of Form A: Proposal shall be signed in accordance with the following requirements:
- (a) if the Bidder is a sole proprietor carrying on business in his own name, it shall be signed by the Bidder;
 - (b) if the Bidder is a partnership, it shall be signed by the partner or partners who have authority to sign for the partnership;
 - (c) if the Bidder is a corporation, it shall be signed by its duly authorized officer or officers and the corporate seal, if the corporation has one, should be affixed;
 - (d) if the Bidder is carrying on business under a name other than his own, it shall be signed by the registered owner of the business name, or by the registered owner's authorized officials if the owner is a partnership or a corporation.
- B12.4.1 The name and official capacity of all individuals signing Form A: Proposal should be printed below such signatures.
- B12.5 If a Proposal is submitted jointly by two or more persons, the word "Bidder" shall mean each and all such persons, and the undertakings, covenants and obligations of such joint Bidders in the Proposal and the Contract, when awarded, shall be both joint and several.

B13. PRICES

- B13.1 The Bidder shall complete Form B: Prices, making all required entries.
- B13.2 The Bidder shall state a price in Canadian funds for each item of the Work identified on Form B: Prices.
- B13.2.1 Notwithstanding C11.1.1, prices on Form B: Prices shall not include the Goods and Services Tax (GST) or Manitoba Retail Sales Tax (MRST, also known as PST), which shall be extra where applicable.
- B13.3 Annual Review – Inflationary Adjustment
- (a) The unit prices specified on Form B: Prices will be adjusted on the first Contract anniversary date, and subsequent anniversary dates based on the percentage increase or decrease in unit prices for the Contract year, based on eighty-five percent (85%) of the All-Items Consumer Price Index for Winnipeg, normally referred to by Statistics Canada as Table 326-0001. The calculation of the adjustment will be based on February of the

previous year to February of the current year Nonetheless; the maximum annual adjustment shall not exceed 10%.

- (b) The indices above will be those prepared by Statistics Canada. Since the indices may not be available from Statistics Canada until some time after the adjustment date, the amount of adjustment will be retroactive to the adjustment date.

B13.4 The quantities listed on Form B: Prices are to be considered approximate only The City will use said quantities for the purpose of comparing Proposals.

B13.5 For Alternatives One and Two:

- (a) Payments for Phase 1 will commence on successful start up of LFG system and will be based on a minimum 400 SCFM.
- (b) Payments for Phases 1 and 2 will commence on successful start up of Phase 2 of the LFG system and will be based on a total of 700 SCFM.
- (c) Payments for Phases 1, 2, and 3 will commence on successful start up of Phase 3 of the LFG system and will be based on a total of 1000 SCFM.

B13.6 For Alternative Two - Performance Premium is the expected LFG quantities greater than 1000 SCFM. This premium will be expressed as \$/per SCFM/Month revenue paid to the City as identified in Form B: Prices.

B13.7 For Alternative Three - Other Resource Recovery Options in Form B: Prices; Bidder to specify in proposal the City's share of any revenues realized from any other waste materials.

B13.8 For Alternative Four, Bidder shall state on Form B: Prices the number of hectares required for any lands needed for lease for any Alternatives. The Bidder shall also state the price willing to be paid for this land lease.

B13.9 The quantities for which payment will be made to the Contractor are to be determined by the Work actually performed and completed by the Contractor, to be measured as specified in the applicable Specifications.

B13.10 Prices from Non-Resident Bidders are subject to a Non-Resident Withholding Tax pursuant to the Income Tax Act (Canada).

B14. PART A: TECHNICAL PROPOSAL

B14.1 The Bidder shall provide Technical Proposal, making all required entries.

B14.1.1 General Information should include:

- (a) Name and office address of firm;
- (b) Size and office locations of the proposing firm;
- (c) An organizational chart of the Bidder's company showing the relationship of the Project Manager to the company's top management and subcontractors for all phases of the project, including marketing, permitting, engineering, construction, start-up, operations and financing. Name and show the relationship of any partner or affiliate;
- (d) Name, contact information, and full resume of the Project Manager. The Project Manager must be available for discussions and coordination with City staff during the project, as required;
- (e) Other personnel, consultants and contractors that will be working on the project. Include a brief resume of each key person on the organization chart, highlighting specific qualifications relevant to tasks they will perform;
- (f) A copy of Bidder's recommended Landfill Gas Sale Agreement (if applicable). Note, the City is not obligated to incorporate any provisions of such a recommended agreement into the agreement between the City and the Bidder for the LFG project at the BRSL;

- (g) Firm's Annual audited financial report or equivalent for previous two(2) fiscal years;
- (h) The Company's Profile, Health and Experience to identify years in business, strength, viability and experience in the application and implementations being proposed including the strength of proposed project team.

B14.1.2 Proposed Method of Flaring and Energy Utilization (if applicable):

B14.1.3 General Information should include:

- (a) Detailed description of the proposed project;
- (b) If applicable, the identification of the product sold (electricity, CNG, or other), the market to which this product will be sold, and method by which the product will be transmitted to that market;
- (c) Provision for future expansion of production capacity;
- (d) Area needed for construction and operation of the proposed facility if different from the area identified in this RFP;
- (e) The number of Bidder's staff that will attend the facility once in operation, and how often they may be on Site;
- (f) What City involvement will be needed to execute the project;
- (g) A project schedule, identifying key benchmarks in construction, especially those which require City and regulatory agency participation;
- (h) What amendment (if any) is required to the existing Environment Act license for this project and/or what additional licensing is required;
- (i) Any other information that the Bidder feels is relevant to the project that is not provided elsewhere.

Demonstrated Technology

B14.1.4 Proposing Demonstrated Technology

- (a) For the purpose of this RFP, "demonstrated technology" is:
 - (i) Technology that has been implemented (in at least four projects) within Canada or the United States;
 - (ii) Each operating at a rate of at least 900 SCFM at 50% methane (or equivalent BTU or GJ input);
 - (iii) Each of these projects shall have been in operation for at least one year prior to the submittal of the proposal, with operation at least 85% of the time (up-time) during that year.
- (b) These projects need not be those of the Bidder.

B14.1.5 Provide the following information to document the proposed demonstrated technology:

- (a) Location of the project and the jurisdiction over the project;
- (b) Project owner contact name and phone number;
- (c) The size of the project (e.g. KWH generation capacity, SCFM, GJ, CNG production capacity);
- (d) The LFG input into the project (SCFM and percent methane) in the year prior to this proposal;
- (e) Percent up-time in the past 12 months and how much product (i.e.; kW-hrs, gallons, cubic feet) was produced;
- (f) The Bidder shall provide information to document the proposed project stability of operation for a period of no less than (3) three years.

B14.2 Demonstrating Bidders Successful Project History

- (a) The Bidder shall demonstrate a history of:

- (i) Two (2) projects implemented in Canada or the United States, or at least three (3) projects implemented elsewhere successfully meeting B14.1.4(a)(i) and (a)(iii);
 - (ii) Successful and satisfactory projects using the same technology as proposed for the BRSL;
 - (iii) These projects shall have been operating at a rate of at least 900 SCFM at 50% methane (or equivalent BTU input), with at least 85% up-time during the year prior to submitting the proposal. Calendar year 2008 may also be used for calculating up-time;
- (b) These projects must be those of the Bidder.

