



THE CITY OF WINNIPEG

REQUEST FOR PROPOSAL

RFP NO. 897-2011

**REQUEST FOR PROPOSAL FOR SAFETY REVIEW OF THE CITY OF WINNIPEG
AQUATICS SERVICES**

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PART B - BIDDING PROCEDURES

B1. CONTRACT TITLE

B1.1 REQUEST FOR PROPOSAL FOR SAFETY REVIEW OF THE CITY OF WINNIPEG
AQUATICS SERVICES

B2. SUBMISSION DEADLINE

B2.1 The Submission Deadline is 4:00 p.m. Winnipeg time, November 14, 2011.

B2.2 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.

B2.3 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 B2.1.

B3. ENQUIRIES

B3.1 All enquiries shall be directed to the Contract Administrator identified in D3.1.

B3.2 If the Bidder finds errors, discrepancies or omissions in the Request for 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.

B3.3 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.

B3.4 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.

B3.5 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.

B3.6 The Bidder shall not be entitled to rely on any response or interpretation received pursuant to B3 unless that response or interpretation is provided by the Contract Administrator in writing.

B4. CONFIDENTIALITY

B4.1 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.

B4.2 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.

B5. ADDENDA

B5.1 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.

B5.2 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.

- B5.2.1 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>
- B5.2.2 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.
- B5.3 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.

B6. SUBSTITUTES

- B6.1 The Work is based on the Plant, Materials and methods specified in the Request for Proposal.
- B6.2 Substitutions shall not be allowed unless application has been made to and prior approval has been granted by the Contract Administrator in writing.
- B6.3 Requests for approval of a substitute will not be considered unless received in writing by the Contract Administrator at least five (5) Business Days prior to the Submission Deadline.
- B6.4 The Bidder shall ensure that any and all requests for approval of a substitute:
- (a) provide sufficient information and details to enable the Contract Administrator to determine the acceptability of the Plant, Material or method as either an approved equal or alternative;
 - (b) identify any and all changes required in the applicable Work, and all changes to any other Work, which would become necessary to accommodate the substitute;
 - (c) identify any anticipated cost or time savings that may be associated with the substitute;
 - (d) certify that, in the case of a request for approval as an approved equal, the substitute will fully perform the functions called for by the general design, be of equal or superior substance to that specified, is suited to the same use and capable of performing the same function as that specified and can be incorporated into the Work, strictly in accordance with the proposed work schedule and the dates specified in the Supplemental Conditions for Substantial Performance and Total Performance;
 - (e) certify that, in the case of a request for approval as an approved alternative, the substitute will adequately perform the functions called for by the general design, be similar in substance to that specified, is suited to the same use and capable of performing the same function as that specified and can be incorporated into the Work, strictly in accordance with the proposed work schedule and the dates specified in the Supplemental Conditions for Substantial Performance and Total Performance.
- B6.5 The Contract Administrator, after assessing the request for approval of a substitute, may in his sole discretion grant approval for the use of a substitute as an “approved equal” or as an “approved alternative”, or may refuse to grant approval of the substitute.
- B6.6 The Contract Administrator will provide a response in writing, at least two (2) Business Days prior to the Submission Deadline, only to the Bidder who requested approval of the substitute.
- B6.6.1 The Bidder requesting and obtaining the approval of a substitute shall be entirely responsible for disseminating information regarding the approval to any person or persons he wishes to inform.
- B6.7 If the Contract Administrator approves a substitute as an “approved equal”, any Bidder may use the approved equal in place of the specified item.
- B6.8 If the Contract Administrator approves a substitute as an “approved alternative”, any Bidder bidding that approved alternative may base his Total Bid Price upon the specified item but may also indicate an alternative price based upon the approved alternative. Such alternatives will be evaluated in accordance with B19.