B14.2.2 The Bidder shall submit information showing a successful project history. Provide the following information to document the successful project history of the Bidder:

- (a) Location of the project, and the jurisdiction over the project;
- (b) Project owner contact name and phone number;
- (c) The size of the project (e.g. KWH generation capacity, SCFM, GJ, CNG production capacity);
- (d) The LFG input into the project (SCFM and percent methane) in the year prior to this proposal;
- (e) Percent up-time in the past 12 months and how much product (i.e. kW-hrs, gallons, cubic feet) was produced. The Bidder shall provide information to document the stability of proposing firm that the firm submitting the proposal has been in existence since a least January 1, 2006.

B14.3 Company's Profile

- (a) The Bidder shall submit the Company's Profile, Health and Experience to identify years in business, strength, viability and experienced in the application and implementations being proposed including the strength of proposed project team.

B15. PART B: FINANCIAL OFFERING

B15.1 Bidders shall submit financial offering for Alternative One and for Alternatives Two, Three and Four if applicable.

B15.2 Include the "Financial Offering" in a separate envelope.

B15.3 Bidder may propose more than one Financial Offering for each alternative.

B15.3.1 Included in the financial offering for all Alternatives shall be the following:

- (a) The detailed cost of designing, building, operating and financing;
- (b) Describe how the project(s) will be financed;
- (c) Provide a detailed project time schedule and cost breakdown including the costs that the City would be required to fund if applicable;
- (d) Performance Premium (if applicable);
- (e) Percentage of applicable revenue sharing for Other Resource Recovery Options.

B16. RISK IDENTIFICATION AND ANALYSIS

B16.1 The Bidder is to identify any risks additional to the risks inherit in this RFP that are to be assumed by the City.

B16.2 Risks to include but not limited to Technological, Financial and Scheduling.

B17. QUALIFICATION

B17.1 The Bidder shall:

- (a) Undertake to be in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba, or if the Bidder does not carry on business in Manitoba, in the jurisdiction where the Bidder does carry on business; and
- (b) Be financially capable of carrying out the terms of the Contract; and
- (c) Have all the necessary experience, capital, organization, and equipment to perform the Work in strict accordance with the terms and provisions of the Contract.

B17.2 The Bidder and any proposed Subcontractor (for the portion of the Work proposed to be subcontracted to them) shall:

- (a) be responsible and not be suspended, debarred or in default of any obligations to the City. A list of suspended or debarred individuals and companies is available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt/debar.stm>

B17.3 The Bidder and/or any proposed Subcontractor (for the portion of the Work proposed to be subcontracted to them) shall:

- (a) have successfully carried out work similar in nature, scope and value to the Work; and
- (b) be fully capable of performing the Work required to be in strict accordance with the terms and provisions of the Contract; and
- (c) have a written workplace safety and health program, if required, pursuant to The Workplace Safety and Health Act (Manitoba).SPEC NOTE: Identify any additional contract-specific

B17.4 Further to B17.3(c), the Bidder shall, within five (5) Business Days of a request by the Contract Administrator, provide proof satisfactory to the Contract Administrator that the Bidder/Construction Subcontractor has a workplace safety and health program meeting the requirements of The Workplace Safety and Health Act (Manitoba), by providing:

- (a) a valid COR certification number under the Certificate of Recognition (COR) Program administered by the Manitoba Construction Safety Association or by the Manitoba Heavy Construction Association's Safety, Health and Environment Program; or
- (b) a report or letter to that effect from an independent reviewer acceptable to the City. (A list of acceptable reviewers and the review template are available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt>)

B17.5 The Bidder shall submit, within three (3) Business Days of a request by the Contract Administrator, proof satisfactory to the Contract Administrator of the qualifications of the Bidder and of any proposed Subcontractor.

B17.6 The Bidder shall provide, on the request of the Contract Administrator, full access to any of the Bidder's equipment and facilities to confirm, to the Contract Administrator's satisfaction, that the Bidder's equipment and facilities are adequate to perform the Work.

B18. OPENING OF PROPOSALS AND RELEASE OF INFORMATION

B18.1 Proposals will not be opened publicly.

B18.2 After award of Contract, the name(s) of the successful Bidder(s) will be available on the Closed Bid Opportunities (or Public/Posted Opening & Award Results) page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt.t>

B18.3 To the extent permitted, the City shall treat all Proposal Submissions as confidential, however the Bidder is advised that any information contained in any Proposal may be released if required by City policy or procedures, by The Freedom of Information and Protection of Privacy Act (Manitoba), by other authorities having jurisdiction, or by law.

B19. IRREVOCABLE OFFER

B19.1 The Proposal(s) submitted by the Bidder shall be irrevocable for the time period specified in Paragraph 10 of Form A: Proposal.

B19.2 The acceptance by the City of any Proposal shall not release the Proposals of the other responsive Bidders and these Bidders shall be bound by their offers on such Work until a Contract for the Work has been duly executed and the performance security furnished as herein provided, but any offer shall be deemed to have lapsed unless accepted within the time period specified in Paragraph 10 of Form A: Proposal.

B20. WITHDRAWAL OF OFFERS

B20.1 A Bidder may withdraw his Proposal without penalty by giving written notice to the Manager of Materials at any time prior to the Submission Deadline.

B20.1.1 Notwithstanding C23.3, the time and date of receipt of any notice withdrawing a Proposal shall be the time and date of receipt as determined by the Manager of Materials.

B20.1.2 The City will assume that any one of the contact persons named in Paragraph 3 of Form A: Proposal or the Bidder's authorized representatives named in Paragraph 11 of Form A: Proposal, and only such person, has authority to give notice of withdrawal.

B20.1.3 If a Bidder gives notice of withdrawal prior to the Submission Deadline, the Manager of Materials will:

- (a) retain the Proposal until after the Submission Deadline has elapsed;
- (b) open the Proposal to identify the contact person named in Paragraph 3 of Form A: Proposal and the Bidder's authorized representatives named in Paragraph 11 of Form A: Proposal; and
- (c) if the notice has been given by any one of the persons specified in B20.1.3(b), declare the Proposal withdrawn.

B20.2 A Bidder who withdraws his Proposal after the Submission Deadline but before his offer has been released or has lapsed as provided for in B19.2 shall be liable for such damages as are imposed upon the Bidder by law and subject to such sanctions as the Chief Administrative Officer considers appropriate in the circumstances. The City, in such event, shall be entitled to all rights and remedies available to it at law.

B21. INTERVIEWS

B21.1 The Contract Administrator may, in his sole discretion, interview Bidders during the evaluation process.

B22. NEGOTIATIONS

B22.1 The City reserves the right to negotiate details of the Contract with any Bidder. Bidders are advised to present their best offer, not a starting point for negotiations in their Proposal Submission.

B22.2 The City may negotiate with the Bidders submitting, in the City's opinion, the highest financial benefit. The City may enter into negotiations with one or more Bidders without being obligated to offer the same opportunity to any other Bidders. Negotiations may be concurrent and will involve each Bidder individually. The City shall incur no liability to any Bidder as a result of such negotiations.

B22.3 If, in the course of negotiations pursuant to B22.2 or otherwise, the Bidder amends or modifies a Proposal after the Submission Deadline, the City may consider the amended Proposal as an alternative to the Proposal already submitted without releasing the Bidder from the Proposal as originally submitted.

B23. EVALUATION OF PROPOSALS

B23.1 Award of the Contract shall be based on the following evaluation criteria:

- (a) compliance by the Bidder with the requirements of the Request for Proposal or acceptable deviation there from: (pass/fail)
- (b) Qualifications of the Bidder and the Subcontractors, if any, pursuant to B14 (pass/fail)
- (c) Technical Proposal (30%)
- (d) Financial Benefit to City (55%)
- (e) Level of Risk (15%)

B23.2 Further to B23.1(a), the Award Authority may reject a Proposal as being non-responsive if the Proposal Submission is incomplete, obscure or conditional, or contains additions, deletions, alterations or other irregularities. The Award Authority may reject all or any part of any Proposal, or waive technical requirements or minor informalities or irregularities if the interests of the City so require.

B23.3 Further to B23.1(b), the Award Authority shall reject any Proposal submitted by a Bidder who does not demonstrate, in his Proposal or in other information required to be submitted, that he is responsible and qualified.

B23.4 Further to B23.1(c), the Technical Proposal shall be evaluated based on the information submitted in response to B14.

B23.5 Further to B23.1(d), the financial benefits to the City will be based on the financial analysis including evaluation based on a Net Present Value (NPV) calculation of Form B Prices using a discount rate of 6% over a 20 year period, including all information submitted as per B15.

B23.6 Further to B23.1(e) the Level of Risk will be evaluated based on:

- (a) the information submitted in response to B16.1;
- (b) any additional costs that may be allocated by the City to represent risk factors;
- (c) how well had the proposed technology has been implemented previously; and
- (d) confidence the City has that the project risk will be minimized.

B23.7 Further to B23.1(e) Form B prices shall be evaluated considering all costs to the City over the lifetime of the Project.

B23.8 The City shall have the right to award the Contract for the alternative or alternatives that are most advantageous to the City. If the Bidder has not bid on all alternatives, the Bidder shall have no claim against the City if its partial offer is rejected in favour of an award of the Contract on the basis of an alternative or alternatives upon which it has not bid.

B23.9 The City may reject any Proposal submitted by a bidder who does not demonstrate in its Proposal, in other information required to be submitted, during interviews or in the course of reference checks, this it is responsible and qualified.

B23.10 This Contract shall be awarded by alternative(s) with the City choosing the alternative that is in its best interest.

B23.11 Notwithstanding B13.1, the Bidder shall Bid on Alternative One but is not required to Bid on all other Alternatives.

B23.12 If, in the sole opinion of the City, a Proposal does not achieve a pass rating for B23.1(a) the Proposal will be determined to be non-responsive and will not be further evaluated.

B23.13 Following the deadline for receipt of proposals, all proposals submitted will be analyzed and reviewed by a review panel consisting of representative(s) to be determined by the City of Winnipeg.

B24. AWARD OF CONTRACT

B24.1 The City will give notice of the award of the Contract, or will give notice that no award will be made.

B24.2 The City will have no obligation to award a Contract to a Bidder, even though one or all of the Bidders are determined to be responsible and qualified, and the Proposals are determined to be responsive.

B24.2.1 Without limiting the generality of B24.2, the City will have no obligation to award a Contract where:

- (a) the prices exceed the available City funds for the Work;
- (b) the prices are materially in excess of the prices received for similar work in the past;
- (c) the prices are materially in excess of the City's cost to perform the Work, or a significant portion thereof, with its own forces;
- (d) only one Proposal is received; or
- (e) in the judgment of the Award Authority, the interests of the City would best be served by not awarding a Contract.

B24.3 Where an award of Contract is made by the City, the award shall be made to the responsible and qualified Bidder submitting the most advantageous offer.

PART C - GENERAL CONDITIONS

C0. GENERAL CONDITIONS

- C0.1 The *General Conditions for Construction* (Revision 2006 12 15) are applicable to the Work of the Contract.
- C0.1.1 The *General Conditions for Construction* are available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at http://www.winnipeg.ca/matmgt/gen_cond.stm
- C0.2 A reference in the Bid Opportunity to a section, clause or subclause with the prefix “**C**” designates a section, clause or subclause in the *General Conditions for Construction*.

PART D - SUPPLEMENTAL CONDITIONS

GENERAL

D1. GENERAL CONDITIONS

D1.1 In addition to the *General Conditions for Construction*, these Supplemental Conditions are applicable to the Work of the Contract.

D2. SCOPE OF WORK

D2.1 The Work to be done under the Contract shall consist of a DBOF Landfill Gas (LFG) and Resource Recovery Project for the removal of Methane Gas for the duration of twenty (20) years. Construction shall begin by September 1, 2010 and be operational within twelve (12) months.

D2.2 The major components of the Work are as follows:

- (a) Landfill Gas Collection, Flaring, and Project Financing;
- (b) Landfill Gas Collection, Flaring, Utilization and Project Financing;
- (c) Other Resource Recovery Options.

D3. DEFINITIONS

D3.1 When used in this Request for Proposal:

- (a) "**LFG**" means Landfill Gas;
- (b) "**BTU**" means British Thermal unit;
- (c) "**SCFM**" means standard cubic feet per metre;
- (d) "**HA**" means hectares;
- (e) "**BRSL**" means Brady Road Sanitary Landfill;
- (f) "**GJ**" means Gigajoules;
- (g) "**KWH**" means Kilowatt Hour;
- (h) "**CNG**" means Compressed Natural Gas;
- (i) "**NVP**" means Net Present Value;
- (j) "**shall**" means a mandatory requirement which will be evaluated on a pass/fail basis;
- (k) "**should**" means a desirable action or feature which will be evaluated on a relative scale;
- (l) "**SRM**" means Specified Risk Materials. Specified risk materials include the skull, brain, trigeminal ganglia (nerves attached to the brain), eyes, tonsils, spinal cord, and dorsal root ganglia (nerves attached to the spinal cord) of cattle aged 30 months or older, and the distal ileum (portion of the small intestine) of cattle of all ages, and dead cattle from which SRM has not been removed.

D4. CONTRACT ADMINISTRATOR

D4.1 The Contract Administrator is:

Darcy Strandberg
Solid Waste Process Coordinator
Telephone No. (204) 986-5108
Facsimile No. (204) 986-7129
Email – dstrandberg@Winnipeg.ca

D4.2 At the pre-commencement meeting, the Contract Administrator will identify additional personnel representing the Contract Administrator and their respective roles and responsibilities for the Work.

D5. CONTRACTOR'S SUPERVISOR

D5.1 Further to C6.20, the Contractor shall employ and keep on the Work, at all times during the performance of the Work, a competent supervisor and assistants, if necessary, acceptable to the Contract Administrator. The supervisor shall represent the Contractor on the Site. The supervisor shall not be replaced without the prior consent of the Contract Administrator unless the supervisor proves to be unsatisfactory to the Contractor and ceases to be in his employ.

D5.2 Before commencement of Work, the Contractor shall identify his designated supervisor and any additional personnel representing the Contractor and their respective roles and responsibilities for the Work.

D5.2.1 Further to C5.5 Contract Administrator may give instructions or orders to the Contractor's supervisor and such instructions or orders shall be deemed to have been given to the Contractor.

D6. CONFIDENTIALITY AND OWNERSHIP OF INFORMATION

D6.1 Information provided to the Contractor by the City or acquired by the Contractor during the course of the Work is confidential. Such information shall not be used or disclosed in any way without the prior written authorization of the Contract Administrator.

D6.2 The Contract, all deliverables produced or developed, and information provided to or acquired by the Contractor are the property of the City. The Contractor shall not disclose or appropriate to its own use, or to the use of any third party, all or any part thereof without the prior written consent of the Contract Administrator.

D6.3 The Contractor shall not make any statement of fact or opinion regarding any aspect of the Contract to the media or any member of the public without the prior written authorization of the Contract Administrator.