- B6.9 No later claim by the Contractor for an addition to the Total Bid Price because of any other changes in the Work necessitated by the use of an approved equal or an approved alternative will be considered.
- B6.10 Notwithstanding B6.2 to B6.9 and in accordance with B7.5, deviations inconsistent with the Request for Proposal document shall be evaluated in accordance with B19.1(a).

B7. PROPOSAL SUBMISSION

- B7.1 The Proposal shall consist of the following components:
- (a) Form A: Proposal;
 - (b) Detailed Prices as outlined in B10;
 - (c) Experience as outlined in B11;
 - (d) Project Approach/Methodology as outlined in B12.
- B7.2 Further to B7.1, the Bidder should include the written correspondence from the Contract Administrator approving a substitute in accordance with B6.
- B7.3 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.
- B7.3.1 Bidders should submit one (1) unbound original (marked "original") and two (2) copies.
- B7.4 Bidders are advised not to include any information/literature except as requested in accordance with B7.1.
- B7.5 Bidders are advised that inclusion of terms and conditions inconsistent with the Request for Proposal, including the General Conditions, will be evaluated in accordance with B19.1(a).
- B7.6 The Proposal should be submitted enclosed and sealed in an envelope clearly marked with the RFP number and the Bidder's name and address.
- B7.6.1 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.
- B7.7 Proposals submitted by facsimile transmission (fax) or internet electronic mail (e-mail) will not be accepted.
- B7.8 Proposals shall be submitted to:
- The City of Winnipeg
Corporate Finance Department
Materials Management Division
185 King Street, Main Floor
Winnipeg MB R3B 1J1

B8. PROPOSAL

- B8.1 The Bidder shall complete Form A: Proposal, making all required entries.
- B8.2 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.

B8.2.1 If a Proposal is submitted jointly by two or more persons, each and all such persons shall identify themselves in accordance with B8.2.

B8.3 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.

B8.4 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.

B8.4.1 The name and official capacity of all individuals signing Form A: Proposal should be printed below such signatures.

B8.5 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.

B9. QUALIFICATION

B9.1 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.

B9.2 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>

B9.3 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);

B9.4 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.

B9.5 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.

B10. DETAILED PRICES

B10.1 Further to B7.1(b), The Proponent shall submit a detailed listing of all fees and costs associated with the recommended proposal. No claim shall be made by the successful Bidder for payment of service and/or materials not identified in the Proposal Submission. The Bidder should separately cost any work in addition to the scope of services as detailed in D2. Travel expenses must be shown separately.

B10.1.1 Notwithstanding C11.1.1, Detailed 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.

B10.2 Non-Resident Bidders are subject to a Non-Resident Withholding Tax pursuant to the Income Tax Act (Canada).

B11. EXPERIENCE

B11.1 Further to B7.1(c), the Proponent should submit information in sufficient detail for the City to evaluate the qualifications of the Proponent(s) by providing:

- (a) their organizational structure;
- (b) proposed Project team members;
- (c) estimated time to be assigned to the Project for each team member;
- (d) the number of contracts similar in size and scope;
 - (i) for the organization;
 - (ii) for each project team member.
- (e) the details of the scope and value of each contract;
- (f) a copy of one (1) final report from a recent project similar in size and scope. Providing a complete final report is preferred. If conditions exist that prevent providing a final report, then a table of contents, accompanied by extracts from the report (to the extent possible), will be considered;
- (g) the names of clients;
- (h) three (3) references for recent projects similar in size and scope. Each reference should consist of a company name, contact name, email address, phone number and a brief description of the project.

B12. PROJECT APPROACH/ METHODOLOGY

B12.1 Further to B7.1(d), the Proponent should submit information for the City to evaluate if the Proponent has an established approach/methodology which outlines the Proponent's philosophy and approach to the project based on a firm understanding of the project goals, methodology and scope for projects of similar nature and complexity, and indicate how this knowledge would be applied to the Work of this Contract.