D7. NOTICES

D7.1 Notwithstanding C22.3, all notices of appeal to the Chief Administrative Officer shall be sent to the attention of the Chief Financial Officer at the following address or facsimile number:

The City of Winnipeg
Chief Financial Officer
Facsimile No.: (204) 949-1174

SUBMISSIONS

D8. AUTHORITY TO CARRY ON BUSINESS

D8.1 The Contractor shall be in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba, or if the Contractor does not carry on business in Manitoba, in the jurisdiction where the Contractor does carry on business, throughout the term of the Contract, and shall provide the Contract Administrator with evidence thereof upon request.

D9. SAFE WORK PLAN

- D9.1 The Contractor shall provide the Contract Administrator with a Safe Work Plan at least five (5) Business Days prior to the commencement of any Work on the Site but in no event later than the date specified in C4.1 for the return of the executed Contract.
- D9.2 The Safe Work Plan should be prepared and submitted in the format shown in the City's template which is available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt/safety/default.stm>

D10. INSURANCE

- D10.1 The City of Winnipeg will consider various insurance options to address the innovative nature of response to this RFP. Further details may be negotiated after award based on the proposed submissions.
- D10.2 For clarification, notwithstanding D10.1, the Contractor shall purchase and maintain, or cause to be purchased and maintained the following minimum insurances:
- (a) Commercial general liability insurance, in the amount of at least five million dollars (\$5,000,000.00) inclusive, with The City of Winnipeg added as an additional insured; such liability policy to also contain a cross-liability clause (also known as severability of interest), contractual liability and products and completed operations cover, to remain in place at all times over the term of the contract;
 - (b) Automobile liability insurance for owned and non-owned automobiles used for or in connection with the contract in the amount of at least two million dollars (\$2,000,000.00); automobile insurance with stated limits to be retained at all times over the term of the contract; such insurance may be met through the commercial general liability cover where applicable;
 - (c) Contractor's Pollution Liability and/or Environmental Impairment Liability: Two Million Dollars (\$2,000,000) per occurrence/Two Million Dollars (\$2,000,000) annual aggregate, inclusive of legal defense costs, with The City of Winnipeg added as an additional insured. This policy shall be structured to cover both sudden & accidental, and gradual exposures resulting over the term of the contract.
 - (d) The Contractor and all Subcontractors engaged by the Contractor in relation to this agreement are responsible for insuring their own equipment and tools used over the term of the contract.
 - (e) During any construction periods that take place throughout the term of the contract the Contractor shall purchase and maintain as appropriate, either:
 - (i) An all risks Installation Floater carrying adequate limits to cover all machinery, equipment, supplies and/or materials intended to enter into and form part of any installation, or;
 - (ii) Builder's Risk insurance (Broad Form) including testing and commissioning, in the amount of one hundred percent (100%) of the total construction costs; written in the name of the Contractor, The City of Winnipeg and all other contractors, sub-contractors, engineering and architectural consultants etcetera, and/or;
 - (iii) Any other insurances, carrying suitable limits and deductibles, as may be required to cover the scope of Work.
- D10.3 All Policies shall be taken out with insurers licensed to and carrying on business in the Province of Manitoba.
- D10.4 Deductibles shall be borne by the Contractor.
- D10.5 The Contractor shall provide the Contract Administrator with a certificate(s) of insurance, in a form satisfactory to the City Solicitor, at least two (2) Business Days prior to the commencement of any Work on the Site but in no event later than the date specified in C4.1 for the return of the executed Contract.

- D10.6 The Contractor shall not cancel, or cause any such policy or policies to lapse without providing at least thirty (30) Calendar Days prior written notice to the Contract Administrator.
- D10.7 The Contractor shall provide written notice to the City of Winnipeg of any material changes to their policies within thirty (30) days of the change taking effect.
- D10.8 The City shall have the right to alter the limits and/or coverage's as reasonably required from time to time during the continuance of this agreement.

D11. PERFORMANCE SECURITY

- D11.1 The Contractor shall provide and maintain Performance Security until one (1) month from the total performance of the Contract in the form of:
- (a) Performance Bonds of a company registered to conduct the business of a surety in Manitoba in the forms attached to these Supplemental Conditions (Form H1: Performance Bonds); the first ("Initial Performance Security") for three years in the amount of fifty percent (50%) of the annual value of the Contract, and subsequent performance bonds ("Renewal Performance Security"). Each such Renewal Performance Security shall be no less than one (1) year in duration and in the amount of fifty percent (50%) of the annual value of the Contract. In addition to the Performance Bond, the Contractor shall provide an irrevocable Standby Letter of Credit issued by a bank or other financial institution registered to conduct business in Manitoba, in the form attached to these Supplemental Conditions (Form H2: Irrevocable Standby Letter of Credit), in the amount of fifteen percent (15%) of the annual value of the Contract. Failure by the Contractor to maintain performance security shall constitute a default under this Contract entitling the City to all rights and remedies available to it at law, including the right to draw the full proceeds of the Standby Letter of Credit without notice and any such monies may be used as provided in this Contract in the event of default; or
 - (b) an irrevocable Standby Letter of Credit issued by a bank or other financial institution registered to conduct business in Manitoba, in the form attached to these Supplemental Conditions (Form H2: Irrevocable Standby Letter of Credit), in the amount of fifty percent (50%) of the annual value of the Contract; or
 - (c) a certified cheque or draft payable to "The City of Winnipeg", drawn on a bank or other financial institution registered to conduct business in Manitoba, in the amount of fifty percent (50%) of the annual value of the Contract.
- D11.1.1 Where the performance security is in the form of a certified cheque or draft, it will be deposited by the City. The City will not pay any interest on certified cheques or drafts furnished as performance security.
- D11.2 Renewal of Performance Security
- (a) Further to D11.1(D11.1(a)), the Renewal Performance Security shall be provided to the City no later than sixty (60) calendar days prior to the expiry of the Current Performance Security.

D12. SUBCONTRACTOR LIST

- D12.1 The Contractor shall provide the Contract Administrator with a complete list of the Subcontractors whom the Contractor proposes to engage (Form J: Subcontractor List) at least two (2) Business Days prior to the commencement of any Work.

D13. SECURITY CLEARANCE

- D13.1 The City, at its sole discretion, may require any person proposed to perform Work under the Contract to obtain, or have obtained not earlier than one (1) year prior to the Submission Deadline, a Criminal Record Search Certificate by the police service having jurisdiction at their place of residence or by another authority satisfactory to the Contract Administrator.

- D13.2 Prior to the commencement of any Work, and during the term of the Contract if additional or replacement individuals are proposed to perform Work, the Contractor shall supply the Contract Administrator with a Criminal Record Search Certificate obtained not earlier than one (1) year prior to the Submission Deadline, or a certified true copy thereof, for each individual proposed to perform the Work.
- D13.3 Any individual for whom a Criminal Record Search Certificate is not provided, or for whom a Criminal Record Search Certificate indicates any convictions or pending charges related to property offences or crimes against another person, will not be permitted to perform any Work.
- D13.4 Any Criminal Record Search Certificate obtained thereby will be deemed valid for the duration of the Contract subject to a repeated records search as hereinafter specified.
- D13.5 Notwithstanding the foregoing, at any time during the term of the Contract, the City may, at its sole discretion and acting reasonably, require an updated criminal records search. Any individual who fails to provide a satisfactory Criminal Record Search Certificate as a result of a repeated criminal records search will not be permitted to continue to perform any Work.

SCHEDULE OF WORK

D14. COMMENCEMENT

- D14.1 The Contractor shall not commence any Work until he is in receipt of a notice of award from the City authorizing the commencement of the Work.
- D14.2 The Contractor shall not commence any Work on the Site until:
- (a) the Contract Administrator has confirmed receipt and approval of:
 - (i) evidence of authority to carry on business specified in D8;
 - (ii) evidence of the workers compensation coverage specified in C6.14;
 - (iii) the Safe Work Plan specified in D9;
 - (iv) evidence of the insurance specified in D10;
 - (v) the performance security specified in D11; and
 - (vi) the Subcontractor List specified in D12.
 - (b) The Contractor has attended a meeting with the Contract Administrator, or the Contract Administrator has waived the requirement for a meeting.
- D14.3 The Contractor shall commence the Work on the Site by September 1, 2010.

D15. CRITICAL STAGES

- D15.1 The Contractor shall achieve critical stages of the Work in accordance with the following requirements:
- (a) Construction commencement by September 1, 2010.
 - (b) Phase 1 construction completed and operational by December 31, 2010.
 - (c) Phase 2 construction completed and operational by April 30, 2011.
 - (d) Phase 3 construction completed and operational by September 27, 2011.

D16. SUBSTANTIAL PERFORMANCE

- D16.1 The Contractor shall achieve Substantial Performance by September 1, 2011.
- D16.2 When the Contractor considers the Work to be substantially performed, the Contractor shall arrange, attend and assist in the inspection of the Work with the Contract Administrator for purposes of verifying Substantial Performance. Any defects or deficiencies in the Work noted

during that inspection shall be remedied by the Contractor at the earliest possible instance and the Contract Administrator notified so that the Work can be re-inspected.

- D16.3 The date on which the Work has been certified by the Contract Administrator as being substantially performed to the requirements of the Contract through the issue of a certificate of Substantial Performance is the date on which Substantial Performance has been achieved.

D17. TOTAL PERFORMANCE

- D17.1 The Contractor shall achieve Total Performance by September 27, 2011.
- D17.2 When the Contractor or the Contract Administrator considers the Work to be totally performed, the Contractor shall arrange, attend and assist in the inspection of the Work with the Contract Administrator for purposes of verifying Total Performance. Any defects or deficiencies in the Work noted during that inspection shall be remedied by the Contractor at the earliest possible instance and the Contract Administrator notified so that the Work can be re-inspected.
- D17.3 The date on which the Work has been certified by the Contract Administrator as being totally performed to the requirements of the Contract through the issue of a certificate of Total Performance is the date on which Total Performance has been achieved.

D18. LIQUIDATED DAMAGES

- D18.1 If the Contractor fails to achieve Total Performance in accordance with the Contract by the day fixed herein for Total Performance, the Contractor shall pay the City an amount equal to any fines incurred due to the delay of the operation of the LFG system.
- D18.2 The amount specified for liquidated damages in D18.1 is based on a genuine pre-estimate of the City's damages in the event that the Contractor does not achieve Total Performance by the day fixed herein for same.
- D18.3 If the Contractor fails to achieve the required Landfill Gas collection and flaring upon total completion and operation of the LFG system in accordance with government legislation and D13, the Contractor shall pay to the City an amount equal to cover all fines that the City incurs due to the requirements set forth by government legislation.
- D18.4 The City may reduce any payment to the Contractor by the amount of any liquidated damages assessed.
- D18.5 Liquidated Damages for Alternative 3, Other Recovery Options will be negotiated upon successful award.

CONTROL OF WORK

D19. JOB MEETINGS

- D19.1 Regular weekly job meetings will be held at the Site. These meetings shall be attended by a minimum of one representative of the Contract Administrator, one representative of the City and one representative of the Contractor. Each representative shall be a responsible person capable of expressing the position of the Contract Administrator, the City and the Contractor respectively on any matter discussed at the meeting including the Work schedule and the need to make any revisions to the Work schedule. The progress of the Work will be reviewed at each of these meetings.
- D19.2 The Contract Administrator reserves the right to cancel any job meeting or call additional job meetings whenever he deems it necessary.

D20. PRIME CONTRACTOR – THE WORKPLACE SAFETY AND HEALTH ACT (MANITOBA)

D20.1 Further to C6.24, the Contractor shall be the Prime Contractor and shall serve as, and have the duties of the Prime Contractor in accordance with The Workplace Safety and Health Act (Manitoba).

D21. SAFETY

D21.1 The Contractor shall be solely responsible for safety at the Site and for compliance with all laws, rules, regulations and practices required by the applicable safety legislation.

D21.2 The Contractor shall be solely responsible for securing the Site, and any existing facility thereon, and for the proper care and protection of the Work already performed.

D21.3 The Contractor shall do whatever is necessary to ensure that:

- (a) no person, property, right, easement or privilege is injured, damaged or infringed by reason of the Contractor's activities in performing the Work;
- (b) the health and safety of all persons employed in the performance of the Work or otherwise is not endangered by the method or means of its performance;
- (c) adequate medical services are available to all persons employed on the Work and at all times during the performance of the Work;
- (d) adequate sanitation measures are taken and facilities provided with respect to the Work.
- (e) pedestrian and other traffic on any public or private road or waterway is not unduly impeded, interrupted or endangered by the performance or existence of the Work or Plant;
- (f) fire hazards in or about the Work is eliminated.

D21.4 The Contractor shall be aware that the landfill may contain hazardous materials such as asbestos, SMR, Leachate and sewage sludge and must take precautions to protect all persons employed on the Work at all times during the performance of the Work.

D22. SITE CLEANING

D22.1 The Contractor shall maintain the Site and the Work in a tidy condition and free from the accumulation of waste and debris, other than that caused by the City or by other contractors.

D22.1.1 As the Work progresses, the Contractor shall remove any Plant and Material not required for the performance of the remaining Work. He shall also remove waste and debris other than that caused by the City or other contractors, and leaves the Site and the Work clean and suitable for occupancy by the City unless otherwise specified.

D22.1.2 Total Performance shall not be considered to have been achieved until the Contractor has cleaned up the Site and has removed all Plant, surplus Material, waste and debris, other than that left by the City or other contractors.

MEASUREMENT AND PAYMENT

D23. PAYMENT SCHEDULE

D23.1 Further to C12, the City may at its option pay the Contractor by direct deposit to the Contractor's banking institution.

D23.2 Further to C12 the Contractor may make any payments owing to the city by direct deposit to the city banking institution.

D23.3 Further to C12, payment shall be in Canadian funds net thirty (30) Calendar Days after receipt and approval of the Contractor's invoice.

FORM H1: PERFORMANCE BOND
(See D11)

KNOW ALL MEN BY THESE PRESENTS THAT

_____ ,
(hereinafter called the "Principal"), and

_____ ,
(hereinafter called the "Surety"), are held and firmly bound unto **THE CITY OF WINNIPEG** (hereinafter called the "Obligee"), in the sum of

_____ dollars (\$_____)

of lawful money of Canada to be paid to the Obligee, or its successors or assigns, for the payment of which sum the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has entered into a written contract with the Obligee for

RFP NO. 704-2009

REQUEST FOR PROPOSAL FOR A LANDFILL GAS AND RESOURCE RECOVERY PROJECT AT THE
BRADY ROAD LANDFILL

which is by reference made part hereof and is hereinafter referred to as the "Contract".