B12.2 The description of the Proponent's proposed approach/methodology to the Project should include:

- (a) A description of the Proponent's understanding of the Scope of Work and vision, and how these will be achieved;
- (b) A detailed proposal of what will be delivered by the Proponent, including the expected outcome and benefits to the City;
- (c) A complete definition of the process that will be employed to meet the objectives of this Project, e.g., approach to be taken, feasibility, etc.;
- (d) A detailed Project Plan that reflects the proposed approach to the Work. All major start dates, end dates, review and approval points and major milestone dates should be shown. The plan should identify interim and final deliverables and their respective delivery dates, in consideration of stages identified;
- (e) Identification of all facts and assumptions made by the Proponent in developing the Submission and the relevance that these facts and assumptions have had on the proposed methodology and team composition (e.g., data availability, level of involvement of City staff, etc.);
- (f) A detailed description of any information, resources, or services required to be provided by The City of Winnipeg.

B13. SUBSTITUTIONS

- B13.1 If, following your Submission, and before the award of a Contract, you become aware that any persons identified to participate in this Project will be unable or is likely to be unable to participate on this Project, you must immediately advise the Contract Administrator and indicate your proposed substitute person. Failure to do so may result in disqualification of your Submission from the RFP process.

B14. OPENING OF PROPOSALS AND RELEASE OF INFORMATION

- B14.1 Proposals will not be opened publicly.
- B14.2 After award of Contract, the name(s) of the successful Bidder(s) and the Contract amount(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>
- B14.3 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.
- B14.4 Following the award of Contract, a Bidder will be provided with information related to the evaluation of his submission upon written request to the Contract Administrator.

B15. IRREVOCABLE OFFER

- B15.1 The Proposal(s) submitted by the Bidder shall be irrevocable for the time period specified in Paragraph 10 of Form A: Proposal.
- B15.2 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.

B16. WITHDRAWAL OF OFFERS

- B16.1 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.

- B16.1.1 Notwithstanding C22.5, 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.
- B16.1.2 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.
- B16.1.3 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 B16.1.3(b), declare the Proposal withdrawn.
- B16.2 A Bidder who withdraws his Proposal after the Submission Deadline but before his offer has been released or has lapsed as provided for in B15.2 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.

B17. INTERVIEWS

- B17.1 The Contract Administrator may, in his sole discretion, interview Bidders during the evaluation process.

B18. NEGOTIATIONS

- B18.1 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.
- B18.2 The City may negotiate with the Bidders submitting, in the City's opinion, the most advantageous Proposals. 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.
- B18.3 If, in the course of negotiations pursuant to B18.2 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.

B19. EVALUATION OF PROPOSALS

- B19.1 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 therefrom:
 - (i) mandatory requirements (pass/fail);
 - (b) qualifications of the Bidder and the Subcontractors, if any, pursuant to B8
 - (i) mandatory qualifications (pass/fail)
 - (c) Detailed Prices, pursuant to B10
 - (i) Fees (20%);
 - (ii) Travel Expenses (10%).
 - (d) Experience, pursuant to B11 (40%);

- (e) Project approach/methodology, pursuant to B12 (30%).
- (f) economic analysis of any approved alternative pursuant to B6.

- B19.2 Further to B19.1(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.
- B19.3 Further to B19.1(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.
- B19.4 Further to B19.1(c), the Total Bid Price shall be evaluated by using the sum of the Detailed Prices in response to B7.1 and B10.
- B19.5 Further to (i), the experience of the Proponent shall be evaluated considering the information submitted in response to B7.1 and B11.
- B19.6 Further to B19.1(e), the project approach/methodology will be evaluated considering the information submitted in response to B7.1 and B12.
- B19.7 This Contract will be awarded as a whole.
- B19.8 If, in the sole opinion of the City, a Proposal does not achieve a pass rating for B19.1(a) and B19.1(b), the Proposal will be determined to be non-responsive and will not be further evaluated.