NOW THEREFORE the condition of the above obligation is such that if the Principal shall:

- (a) carry out and perform the Contract and every part thereof in the manner and within the times set forth in the Contract and in accordance with the terms and conditions specified in the Contract;
- (b) perform the Work in a good, proper, workmanlike manner;
- (c) make all the payments whether to the Obligee or to others as therein provided;
- (d) in every other respect comply with the conditions and perform the covenants contained in the Contract; and
- (e) indemnify and save harmless the Obligee against and from all loss, costs, damages, claims, and demands of every description as set forth in the Contract, and from all penalties, assessments, claims, actions for loss, damages or compensation whether arising under "The Workers Compensation Act", or any other Act or otherwise arising out of or in any way connected with the performance or non-performance of the Contract or any part thereof during the term of the Contract and the warranty period provided for therein;

THEN THIS OBLIGATION SHALL BE VOID, but otherwise shall remain in full force and effect. The Surety shall not, however, be liable for a greater sum than the sum specified above.

AND IT IS HEREBY DECLARED AND AGREED that the Surety shall be liable as Principal, and that nothing of any kind or matter whatsoever that will not discharge the Principal shall operate as a discharge or release of liability of the Surety, any law or usage relating to the liability of Sureties to the contrary notwithstanding.

IN WITNESS WHEREOF the Principal and Surety have signed and sealed this bond the

_____ day of _____, 20____.

SIGNED AND SEALED
in the presence of:

(Witness as to Principal if no seal)

(Name of Principal)

Per: _____ (Seal)

Per: _____

(Name of Surety)

By: _____ (Seal)
(Attorney-in-Fact)

**FORM H2: IRREVOCABLE STANDBY LETTER OF CREDIT
(PERFORMANCE SECURITY)**
(See D11)

(Date)

The City of Winnipeg
Internal Services Department
Legal Services Division
185 King Street, 3rd Floor
Winnipeg MB R3B 1J1

RE: PERFORMANCE SECURITY – RFP NO. 704-2009

REQUEST FOR PROPOSAL FOR A LANDFILL GAS AND RESOURCE RECOVERY PROJECT
AT THE BRADY ROAD LANDFILL

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

(Name of Contractor)

(Address of Contractor)

WE HEREBY ESTABLISH in your favour our irrevocable Standby Letter of Credit for a sum not exceeding in the aggregate

Canadian dollars.

This Standby Letter of Credit may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you. It is understood that we are obligated under this Standby Letter of Credit for the payment of monies only and we hereby agree that we shall honour your demand for payment without inquiring whether you have a right as between yourself and our customer to make such demand and without recognizing any claim of our customer or objection by the customer to payment by us.

The amount of this Standby Letter of Credit may be reduced from time to time only by amounts drawn upon it by you or by formal notice in writing given to us by you if you desire such reduction or are willing that it be made.

Partial drawings are permitted.

We engage with you that all demands for payment made within the terms and currency of this Standby Letter of Credit will be duly honoured if presented to us at:

(Address)

and we confirm and hereby undertake to ensure that all demands for payment will be duly honoured by us.

All demands for payment shall specifically state that they are drawn under this Standby Letter of Credit.

Subject to the condition hereinafter set forth, this Standby Letter of Credit will expire on

(Date)

It is a condition of this Standby Letter of Credit that it shall be deemed to be automatically extended from year to year without amendment from the present or any future expiry date, unless at least 30 days prior to the present or any future expiry date, we notify you in writing that we elect not to consider this Standby Letter of Credit to be renewable for any additional period.

This Standby Letter of Credit may not be revoked or amended without your prior written approval.

This credit is subject to the Uniform Customs and Practice for Documentary Credit (1993 Revision), International Chamber of Commerce Publication Number 500.

(Name of bank or financial institution)

Per: _____
(Authorized Signing Officer)

Per: _____
(Authorized Signing Officer)

PART E - SPECIFICATIONS

GENERAL

E1. APPLICABLE SPECIFICATIONS AND DRAWINGS

- E1.1 These Specifications shall apply to the Work.
- E1.2 *The City of Winnipeg Standard Construction Specifications* in its entirety, whether or not specifically listed on Form B: Prices, shall apply to the Work.
- E1.2.1 *The City of Winnipeg Standard Construction Specifications* is available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Branch internet site at <http://www.winnipeg.ca/matmgt>.
- E1.2.2 The version in effect three (3) Business Days before the Submission Deadline shall apply.
- E1.2.3 Further to C2.4 (d), Specifications included in the Bid Opportunity shall govern over *The City of Winnipeg Standard Construction Specifications*.
- E1.2.4 The following are applicable to the Work:

<u>Specification No.</u>	<u>Specification Title</u>
	Cover Sheet - Brady Road Landfill Location Plan
SWD-D-306	Land Use Plan – Areas of Landfill and Areas Available For Use
SWD-D-307	Topographic Map Construction Phases – Final Refuse Projections to Elevation 262.0

<u>Information Drawings</u>	<u>Drawing Name/Title</u>
SWD-D-338	Leachate Collection System – General Plan

E2. INFORMATION REPORTS

- E2.1 Further to C3.1, of the General Conditions, investigations have been done in the vicinity of the proposed works to determine the character of the subsurface to facilitate the design of the Work. The information is considered accurate at the locations indicated and at the time of the investigation. However, considerable variations in conditions may exist between test holes and information provided in the reports.
- E2.2 Bidders are responsible for any interpretation they place on the supplied information and are expected to make such additional investigation of the site as they feel necessary to satisfy themselves.
- E2.3 Any site investigation requested by the Bidder shall be carried out in accordance with the requirements and approval by the appropriate authority of the City of Winnipeg. Bidders shall notify the Contract Administrator prior to starting any site investigations.
- E2.4 The following information will be provided in accordance with B3.1:
- Environmental Act License #2890;
 - Definition of General Site Leachate Conditions Final Report;
 - Investigation of Landfill Gas Opportunities at the City of Winnipeg Brady Road Landfill Site;
 - Updated Capital and Engineering Services Option of Probable Cost Landfill Gas Collection System at the Brady Road Landfill Site;
 - Historic Waste quantity data 2003 to Present;
 - Brady Road Individual Leachate Collection Systems.

- E2.5 Historic waste quantity data up to 2003 is included in the report identified in E2.4(c).
- E2.6 There are no detailed records of waste placement limits within the project area over the years. The following is an approximation of the waste placement history based on recollections by landfill staff:
- | | |
|-----------------------|---|
| (a) 1979 through 1988 | all waste; |
| (b) 1990 to 1992 | all waste; |
| (c) 1993 | 10% of all waste; |
| (d) 1995 and 1996 | all waste; |
| (e) 1997 | 75% of all waste; |
| (f) 1998 | 50% of residential and 70% of commercial; |
| (g) 1999 and 2000 | 50% of residential and all commercial; |
| (h) 2001 to 2003 | 50% of residential and all commercial; |
| (i) 2004 | 40% of residential and 90% of commercial; |
| (j) 2005 | all residential; |
| (k) 2006 | 75% of all waste; |
| (l) 2007 | 75% of all waste; |
| (m) 2008 | 75% of all waste; |
| (n) 2009 | all waste from January to May and September to present. |

E3. LAND USE

- E3.1 The City currently has 790 hectares of land at the BRSL, with approximately 100 hectares currently being utilized.
- E3.2 Drawing SWD-D--306 identifies :
- (a) the land available for use/lease;
 - (b) LFG extraction and recovery boundaries;
 - (c) Active areas within the landfill.