B20. AWARD OF CONTRACT

- B20.1 The City will give notice of the award of the Contract, or will give notice that no award will be made.
- B20.2 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.
 - B20.2.1 Without limiting the generality of B20.2, 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.
- B20.3 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.
 - B20.3.1 Following the award of contract, a Bidder will be provided with information related to the evaluation of his Proposal upon written request to the Contract Administrator.
- B20.4 Notwithstanding C4 and Paragraph 6 of Form A: Proposal, the City will issue a purchase order to the successful Bidder in lieu of the execution of a Contract.
- B20.5 The Contract Documents, as defined in C1.1(n)(ii), in their entirety shall be deemed to be incorporated in and to form a part of the purchase order notwithstanding that they are not necessarily attached to or accompany said purchase order.

PART C - GENERAL CONDITIONS

C0. GENERAL CONDITIONS

- C0.1 The *General Conditions for Supply of Services* (Revision 2007 04 12) are applicable to the Work of the Contract.
- C0.1.1 The *General Conditions for Supply of Services* 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 proposal to a section, clause or subclause with the prefix “**C**” designates a section, clause or subclause in the *General Conditions for Supply of Services*.

PART D - SUPPLEMENTAL CONDITIONS

GENERAL

D1. GENERAL CONDITIONS

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

D2. SCOPE OF WORK

D2.1 The Work to be done under the proposed contract shall consist of a review of the safety processes and practices in place for the Aquatics services provided, in all indoor aquatic facilities. The Aquatics services are jointly provided by staff in the Aquatics Branch of the Community Services Department, for human resource components of the service, and the Building Services Branch of the Planning, Property and Development Department, for building and water condition maintenance. The Contractor of the Work is to provide a written report to the City Auditor that:

- (a) outlines the overall approach taken to conduct the review;
- (b) outlines the observations on the safety processes and practices of both the Aquatics Branch and the Building Services Branch;
- (c) provides recommendations to improve the safety processes and practices of both the Aquatics Branch and the Building Services Branch;
- (d) outlines the observations on the extent to which reported service safety results are complete, relevant, accurate, balanced and meaningful; and
- (e) identifies opportunities for revenue generation, cost savings and improved management practices and controls where opportunities exist, and where opportunities do not reduce the effectiveness of existing or potential safety processes and practices.

D2.2 The review of safety processes and practices is to cover the following key areas of the Aquatics Branch:

- (a) Facilities and Equipment – condition of facilities and equipment within the immediate vicinity of all indoor aquatic structures including but not limited to the pool deck, other aquatic structures, ladders, diving boards, starting blocks, lifts, etc., with respect to maintaining a safe environment for users of the pool facility. The scope does not include physical space outside of the pool deck area including change rooms, saunas, showers, weight rooms, courts, tracks, or other facilities not required for providing Aquatic services.
- (b) Environmental Quality – maintenance of safe water and air conditions.
- (c) Human Resource Management – training, testing, and staffing levels for facilities staff to allow for a safe aquatics facility environment.
- (d) Compliance – facility compliance with applicable federal, provincial and industry regulations for swimming pools and aquatics programming, and internal policies and procedures.
- (e) Records Management – condition, quality and accessibility of policies and procedures, safety audit and inspections results, safety performance metrics, and other safety documentation.

D3. BACKGROUND

D3.1 The City has 13 indoor pools that operate on a year-round basis.

D3.2 Indoor pools generally operate from 6:00 a.m. to 10:00 p.m., weekdays, with reduced hours on the weekends, offering a variety of educational and recreational programming to patrons.