E4. CONSTRUCTION SEQUENCE

- (a) Drawing SWD-D-307 identifies the areas at the BRSL of the three construction phases for the LFG systems
- E4.2 The completed capped areas will consist of approximately one meter of a clay finish.
- (a) Phase 1, is currently a non active area of the BRSL, with approximately 0.3 meters of clay cap. Final capping will be completed by September 2010.
 - (b) Phase 2, is currently an active site of the BRSL with on going garbage disposal, final capping will be completed by February 2011.
 - (c) Phase 3, is currently an active site of the BRSL with on going garbage disposal, final capping will be completed by July 2011.
- E4.3 The City does not guarantee the timing for Phase 3 completion as specified in E4.2 (c). The City cannot control circumstances beyond its control; i.e. weather. The City and successful Contactor may enter into negotiations for an appropriate time extension if required.

E5. PERMITS AND REGULATORY AGENCIES

- E5.1 The City of Winnipeg Brady Road Sanitary Landfill has been operating since 1973. Its operations are not presently licensed under the Manitoba Environment Act, although its

operations have been permitted since October, 1993. However, the Province has mandated that a proposal for licensing of BRSL under The Environment Act must be filed by October 1, 2010.

- E5.2 In 2008, in anticipation of the BRSL being required to abate methane emissions as the result of regulations being developed under The Climate Change and Emissions Reduction Act, the City applied for a license for operating a landfill gas collection and flare system. On July 22, 2009 the Province issued an Environment Act license #2890 for the collection and flaring of landfill gas and it is anticipated that this license may be incorporated into the overall license for operation of the BRSL.
- E5.3 The City of Winnipeg shall be responsible for any regulatory compliance LFG system modifications required that are not included in this Request for Proposal.
- E5.4 The Contractor must meet all requirements in the Environment Act License for this project except for conditions 7 and 21 which shall be the City's responsibility.
- E5.5 According to the Environment Act License #2890 conditions 9 to 12, and requirements under the Climate Change and Emissions Reductions Act approval from the province prior to commencing construction of the proposed LFG system is required.
- E5.5.1 Approvals - Unless otherwise indicated, the Contractor shall be responsible for all costs associated with obtaining any approvals, easements, and rights-of-way required to complete the project, including, but not necessarily limited to:
- (a) Any additional licensing or approvals required for this project for transmission and/or utilization of the LFG for landfill gas processing.
 - (b) Building and Land use Permits as may be required.
 - (c) Resource Recovery Projects.

E6. LANDFILL GAS COLLECTION, FLARING AND PROJECT FINANCING (ALTERNATIVE ONE)

- E6.1 This section shall cover Alternative One of the RFP and is mandatory.
- E6.2 Requirements
- (a) Prospective Bidders are responsible for having full knowledge of this project and all issues affecting it;
 - (b) Base case project to include Design, Build, Operate and Finance a LFG collection and flaring system with a capacity of a minimum 1000 SCFM of LFG;
 - (c) An enclosed type of flare must be utilized capable of achieving 100% combustion of all the methane in the LFG collected, and reduction of non-methane organic compound emissions in the LFG collected by 98%;
 - (d) The blower used to extract the LFG will be housed in an insulated/sound proofed enclosed structure to restrict noise;
 - (e) Condensate collected within the LFG system piping shall be disposed of as landfill leachate at an approved treatment facility;
 - (f) No storage of gasoline or associated products is permitted;
 - (g) Responsible for power interconnection to electrical utility if generation is proposed to fulfill the operation of flaring system;
 - (h) Regulatory requirements take precedence over utilization requirements;
 - (i) Landfill operational requirements take precedence over utilization requirements;
 - (j) City does not warrant quality and quantity of landfill gas nor does the City warrant the quantity or composition of waste received at the Brady Road Landfill;

- (k) Contractor is responsible for any environmental impairment or other damages arising from implementation and operation of its system(s) and any fines levelled against the City from any such events;
- (l) Televising and leak testing of installed pipes shall be completed as specified in the City of Winnipeg – Standard Construction Specifications;
- (m) Disposition of Contractor's equipment in case of termination of the Contract or abandonment of the project by the Contractor shall become the property of the City of Winnipeg.
- (n) At the end of the 20 year contract, all Plant and Materials shall become the property of the City of Winnipeg unless otherwise negotiated and mutually agreed upon by both parties. The Plants and Materials shall be left in good condition with normal wear and tear accepted.
- (o) Access to BRSL for the duration of the contract will be outlined with the successful contractor.

E6.3 Operation and Maintenance

- (a) The Contractor shall operate, maintain and monitor and submit records on the LFG collection system, and the flare and utilization (if applicable) system, so as to maximize the amount of gas being extracted and combusted, while preventing overdraw that can cause fires or damage the gas collection system or landfill, all in accordance with environmental license # 2890 and all applicable regulations.
- (b) The Contractor will operate the LFG collection system and will maintain the flare station equipment in accordance with the manufacturer's recommended maintenance schedule and good maintenance practices. Except for maintenance the flaring system must be in continuous operation and any disruptions must not last more than two (2) hours.
- (c) The Contractor will modify LFG well adjustment criteria at the request of the City if such adjustments do not impede or conflict with the objective of methane destruction or energy production or if such adjustments are needed to comply with applicable regulations or license requirements.

E6.3.1 In addition to the reports required in the Environment Act License for this project, The Contractor will submit to the City monthly reports in electronic format that identify:

- (a) Methane, carbon dioxide and oxygen content, temperature, and applied vacuum both before and after adjustment at each well.
- (b) Methane, carbon dioxide and oxygen content, carbon monoxide content, and flow rate and methane content delivered to the energy conversion equipment Carbon monoxide measurements will be used as indication of subsurface fire.
- (c) Other information as can be reasonably requested to verify that the conditions of the contract are being fulfilled.
- (d) Further, the Contractor shall keep and make available to the City any records required by regulatory agencies.

E6.3.2 Notwithstanding the above, the Contractor is responsible for fires in the landfill caused by the operation of the LFG system. Responsibility includes the cost to extinguish the fire, cost to repair and restore the LFG system, fines leveled against the City resulting from such a fire.

E6.3.3 Noise – The Contractor shall provide noise containment as needed to reduce the noise from the equipment installed by the contractor in accordance with the license.

E6.3.4 Odour – The Contractor shall control odours related to the landfill gas system in accordance with the license.

E6.3.5 The Contractor shall be responsible for the cost of third party verification of monitoring as may be required by the City of Winnipeg or the regulator.