- D3.3 There are thirty-nine (39) permanent and two hundred and eighty (280) part time staff comprised of the following:
- (a) Two (2) Management positions;
 - (b) Six (6) Pool Supervisors;
 - (c) One (1) Chief Swim Instructor;
 - (d) Nineteen (19) Instructor Guard III's;
 - (e) Eleven (11) Clerk A/Cashiers; and
 - (f) Two hundred and eighty (280) instructor/guards I / II and Clerk A/Cashiers.
- D3.4 An audit of the Aquatics Service's safety policies and practices was completed by an independent body in March 2005. A copy of this report will be made available to the successful Bidder as additional information for the Contracted Services.

D4. CONTRACT ADMINISTRATOR

- D4.1 The Contract Administrator is:

Bryan Mansky
Deputy City Auditor

Telephone No. (204) 986-4136

Facsimile No. (204) 986-4134

Email bmansky@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. GENERAL RESPONSIBILITIES OF THE CONTRACTOR

- D5.1 Further to C6, the Contractor shall keep the Contract Administrator fully advised and informed during each step of the Services and shall provide a brief report to the Contract Administrator on a bi-weekly basis. If required by the Contract Administrator, the Contractor shall attend meetings to discuss, provide information on or present the plan provided for under this Agreement.
- D5.1.1 The Contractor shall comply with all municipal, provincial and federal laws, regulations, by-laws, policies and orders in the performance of this Agreement.

D6. OWNERSHIP OF INTELLECTUAL PROPERTY

- D6.1 The City shall own the copyright in all final Work delivered to the City under this Agreement. To the extent that such Work incorporates the intellectual property of the Contractor, the Contractor shall provide the City with an irrevocable, royalty free, non-transferable license to use same as incorporated in the Work. All intellectual property, ideas, concepts, know-how, techniques, inventions, discoveries and improvements developed by the Contractor prior to or during the performance of the Services belong to the Contractor and may be used by the Contractor in any way it deems appropriate. All working papers, internal documentation and the Contractor's confidential information belong exclusively to the Contractor, other than in respect to the copyright in the Work as described above. The City may use the Work, or any part thereof, or apply it to, other studies or projects without the Contractor's consent and without any payment or compensation whatsoever.

D7. COPIES OF MATERIALS SUPPORTING THE WORK

- D7.1 At the City's request, the Contractor will, provide the City with a legible photocopy or print out of any or all material, documentation or data, of any type, which supports or was used or relied on by the Contractor in support of the Work but does not itself form part of the Work. Without

limiting the generality of the foregoing, such supporting material includes interview notes, financial analysis, and working papers.

D8. CONFIDENTIALITY AND OWNERSHIP OF INFORMATION

- D8.1 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.
- D8.2 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.
- D8.3 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.

D9. NOTICES

- D9.1 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 facsimile number:
- The City of Winnipeg
Chief Financial Officer
Facsimile No.: (204) 949-1174

SUBMISSIONS

D10. AUTHORITY TO CARRY ON BUSINESS

- D10.1 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.

D11. INSURANCE

- D11.1 The Contractor shall provide and maintain the following insurance coverage:
- (a) commercial general liability insurance, in the amount of at least two million dollars (\$2,000,000.00) inclusive, with The City of Winnipeg added as an additional insured; such liability policy to also contain a cross-liability clause, non-owned automobile liability and products and completed operations cover, to remain in place at all times during the performance of the Work;
 - (b) professional liability insurance in the amount of at least one million dollars (\$1,000,000.00) per claim and two million dollars (\$2,000,000.00) aggregate to remain in place at all times during the performance of the Work and the Warranty period.
 - (c) if required, automobile liability insurance for owned automobiles used for or in connection with the Work in the amount of at least two million dollars (\$2,000,000.00), to remain in place at all times during the performance of the Work;
- D11.2 Deductibles shall be borne by the Contractor.
- D11.3 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.

- D11.4 The Contractor shall not cancel, materially alter, or cause the policy to lapse without providing at least thirty (30) Calendar Days prior written notice to the Contract Administrator.

SCHEDULE OF WORK

D12. COMMENCEMENT

- D12.1 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.
- D12.2 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 D10;
 - (ii) evidence of the workers compensation coverage specified in C6.14;
 - (iii) evidence of the insurance specified in D11.
 - (b) the Contractor has attended a meeting with the Contract Administrator, or the Contract Administrator has waived the requirement for a meeting.
- D12.3 The Contractor shall commence the Work on the Site within fourteen (14) Working Days of receipt of the notice of award or some other time frame mutually agreed upon between the Contract Administrator and the Contractor.

D13. SUBSTITUTIONS

- D13.1 If the Contractor becomes aware that any proposed persons identified to participate in this Project will be unable, or is likely to be unable, to participate on this Project, the Contractor must immediately advise the Contract Administrator and indicate the proposed substitute person. The Contractor must reach a mutual agreement on the acceptability of any proposed substitute with the Contract Administrator.

D14. DECLARATION OF NO CONFLICT

- D14.1 The Contractor hereby declares that this Agreement is entered into in good faith on the part of the Contractor, that no member of City Council, administrative or financial officer, director or any other officer of the City has any pecuniary interest, direct or indirect, in this Agreement or any other agreement or part of an agreement, contract or commission made pursuant to the Agreement or to any benefit to arise therefrom, and agrees that it shall forfeit all claims for payment or otherwise under this Agreement if it shall appear that any member of City Council, administrative or financial officer, director or any other officer of the City is at any time interested therein or if any interest therein is given or agreed to be given to it and as well shall refund to the City any monies paid to the Contractor by the City under this Agreement.
- D14.2 The Contractor declares that it has not participated in any collusive scheme or combine in connection with the Proposal or this Agreement and agrees that it shall forfeit all claims for payment or otherwise under this Agreement if it should ever be established that this declaration is false and as well shall refund to the City any monies paid to the Contractor by the City under this Agreement.

D15. INFORMATION AND REPORTS

- D15.1 The Contractor shall, at such time and in such form as the City may require, furnish such periodic reports concerning the status of the Services, such statements, certificates, approvals and copies of proposed and executed plans and claims and other information relative to the Services as may be requested by the City. The Contractor shall furnish the City, upon request,

with copies of all documents and other materials prepared or developed in relation with or as part of the Services.

D16. RECORDS AND INSPECTIONS

D16.1 The Contractor shall maintain full and accurate records with respect to all matters covered under this Agreement. Upon forty-eight (48) hours written notice, the City shall have free access at all proper times to such records and the right to examine and audit the same and to make transcripts therefrom and to inspect all data, documents, proceedings and activities.

D17. TOTAL PERFORMANCE

D17.1 The Contractor shall achieve Total Performance by March 31, 2012.

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 reinspected.

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.

MEASUREMENT AND PAYMENT

D18. INVOICES

D18.1 Further to C11, the Contractor shall submit an invoice for each order delivered to:

The City of Winnipeg
Corporate Finance - Accounts Payable
4th Floor, Administration Building, 510 Main Street
Winnipeg MB R3B 1B9

Facsimile No.: (204) 949-0864

Email: CityWpgAP@winnipeg.ca

D18.2 Invoices must clearly indicate, as a minimum:

- (a) the City's purchase order number;
- (b) date of delivery;
- (c) delivery address;
- (d) type and quantity of goods delivered;
- (e) the amount payable with GST and MRST shown as separate amounts; and
- (f) the Contractor's GST registration number.

D18.3 The City will bear no responsibility for delays in approval of invoices which are improperly submitted.

D18.4 Bids Submissions must be submitted to the address in B7.8

D19. PAYMENT

D19.1 Further to C11, the City may at its option pay the Contractor by direct deposit to the Contractor's banking institution.

D20. PAYMENT SCHEDULE

D20.1 Further to C11, payment shall be in Canadian funds net thirty (30) Calendar Days after receipt and approval of the Contractor's invoice.

WARRANTY

D21. WARRANTY

D21.1 Warranty is as stated in C12.