- E6.3.6 Notwithstanding C 17 Indemnity of General Conditions for Construction (revision 2006 12 15) shall be applicable.
- E6.4 Measurement and Payment
- (a) The Contractor shall record and submit to the Contract Administrator daily average flows, equipment and flaring system operation times.
- E6.4.1 The submittal shall be in electronic form, every month for use in measurement for payment purposes as required by the City of Winnipeg, to verify the performance of LFG collection system.
- E6.4.2 Payment to the Contractor will be based on Form B, Alternate One and B13 Prices,
- E6.4.3 Payments will begin upon successful start up of phases as identified in B13.
- E6.4.4 If Contractor fails to achieve the minimum required gas extraction, upon 100 per cent completion and operation of the LFG system phases, payments will be reduced on a percentage pro rated basis. Payments will be based on the minimums as shown in Form B: Prices.
- E7. LANDFILL GAS COLLECTION, FLARING AND UTILIZATION (ALTERNATIVE TWO)**
- E7.1 This specification shall include, revise, amend and supplement the requirements covered under Alternative One (E6) to include utilization of LFG for energy use.
- E7.2 The City and Contractor recognize that the LFG collection system may serve a dual purpose, regulatory compliance and possible collection of LFG for energy conversion. At a minimum, the LFG system must include collection and flaring of 1000 SCFM to meet regulatory requirements.
- E7.3 Parties that have expressed an interest in the utilization of the methane gas include the University of Manitoba, Manitoba Hydro and Southwood Golf Course.
- E7.4 The Contractor acknowledges that production from the facility is secondary to regulatory compliance. Collecting LFG to meet environmental regulations will take precedence over collecting LFG for commercial use if the two conflict.
- E7.5 Information regarding LFG quality, including siloxane is provided for the Bidder's information in the attachments. The City does not warrant that the quantity and quality of the LFG at the BRSL is suitable for a LFG utilization project. The Contractor will not have claim for damages or anticipated profits or loss of profit because of the quantity or quality of LFG at the BRSL. Submittal of a Proposal constitutes acknowledgement that the quantity and quality of LFG collected can be affected by the operation of the LFG collection system, and that the operation of the LFG collection system may be affected by regulatory requirements.
- E7.6 Improvements and Modifications
- (a) Expansion for the Sole Purpose of Increasing LFG collection
- (i) The Contractor is responsible for all costs for system improvements solely to increase the production and output of Contractors facility.
- (ii) The location of new pipes or collectors shall not interfere with landfill operations or future landfill development, and are subject to City approval.
- E7.6.1 Grading and Drainage
- (a) The Contractor will maintain the drainage paths within the project area except as approved by the City.
- E7.7 Future Benefits Not Now Defined
- (a) The City and Bidders recognize that future financial benefits may be available to the Contractor due to changing regulations, tax credits, or other incentives that can not be foreseen and which may not contribute to gross revenues. The City contemplates that a portion of these benefits will accrue to the City, that portion being equal to the portion of

gross revenues proposed on a 50/50 split, and that such provisions will be included in the development Contract.

- (b) It is the City's intent and in the City's best interest that the full financial potential of the Contractor's proposed technology be realized, and will consider all demonstrated LFG utilization technologies.

E7.8 Measurement and Payment

- E7.8.1 The Contractor shall record and submit to the Contract Administrator daily Methane composition flows in electronic form monthly for basis of payment.
- E7.8.2 Payment to the Contractor/City will be based on Form B, Alternate Two and B13 Prices,
- E7.8.3 Payments will begin upon successful start up of phases as identified in B13.

E8. OTHER RESOURCE RECOVERY (ALTERNATIVE THREE)

- E8.1 The City would be interested in utilization of the resource value in other waste materials such as wood, wood waste, sludge, cardboard and other recyclables.
- E8.2 Information regarding the potential utilization of sludge from the City of Winnipeg Wastewater Treatment Plants, should contact Mr. Paul Lagasse Wastewater Engineer at Plagasse@winnipeg.ca.
- E8.3 If upon successful proposal and partnership with the Contractor and the City of Winnipeg cost sharing revenues maybe further negotiated.
- E8.4 Measurement and Payment**
- E8.4.1 Payment to the Contractor/City will be based on Form B, Prices, Alternate Three and B13.
- E8.4.2 Payments will begin upon successful start up of phases as identified in B13 where applicable.

E9. LAND LEASE (ALTERNATIVE FOUR)

- E9.1 The City of Winnipeg can provide certain lands for project use as identified in E3.
- E9.2 If the Contractor requires lands not shown as available on drawing SWD-D-306, the Contractor may enter into negotiations with The City of Winnipeg.
- E9.3 The Contractor shall be responsible for any costs including municipal taxes associated with land leasing.
- E9.4 The City will enter into negotiations to secure a land lease/base rent agreement with the successful Contractor.
- E9.5 Measurement and Payment**
- E9.5.1 As identified in Form B, Alternate Four.

APPENDIX A - NON-DISCLOSURE AGREEMENT

To register, please complete and return this (NDA) by Fax: (204) 947-9155
or by email (pdf format) to: dstrandberg@winnipeg.ca

TO: The City of Winnipeg
Attn: Darcy Strandberg, C.E.T.
Process Coordinator

REFERENCE: RFP 704-2009
Request for Proposal for a Landfill Gas and Resource Recovery Project
at the Brady Road Landfill

NON-DISCLOSURE AGREEMENT (NDA)

In consideration of receiving information from the City of Winnipeg, (the "City") related to the City's Landfill Gas and Resource Recovery Project at the Brady Road Landfill Project **RFP 704-2009**,
_____ (company name of the Recipient) agrees as follows:

1. The Recipient acknowledges that their employees or representatives or Team Members may receive information pertaining to certain trade secrets and confidential information of the City, its consultants, contractors, suppliers or residents (the "Information"). Information includes the additional information listed in E2.4 of RFP No. 704-2009 and made available to Registered Parties through an FTP site, and includes but is not limited to, any of the following:
 - (i) Drawings, reports, previous tenders and specifications and conceptual design information related to the Landfill Gas and Resource Recovery Project at the Brady Road Landfill;
 - (ii) compilations of data, information, or other documents concerning business, methods, practices, and strategies;
 - (iii) information deemed sensitive or private under the laws of Manitoba;
 - (iv) information about residents of the City;
 - (v) confidential, proprietary or trade secret information submitted by suppliers, consultants or contractors to the City for study, evaluation or use; and
 - (vi) any other information not generally known to the public (including but not limited to information about operations, products or services) which, if misused or disclosed, could adversely affect the reputation and/or business of the City.
2. The Recipient shall use the Confidential Information solely and exclusively for the purpose of preparing a Proposal submission in response to RFP 704-2009. The Recipient recognizes that disclosure of the Information to any unauthorized person may expose the City to substantial and irreparable harm, and agrees that, except as directed by the City, they will not at any time disclose any information to any person or permit any person to examine and/or make copies of any documents which contain or are derived from the Information, except to those officers, directors, employees and consultants who need to know such information in order to carry out the above stated purpose, and who agree to abide by the terms of this Non-Disclosure Agreement.
3. The Recipient agrees that upon request by the City, the Recipient shall turn over to the City all documents, papers or other material in his/her possession or under his/her control which may contain or be derived from the Information, together with all documents, notes or other work product which is connected with or derived from the Recipient's interest in the City, whether or not such material is at the date hereof in the Recipient's possession.
4. The Recipient acknowledges that disclosure of any Information will give rise to irreparable injury to the City, inadequately compensable by damages. Accordingly, the City may seek and obtain injunctive relief against the Recipient for any breach or threatened breach of this Agreement, in addition to any other legal remedies which may be available.

5. The provisions of this Agreement shall survive indefinitely and shall be enforceable notwithstanding the existence of any claim or cause of action by either party against the other.
6. This Agreement shall be enforceable in and construed in accordance with the laws of the Province of Manitoba, Canada.
7. This Agreement, RFP 704-2009, contain the entire agreement of the parties relating to the Information. This Agreement may be modified only by an instrument in writing signed by both parties hereto.

IN WITNESS WHEREOF, an authorized representative of the Recipient has executed and delivered this Agreement, as of the _____ day of 20__.

Authorized Signature _____

Print Name: _____

Title: _____

Registered Party Contact:

Company Name: _____

Contact Name: _____

Title: _____

Telephone: _____ Fax: _____

Email: _____

FTP access information (please check one):

Please email the FTP access information to the above contact

Please email the FTP access information to:

