



THE CITY OF WINNIPEG

REQUEST FOR PROPOSAL

RFP NO. 64-2023

**PROFESSIONAL OWNER ADVOCATE PROJECT MANAGEMENT SERVICES FOR
INSTALLATION OF HYDROGEN PRODUCTION AND DISPENSING
INFRASTRUCTURE AT 421 OSBORNE**

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PART B - BIDDING PROCEDURES

B1. CONTRACT TITLE

- B1.1 PROFESSIONAL OWNER ADVOCATE PROJECT MANAGEMENT SERVICES FOR INSTALLATION OF HYDROGEN PRODUCTION AND DISPENSING INFRASTRUCTURE AT 421 OSBORNE

B2. SUBMISSION DEADLINE

- B2.1 The Submission Deadline is 12:00 noon Winnipeg time, February 10, 2023.
- B2.2 The Consulting 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. SITE INVESTIGATION

- B3.1 The Consulting Contract Administrator or an authorized representative will conduct a site investigation tour of the proposed hydrogen fueling infrastructure site on:
- (a) January 27, 2023 at 421 Osborne St. at 10:00 am.
- B3.1.1 Proponents are requested to register for the site investigation by contacting the Consulting Contract Administrator identified in D2.
- B3.2 Although attendance at the Site Investigations is not mandatory, the City strongly suggests that Proponents attend.
- B3.3 The Proponent shall not be entitled to rely on any information or interpretation received at the site investigation unless that information or interpretation is the Proponent's direct observation, or is provided by the Consulting Contract Administrator in writing.
- B3.4 The Proponent is responsible for inspecting the Site, the nature of the Work to be done and all conditions that might affect their Proposal or their performance of the Work, and shall assume all risk for conditions existing or arising in the course of the Work which have been or could have been determined through such inspection

B4. ENQUIRIES

- B4.1 All enquiries shall be directed to the Consulting Contract Administrator identified in D2.
- B4.2 If the Proponent finds errors, discrepancies or omissions in the Request for Proposal, or is unsure of the meaning or intent of any provision therein, the Proponent shall promptly notify the Consulting Contract Administrator of the error, discrepancy or omission at least five (5) Business Days prior to the Submission Deadline.
- B4.3 Responses to enquiries which, in the sole judgment of the Consulting Contract Administrator, require a correction to or a clarification of the Request for Proposal will be provided by the Consulting Contract Administrator to all Proponents by issuing an addendum.
- B4.4 Responses to enquiries which, in the sole judgment of the Consulting Contract Administrator, do not require a correction to or a clarification of the Request for Proposal will be provided by the Consulting Contract Administrator only to the Proponent who made the enquiry.
- B4.5 All correspondence or contact by Proponents with the City in respect of this RFP must be directly and only with the City's Consulting Contract Administrator. Failure to restrict correspondence and contact to the Consulting Contract Administrator may result in the rejection of the Proponents Proposal Submission.

B4.6 The Proponent shall not be entitled to rely on any response or interpretation received pursuant to B4 unless that response or interpretation is provided by the Consulting Contract Administrator in writing.

B4.7 Any enquiries concerning submitting through MERX should be addressed to:
MERX Customer Support
Phone: 1-800-964-6379
Email: merx@merx.com

B5. CONFIDENTIALITY

B5.1 Information provided to a Proponent by the City or acquired by a Proponent 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 Consulting Contract Administrator. The use and disclosure of the Confidential Information shall not apply to information which:

- (a) was known to the Proponent before receipt hereof; or
- (b) becomes publicly known other than through the Proponent; or
- (c) is disclosed pursuant to the requirements of a governmental authority or judicial order.

B5.2 The Proponent 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 Consulting Contract Administrator.

B6. ADDENDA

B6.1 The Consulting 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.

B6.2 The Consulting 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.

B6.3 Addenda will be available on the MERX website at www.merx.com.

B6.4 The Proponent is responsible for ensuring that they have received all addenda and is advised to check the MERX website for addenda regularly and shortly before the Submission Deadline, as may be amended by addendum.

B6.5 The Proponent shall acknowledge receipt of each addendum in Paragraph 10 of Form A: Bid/Proposal. Failure to acknowledge receipt of an addendum may render a Proposal non-responsive.

B6.6 Notwithstanding B4, enquiries related to an Addendum may be directed to the Consulting Contract Administrator indicated in D2.

B7. PROPOSAL SUBMISSION

B7.1 The Proposal shall consist of the following components:

- (a) Section A - Form A: Bid/Proposal in accordance with B8;
- (b) Section B – Form P: Person Hours in accordance with B9.

B7.2 The Proposal should also consist of the following components:

- (a) Section C – Executive Summary and Project Organizational Approach in accordance with B10;
- (b) Section D – Past Project Experience in accordance with B11;

- (c) Section E -Qualifications, Experience and Education of Key Individuals in accordance with B12; and,
 - (d) Section F - Project Management Methodology in accordance with B13.
- B7.3 Further to B7.1 all components of the Proposal shall be fully completed or provided in the order indicated, and submitted by the Proponent no later than the Submission Deadline, with all required entries made clearly and completely, to constitute a responsive Proposal.
- B7.4 Further to B7.2, all components of the Proposal should be fully completed or provided in the order indicated, and submitted by the Proponent no later than the Submission Deadline, with all required entries made clearly and completely.
- B7.5 The Proposal should be submitted in a PDF form; with a font of not less than 11 pt Arial for 8.5"x11" pages and a font of not less than 9 pt Arial for 11"x17"pages; margins of not less than 0.75"; and linespacing of not less than single.
- B7.5.1 Further to B7.5, anything included as an appendix will not be evaluated.
- B7.6 Proposal format should include a table of contents, page numbering and should be in the Sections identified above. Proponents are encouraged to use their creativity to submit a Proposal which provides the requested information for evaluation and other information which illustrates the strength of their proposed solution.
- B7.7 Each Proponent is reminded that the objective of their Submission is to assist the City in selecting the most qualified Proponent. In this regard, Proponents should endeavour to demonstrate in their Submission how the Proponent is highly qualified to address the particular challenges, requirements, and opportunities of the Project and meet the City objectives.
- B7.8 The Proposal shall be submitted electronically through MERX at www.merx.com.
- B7.8.1 Proposals will **only** be accepted electronically through MERX.
- B7.9 Proponents are advised that inclusion of terms and conditions inconsistent with the Request for Proposal, will be evaluated in accordance with B23.1(a).
- B7.10 Any cost or expense incurred by the Proponent that is associated with the preparation of the Proposal shall be borne solely by the Proponent.

B8. PROPOSAL (SECTION A)

- B8.1 The Proponent shall complete Form A: Bid/Proposal, making all required entries.
- B8.2 Paragraph 2 of Form A: Bid/Proposal shall be completed in accordance with the following requirements:
- (a) if the Proponent is a sole proprietor carrying on business in their own name, their name shall be inserted;
 - (b) if the Proponent is a partnership, the full name of the partnership shall be inserted;
 - (c) if the Proponent is a corporation, the full name of the corporation shall be inserted;
 - (d) if the Proponent is carrying on business under a name other than their 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: Bid/Proposal, the Proponent shall identify a contact person who is authorized to represent the Proponent for purposes of the Proposal.
- B8.4 Paragraph 13 of Form A: Bid/Proposal shall be signed in accordance with the following requirements:

- (a) if the Proponent is a sole proprietor carrying on business in their own name, it shall be signed by the Proponent;
- (b) if the Proponent is a partnership, it shall be signed by the partner or partners who have authority to sign for the partnership;
- (c) if the Proponent is a corporation, it shall be signed by their duly authorized officer or officers;
- (d) if the Proponent is carrying on business under a name other than their 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: Bid/Proposal should be entered below such signatures.

B8.5 If a Proposal is submitted jointly by two or more persons, the word "Proponent" shall mean each and all such persons, and the undertakings, covenants and obligations of such joint Proponents in the Proposal and the Contract, when awarded, shall be both joint and several.

B9. FEES (SECTION B)

B9.1 The Proposal shall include a Fixed Fee for all disciplines and/or phases identified in D4 Scope of Services.

B9.2 The Proponent shall utilize and submit Form P: Person Hours, making all required entries to summarize Fee Proposal for the proposed Services in the following Scope of Services Phases, that will be used in the evaluation of fees:

- (a) Pre-Design Development (PD) phase in accordance with D5.5;
- (b) Design Development (DD) phase in accordance with D5.7;
- (c) Contract Document (CD) phase in accordance with D5.8;
- (d) Tendering/Bidding (TB) phase in accordance with D5.6;
- (e) Contract Administration (CA) phase in accordance with D5.9; and,
- (f) Closeout (CO) phase in accordance with D5.10.

B9.2.1 Proponents may use Form P: Person Hours or a table of their own design provided it includes all information requested in accordance with B9.1

B9.2.2 A sample of Form P: Person Hours can be found at <https://winnipeg.ca/matmgt/templates/information.stm>

B9.3 Adjustments to Fees will only be considered based on increases to the Scope of Services.

B9.3.1 The City will not consider an adjustment to the Fees based on changes in the Project budget or the Final Total Construction Cost.

B9.4 Notwithstanding C1.1(b), Fees shall include costs for out of town travel, related meals and accommodations for the duration of the Project and shall not be considered an Allowable Disbursement.

B9.5 The Fee Proposal shall also include an allowance for Allowable Disbursements as defined in C1.1(b), but shall exclude the costs of any materials testing, soils and hazardous materials investigation during construction.

B9.6 Notwithstanding C11.1, Fees submitted 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.

B9.7 Payments to Non-Resident Consultants are subject to Non-Resident Withholding Tax pursuant to the Income Tax Act (Canada).

B10. EXECUTIVE SUMMARY AND PROJECT ORGANIZATIONAL APPROACH (SECTION C)

- B10.1 Proponent to limit Executive Summary to three (3) pages.
- B10.2 Each Proponent may utilize the Executive Summary to present, in summary, their Proponent Team capabilities, experience, strengths and the advantages which it brings to the challenges, risks and opportunities of the Project to meet the City objectives. This section should highlight the information already included in a Proponent's RFP Submission that the Proponent considers most significant to present in this section.
- B10.3 The Proposal should briefly describe the approach to overall team formation and coordination of team members, including:
- (a) Relationship between Proponent and Proponent Team Members, explaining:
 - (i) management structure, interface arrangements, dispute resolution mechanisms including roles and responsibilities;
 - (ii) communication plan and coordination between Proponent and Proponent Team;
 - (iii) planning, supervision and decision-making responsibilities of Proponent, Proponent Team Leads and Team Members; and,
 - (iv) Commercial relationship(s) between Proponent and Proponent Team.
 - (b) The following capabilities and capacities, substantiating with projects:
 - (i) approach to ensure suitable and effective integration of the functions of Proponent and Team Members;
 - (ii) how to successfully complete the Project at every stage of the Work. Address the advantage that Proponent and Team Members bring to the City indicating key differences and value proposition; and,
 - (iii) Proponents approach to developing a successful working relationship with the City and City Project Team.
- B10.3.1 Include an organizational chart for the Project.

B11. PAST PROJECT EXPERIENCE (SECTION D)

- B11.1 Proposals should include:
- (a) details demonstrating the history and experience of the Proponent and Subconsultants in providing programming; design, management of the project and contract administration services on three projects of similar complexity, scope and value. At least one of the projects presented shall be an installation of hydrogen fueling infrastructure.
- B11.2 For each project listed, the Proponent should submit:
- (a) description of the project;
 - (b) role of the consultant;
 - (c) project's original contracted cost and final cost;
 - (d) design and schedule (anticipated Project schedule and actual project delivery schedule, showing design separately);
 - (e) project owner and reference information (two current names with telephone numbers per project).
- B11.2.1 Where applicable, information should be separated into Proponent and Subconsultant project listings.
- B11.3 The Proposal should include general firm profile information, including years in business, average volume of work, number of employees and other pertinent information for the Proponent and all Subconsultants.

B12. QUALIFICATIONS, EXPERIENCE AND EDUCATION OF KEY INDIVIDUALS (SECTION E)

B12.1 Identify the following Key Personnel assigned to the Project:

(a) project manager.

B12.2 Submit the experience and qualifications of the Key Personnel assigned to the Project for projects of similar complexity, scope and value, including the principals-in-charge, the Consultants Representative, managers of the key disciplines and lead designers. Include educational background and degrees, professional recognition, job title, years of experience in current position, years of experience in design and years of experience with existing employer. Roles of each of the Key Personnel in the Project should be identified in the organizational chart referred to in B10.3.1.

B12.3 For each person identified, list at least two comparable projects in which they have played a primary role similar to that proposed for this Project. If a project selected for a key person is included in B11.2, provide only the project name and the role of the key person. For other projects provide the following:

(a) Description of project;

(b) Role of the person;

(c) Project Owner and reference information (two current names with telephone numbers per project).

B13. PROJECT MANAGEMENT METHODOLOGY (SECTION F)

B13.1 Describe your firm's project management approach and team organization during the performance of Services, so that the evaluation committee has a clear understanding of the methods the Proponent will use in the delivery of this Project.

B13.2 Methodology should be presented in accordance with the Scope of Services identified in D5.

B13.3 Proposals should address:

(a) the team's understanding of the broad functional and technical requirements and urban design issues;

(b) the team's understanding of IAP2 processes and principles and how they apply to the Project;

(c) the proposed Project Budget;

(d) the City's Project methodology with respect to the information provided within this RFP and the City's Project Management Manual at <http://winnipeg.ca/infrastructure/asset-management-program/templates-manuals.stm#2> and templates at <http://winnipeg.ca/infrastructure/asset-management-program/templates-manuals.stm#4>; and,

(e) any other relevant information that conveys your team's understanding of the Project requirements.

B13.4 Further to B13.3(b), the City considers Foundations of Public Engagement offered by IAP2 an asset. Although IAP2 training is considered an asset, it is not a requirement, and qualifications and experience will be weighted more heavily than training

B14. SUBSTITUTIONS

B14.1 A Proponent is not permitted to substitute or remove a Proponent Team Member or Key Individual, or change the role or scope of work of any Proponent Team Member or Key Individual after the RFP Submission Deadline without the City's prior written consent. The City may, in their sole discretion, disqualify a Proponent that contravenes this provision.

B14.2 If a Proponent submits a request pursuant to this provision, the following shall apply:

- (a) provide, in detail, the ramifications of the substitute or removal of a Proponent or Key Individual to the change to the Proponent's structure and a justification for such proposed change; and
- (b) the replacement of a Proponent Team Member or Key Individual has equal or better qualifications and experience than the original Proponent Team Member; or
- (c) the proposed change in scope of work is likely to result in equal or better performance by the Proponent.

B15. DISCLOSURE

B15.1 Various Persons provided information or services with respect to this RFP. In the City's opinion, this relationship or association does not create a conflict of interest because of this full disclosure. Where applicable, additional material available as a result of contact with these Persons is listed below.

B15.2 The Persons are:

- (a) Dillon Consulting Limited – Winnipeg Transit Fort Rouge Garage – Hydrogen Infrastructure Report.
- (b) Center for Transportation & the Environment Inc. – preparation of RFQ and RFP documents for Design-Build of Hydrogen Generation and Dispensing Infrastructure

B16. CONFLICT OF INTEREST AND GOOD FAITH

B16.1 Further to C3.2, Proponents, by responding to this RFP, declare that no Conflict of Interest currently exists, or is reasonably expected to exist in the future.

B16.2 Conflict of Interest means any situation or circumstance where a Proponent or Key Personnel proposed for the Services has:

- (a) other commitments;
- (b) relationships;
- (c) financial interests; or
- (d) involvement in ongoing litigation;

that could or would be seen to:

- (i) exercise an improper influence over the objective, unbiased and impartial exercise of the independent judgment of the City with respect to the evaluation of Proposals or award of the Contract; or
 - (ii) compromise, impair or be incompatible with the effective performance of a Proponent's obligations under the Contract;
- (e) has contractual or other obligations to the City that could or would be seen to have been compromised or impaired as a result of their participation in the RFP process or the Project; or
 - (f) has knowledge of confidential information (other than confidential information disclosed by the City in the normal course of the RFP process) of strategic and/or material relevance to the RFP process or to the Project that is not available to other Proponents and that could or would be seen to give that Proponent an unfair competitive advantage.

B16.3 In connection with their Proposal, each entity identified in B16.2 shall:

- (a) avoid any perceived, potential or actual Conflict of Interest in relation to the procurement process and the Project;
- (b) upon discovering any perceived, potential or actual Conflict of Interest at any time during the RFP process, promptly disclose a detailed description of the Conflict of Interest to the City in a written statement to the Consulting Contract Administrator; and

- (c) provide the City with the proposed means to avoid or mitigate, to the greatest extent practicable, any perceived, potential or actual Conflict of Interest and shall submit any additional information to the City that the City considers necessary to properly assess the perceived, potential or actual Conflict of Interest.

B16.4 Without limiting B16.3, the City may, in their sole discretion, waive any and all perceived, potential or actual Conflicts of Interest. The City's waiver may be based upon such terms and conditions as the City, in their sole discretion, requires to satisfy itself that the Conflict of Interest has been appropriately avoided or mitigated, including requiring the Proponent to put into place such policies, procedures, measures and other safeguards as may be required by and be acceptable to the City, in their sole discretion, to avoid or mitigate the impact of such Conflict of Interest.

B16.5 Without limiting B16.3, and in addition to all contractual or other rights or rights at law or in equity or legislation that may be available to the City, the City may, in their sole discretion:

- (a) disqualify a Proponent that fails to disclose a perceived, potential or actual Conflict of Interest of the Proponent or any of their Key Personnel;
- (b) require the removal or replacement of any Key Personnel proposed for the Services that has a perceived, actual or potential Conflict of Interest that the City, in their sole discretion, determines cannot be avoided or mitigated;
- (c) disqualify a Proponent or Key Personnel proposed for the Services that fails to comply with any requirements prescribed by the City pursuant to B16.4 to avoid or mitigate a Conflict of Interest; and
- (d) disqualify a Proponent if the Proponent, or one of their Key Personnel proposed for the Project, has a perceived, potential or actual Conflict of Interest that, in the City's sole discretion, cannot be avoided or mitigated, or otherwise resolved.

B16.6 The final determination of whether a perceived, potential or actual Conflict of Interest exists shall be made by the City, in their sole discretion.

B17. QUALIFICATION

B17.1 The Proponent 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 Proponent does not carry on business in Manitoba, in the jurisdiction where the Proponent does carry on business;
- (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 Services in strict accordance with the terms and provisions of the Contract, particularly in the design and contract administration of installation of a hydrogen production and dispensing infrastructure for transit bus fleets or other large-scale government or industrial facility; and,
- (d) have or establish and staff an office in Winnipeg for the duration of the Project.

B17.2 The Proponent and any proposed Subconsultant (for the portion of the Services 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 <https://winnipeg.ca/finance/findata/matmgt/listing/debar.pdf>

B17.3 The Proponent and/or any proposed Subconsultant (for the portion of the Services proposed to be subcontracted to them) shall:

- (a) have successfully carried out services for the programming; design, management of construction and contract administration for architectural and/or engineering projects of similar complexity, scope and value; and to those required for this Project; and
- (b) be fully capable of performing the Services required to be in strict accordance with the terms and provisions of the Contract;
- (c) have a written workplace safety and health program, if required, pursuant to The Workplace Safety and Health Act (Manitoba);
- (d) have the knowledge and resources to administer the requirements of The Workplace Safety and Health Act (Manitoba) during the construction works associated with this Contract;
- (e) undertake to meet all licensing and regulatory requirements of the appropriate governing authorities and associations in the Province of Manitoba; and
- (f) have completed the Accessible Customer Service online training required by the Accessibility for Manitobans Act (AMA) (see B17.4 and D7).

B17.4 Further to B17.3(f), the Proponent acknowledges they and all Subconsultants have obtained training required by the Accessibility for Manitobans Act (AMA) available at <http://www.accessibilitymb.ca/training.html> for anyone that may have any interaction with the public on behalf of the City of Winnipeg.

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

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

B18. OPENING OF PROPOSALS AND RELEASE OF INFORMATION

B18.1 Proposals will not be opened publicly.

B18.2 After award of Contract, the Contract amount and the name of the successful Proponent and their address will be available on the MERX website at www.merx.com.

B18.3 The Proponent is advised any information contained in any Proposal Submission may be released if required by The Freedom of Information and Protection of Privacy Act (Manitoba), by other authorities having jurisdiction, or by law or by City policy or procedures (which may include access by members of City Council).

B18.3.1 To the extent permitted, the City shall treat as confidential information, those aspects of a Proposal Submission identified by the Proponent as such in accordance with and by reference to Part 2, Section 17 or Section 18 or Section 26 of The Freedom of Information and Protection of Privacy Act (Manitoba), as amended.

B18.4 Following the award of Contract, a Proponent will be provided with information related to the evaluation of their submission upon written request to the Consulting Contract Administrator.

B19. IRREVOCABLE OFFER

B19.1 The Proposal(s) submitted by the Proponent shall be irrevocable for the time period specified in Paragraph 11 of Form A: Bid/Proposal.

B19.2 The acceptance by the City of any Proposal shall not release the Proposals of the other responsive Proponents and these Proponents shall be bound by their offers on such Services for the time period specified in Paragraph 11 of Form A: Bid/Proposal.

B20. WITHDRAWAL OF OFFERS

B20.1 A Proponent may withdraw their Proposal without penalty prior to the Submission Deadline.

B21. INTERVIEWS

B21.1 The Consulting Contract Administrator may, in their sole discretion, interview Proponents during the evaluation process.

B22. NEGOTIATIONS

B22.1 The City reserves the right to negotiate details of the Contract with any Proponent. Proponents 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 Proponents submitting, in the City's opinion, the most advantageous Proposals. The City may enter into negotiations with one or more Proponents without being obligated to offer the same opportunity to any other Proponents. Negotiations may be concurrent and will involve each Proponent individually. The City shall incur no liability to any Proponent as a result of such negotiations.

B22.3 If, in the course of negotiations pursuant to B22.2, the Proponent 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 Proponent 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 Proponent with the requirements of the Request for Proposal or acceptable deviation therefrom: (pass/fail)
- (b) qualifications of the Proponent and the Subconsultants, if any, pursuant to B17: (pass/fail)
- (c) Fees; (Section B) 40%
- (d) Executive Summary and Project Organizational Approach; (Section C) 5%
- (e) Past Project Experience; (Section D) 25%
- (f) Qualifications, Experience and Education of Key Individuals; (Section E) 25%
- (g) Project Management Methodology. (Section F) 5%

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 Proponent who does not demonstrate, in their Proposal or in other information required to be submitted, that it is qualified.

B23.4 If, in the sole opinion of the City, a Proposal does not achieve a pass rating for B23.1(a) and B23.1(b), the Proposal will be determined to be non-responsive and will not be further evaluated.

B23.5 Further to B23.1(c), Fees will be evaluated based on Fees submitted in accordance with B9.

- B23.6 Further to B23.1(d), Executive Summary and Project Organizational Approach will be evaluated considering your firm's understanding of the City's Project, project management approach and team organization, in accordance with B10.
- B23.7 Further to B23.1(e), Past Project Experience will be evaluated considering the experience of the Proponent on Projects of comparable size and complexity, in accordance with B11.
- B23.8 Further to B23.1(f), Qualifications, Experience and Education of Key Individuals will be evaluated considering the experience and qualifications of the Key Personnel and Subconsultant personnel on Projects of comparable size and complexity, in accordance with B12.
- B23.9 Further to B23.1(g), Project Management Methodology will be evaluated considering the Proponent's ability to comply with the requirements of the Project, in accordance with B13.
- B23.10 Notwithstanding B23.1(d) to B23.1(g), where Proponents fail to provide a response to B7.2(a) to B7.2(d), the score of zero may be assigned to the incomplete part of the response.
- B23.11 Proposals will be evaluated considering the information in the Proposal Submission and any interviews held in accordance with B21.
- B23.11.1 The City may, in their sole discretion, interview any or all Proponents and Proponent Team Leads and other Proponent Team Members during the evaluation process to provide clarification in relation to their RFP Submission. The City may adjust their scoring of a Proponent RFP Submission based on the clarification information received by the City during the interview
- B23.12 The City has full power to conduct an independent verification of information in any RFP Submission received and generally pertaining to the qualifications and experience of the Proponent and any proposed Team Members.
- B23.12.1 Reference checks may be used to confirm information provided and may not be restricted to only those submitted by the Proponent or Proponent Team Member, and may include organizations representing Persons known to have done business with the Proponent or Team Member.
- B23.12.2 References submitted by the Proponent or Proponent Team Members are expected not to be employed by any Proponent or any Proponent Team Member or to financially benefit from the reference or success of the Proponent or Team Member in the RFP process.
- B23.12.3 Incorrect or out of date contact information for a reference may negatively impact the evaluation.
- B23.12.4 References provided by the Proponent or Proponent Team should be able to communicate in English either directly or through a translator.
- B23.13 In the event of a tie in the final aggregate score of two or more Proponents, their respective ranking will be re-established based on their total score for B23.1

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 Proponent, even though one or all of the Proponents are determined to be 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 Services;

- (b) the prices are materially in excess of the prices received for similar services in the past;
- (c) the prices are materially in excess of the City's cost to perform the Services, or a significant portion thereof, with their 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 qualified Proponent submitting the most advantageous offer.
- B24.4 The City may, at their discretion, award the Contract in phases.
- B24.5 Further to B24.4 the City reserves the right to negotiate and award future phases to the successful Proponent.
- B24.6 Further to Paragraph 7 of Form A: Bid/Proposal and C4, the City may issue an award letter to the successful Proponent in lieu of execution of Contract Documents
- B24.6.1 The Contract documents as defined in C1.1(u) in their entirety shall be deemed to be incorporated in and to form a part of the award letter notwithstanding that they are not necessarily attached to or accompany said award letter.
- B24.7 The form of Contract with the City of Winnipeg will be based on the Contract as defined in C1.1(v).
- B24.8 Following the award of Contract, a Proponent will be provided with information related to the evaluation of their Proposal upon written request to the Consulting Contract Administrator.
- B24.9 If, after the award of Contract, the Project is cancelled, the City reserves the right to terminate the Contract. The Proponent will be paid for all Services rendered up to time of termination.
- B24.10 The Work of this Contract is contingent upon receipt of funding from the Government of Canada and the Government of Manitoba. If sufficient funding is not received from the Government of Canada/Government of Manitoba the City shall have the right to eliminate any portion of the Work.

PART C - GENERAL CONDITIONS

C0. GENERAL CONDITIONS

- C0.1 The *General Conditions for Consultant Services* (Revision 2022-09-02) are applicable to the Services of the Contract.
- C0.1.1 The *General Conditions for Consultant 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 Request for Proposal to a section, clause or subclause with the prefix “**C**” designates a section, clause or subclause in the *General Conditions for Consultant Services*.

PART D - SUPPLEMENTAL CONDITIONS

GENERAL

D1. GENERAL CONDITIONS

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

D2. CONSULTING CONTRACT ADMINISTRATOR

D2.1 The Consulting Contract Administrator is:

Tim VanDekerkhove

Telephone No. 204 986-2173

Email Address: tvandekerkhove@winnipeg.ca

D2.2 At the pre-commencement meeting, the Consulting Contract Administrator will identify additional personnel representing the Consulting Contract Administrator and their respective roles and responsibilities for the Services.

D3. BACKGROUND

D3.1 The administrative structure for the City of Winnipeg is a Chief Administrative Officer (CAO) who is the head of the public service and provides overall leadership to all City departments.

D3.2 Winnipeg Transit is planning for an incremental transition to zero-emission buses over several years and across several facilities. In the first phase, up to 33 fuel-cell battery electric buses will be housed two facilities on Winnipeg Transit's Fort Rouge campus. Hydrogen production and fueling equipment will be install on the property of the transit garage located at 421 Osborne St., here to referred to as Fort Rouge Garage. The hydrogen production and dispensing station will be installed to align with the arrival of the first buses in June 2024.

D3.3 A site for the hydrogen generating and dispensing infrastructure has been identified on the 421 Osborne campus, and the infrastructure shall meet the following technical requirements:

- (a) Production of 500 kilogram (kg) per day of hydrogen;
- (b) Operate in temperatures of -40°C to +40°C;
- (c) Options for 500 kg and 1,000 kg (500 kg is upgradeable to 1,000 kg at a later date); and,
- (d) Communication fast filling enabled dispenser;
- (e) Accommodate both 40-foot and 60-foot buses, which have curb weights up to 16,000 kg and 25, 000 kg respectively.

D3.4 Both 600 Brandon Avenue and 421 Osborne are serviced via the same 24kV supply from Manitoba Hydro. Manitoba Hydro has completed a preliminary supply study which had indicated a maximum contract load of 5600KV can be supplied across both properties. Manitoba Hydro has indicated that contract loads in summer and winter are able to exceed the contract load by up to 10%.

D3.5 The combined facility and hydrogen fueling station loads at Fort Rouge Garage have a targeted contract load of 3600kV with a maximum load not exceeding 4000kV

D4. GENERAL REQUIREMENTS

- D4.1 The City requires a Project Management firm to provide professional project management services which include the design, construction, commissioning, and occupancy of Hydrogen Production and Dispensing Infrastructure.
- D4.2 The Proponent will work closely with the Contract Administrator to deliver the Project on time, within the assigned budget, in accordance with the City's Project Management Manual <http://winnipeg.ca/infrastructure/asset-management-program/templates-manuals.stm#2> and templates <http://winnipeg.ca/infrastructure/asset-management-program/templates-manuals.stm#4> and Major Capital Project reporting requirements.
- D4.3 Notwithstanding the foregoing, the Consultant is being engaged by the City for their professional expertise and oversight capability; the Consultant shall bring to the Contract Administrator's attention any aspect of the City's Project Management Manual or templates which the Proponent is of the opinion is not consistent with good industry practice.
- D4.4 The successful Proponent and any Sub-consultant(s) proposed under this Contract shall not be eligible to provide services under any other contracts associated with the development of this new hydrogen fueling station.

D5. SCOPE OF SERVICES

- D5.1 The services to be provided by the Project Management (PM) Team shall be as required to support the City in the oversight, execution, and control of all aspects of the Project.
- D5.2 The primary responsibility of the PM Team will be to support the City in the successful delivery of the Project. Successful delivery of the Project includes that it is delivered within the assigned budget and schedule and the Project meets the quality of standards expected by the client groups, public and elected officials.
- D5.3 The PM Services will be delivered from Pre-design to the completion of the Construction and Warranty, with the following general responsibilities:
- (a) support the City in the oversight of the Design-Build Contractor, and
 - (b) provide services as project liaison to oversee and manage communications, coordination and resolution of project matters between all project parties and stakeholders including the Consulting Contract Administrator, Design-Build Contractor, External Stakeholders, and Technical Advisory Committees.
- D5.4 The general services to be provided throughout the Project include but are not limited to:
- (a) implement, control and maintain a document management system that allows the flow of information amongst all parties;
 - (b) provide monthly update reports to the City with respect to project status including budget, schedule, risks/opportunities, stakeholder activities and progress as well as provide options analysis/recommendation as required to ensure compliance with the Project's goals and objectives;
 - (c) assist the City with development of responses to Audit requests;
 - (d) liaise between Transit department and other City departments, authorities having jurisdiction, other Provincial or Federal public or private entities affected by or required by the project;
 - (e) review deliverables and invoices submitted by the Design-Build Contractor and make recommendations to the City on acceptance;
 - (f) implement a Risk Management Plan, provide associated monthly updates, and advise recommended actions to be taken on critical risks;
 - (g) attend weekly internal and external project team meetings, including preparing the agenda, recording minutes, action items and upcoming work;

- (h) attend check-in meetings with the City and Design-Build Contractor as required; and
- (i) engage Project Management oversight by undertaking:
 - (i) project planning and document control;
 - (ii) production of monthly status report and regular monitoring of project work;
 - (iii) project scheduling monitoring including look ahead schedules and detailed workplans;
 - (iv) project Cost Control process including forecasting costs to complete;
 - (v) cash flow management, including earned value management;
 - (vi) quality control management and assurances;
 - (vii) manage project records; and
 - (viii) update and oversight of risk management process.

D5.5 In the Pre-Design Development (PD) phase, services include but not limited to:

- (a) assist with Project Charter;
- (b) develop a Project Delivery Plan (PDP);
- (c) develop a Stakeholder Assessment and Communication Plan;
- (d) complete a Risk Event Identification checklist;
- (e) develop a Risk Management Plan (RMP);
- (f) complete an Environmental Impact checklist;
- (g) perform geotechnical analysis of proposed site;
- (h) set up, and maintain throughout the project, an Issue and Decision log;
- (i) assist the City in procuring the Design-Build Contractor by undertaking responsibility for RFP tendering in coordination with Materials Management as well as provide coordination and oversight of the RFP evaluation process; and
- (j) implement a document and file management system that tracks documents with access available to all parties involved in the project.

D5.6 In the Design-Build Contractor Tendering/Bidding (TB) phase, services include but not limited to:

- (a) provide oversight of the Design-Build Contractor RFP process including any necessary consultation with Materials Management and the City Insurance Branch.

D5.7 In the Design Development (DD) phase, services include but are not limited to:

- (a) facilitate workshops with Design-Build Contractor team and Transit team;
- (b) attend weekly project team meetings (City, client groups, Design-Build Contractor Design Team, etc.);
- (c) assist the City with the review and response to Design-Build Contractor "Design Information Requests" (DIR), including outreach to internal and external stakeholders as required to formulate the appropriate response;
- (d) oversee the Design-Build Contractor's work with respect to public and stakeholder engagement activities;
- (e) oversee the Design-Build Contractor's preparation of preliminary and detailed designs of the new facility to meet the City's project goals and objectives;
- (f) oversee the Design-Build Contractor's work to meet City's Green Building Policy, Accessibility Policy, Climate Action Plan and Climate Change goals; and,
- (g) oversee the Design-Build Contractor's preparation of cost estimates.

D5.8 In the Contract Document (CD) phase, services include but not limited to:

- (a) assist the City staff with the day to day needs of the Project including, but not limited to, budget, schedule, quality, and risk;
- (b) regularly review the project budget which must include current status as well as forecasts;
- (c) validate the current project schedule; associated reviews must provide comment to the City on critical path and logic relationships;
- (d) manage major risks specifically related to approvals, schedule and budgets, and provide risk mitigation recommendations to the City;
- (e) maintain oversight of regulatory permit submissions and approval status respecting the Building Permit process;
- (f) support the City on any required alternate resolution strategies related to Authorities Having Jurisdiction;
- (g) provide weekly reporting to the City on project budget and schedule briefing in addition to monthly status reporting;
- (h) assist the City with the review of cost estimates obtained at the 33%, 66% and 99% intervals provided by the Design-Build Contractor;
- (i) assist the City with design review responses at CD milestones (33%, 66%, 99%, 100%) from client groups and assemble into trackable spreadsheet that is provided to the Design-Build Contractor;
- (j) ensure appropriate cash allowances for items such as remediation, signage, etc. are established by the Design-Build Contractor; and
- (k) ensure all project documents are included and available in the document and file management system.

D5.9 In the Contract Administration (CA) phase, services include but not limited to:

- (a) develop a Project Execution Plan (PXP);
- (b) review and validate the Design-Build Contractor's project schedule and provide comment to the City on critical path and logic relationships;
- (c) review monthly schedules submitted by the Design-Build Contractor and highlight any variance or any inherent risks to achieving the desired competition date;
- (d) provide one full-time construction inspector on-site during construction, from mobilization until Substantial Performance has been reached;
- (e) review any submitted documentation from the Design-Build Contractor related to Health and Safety on the Site;
- (f) ensure that satisfactory construction monitoring/reporting is provided by the Design-Build Contractor;
- (g) provide a Request for Information (RFI) management system and development of a response to the Design-Build Contractor;
- (h) provide detailed analysis and proposed responses to Change Management such as Change Work Orders (CWO's) from the Design-Build Contractor;
- (i) preparation of CWO's on behalf of the City with sufficient detail to enable the Design-Build Contractor to provide an estimate, followed by assessment of the estimate and subsequent documentation;
- (j) provide Risk Management, Issue Resolution and Decision Log documentation (to support the City);
- (k) oversee construction meetings and ensure the Design-Build Contractor issues timely meeting agendas, and timely issuance of accurate meeting minutes;
- (l) oversee Commissioning Plan and review reports for compliance; and
- (m) support in the review of Contractor invoicing and progress reporting.

D5.10 In Closeout (CO) phase, services include but are not limited to:

- (a) support in obtaining necessary final approvals from Authorities Having Jurisdiction;
- (b) oversee completion of Commissioning process;
- (c) track construction deficiencies to completion;
- (d) assist clients with coordination of hand-over and occupancy of the facility;
- (e) provide advice for dispute avoidance and assist in dispute resolution;
- (f) develop and support the completion of Project Close out procedures;
- (g) assist with the coordination and compilation of facility operation and maintenance manuals, training, warranties and as-built plans; and,
- (h) coordinate warranty issues, create warranty and post-warranty reports final warranty and warranty walkthroughs.

D5.11 The following shall apply to the Services:

- (a) Universal Design Policy
<http://clkapps.winnipeg.ca/DMIS/DocExt/ViewDoc.asp?DocumentTypeId=2&DocId=3604>
- (b) Should this project include a public engagement aspect, it will be required to meet: Public Engagement Guidelines
<https://winnipeg.ca/PublicEngagement/pdfs/PublicEngagementRequirements.pdf>
- (c) The most current edition of The City of Winnipeg Standard Construction Specifications
<https://www.winnipeg.ca/matmgt/Spec/Default.stm>;
- (d) City of Winnipeg's Project Management Manual
<https://winnipeg.ca/infrastructure/assetmanagement-program/templates-manuals.stm>;
- (e) All other codes, standard, by-laws and regulations from the City of Winnipeg, Province of Manitoba as well as best engineering practices applicable to this job

D6. DEFINITIONS

D6.1 When used in this Request for Proposal:

- (a) "**Business Day**" means any Calendar Day, other than a Saturday, Sunday or a Statutory or Civic Holiday;
- (b) "**Hydrogen Production**" means hydrogen produced via electrolysis of water; and,
- (c) "**Submission Deadline**" and "**Time and Date Set for the Final Receipt of bids**" means the time and date set out in the Bidding Procedures for final receipt of Bids.

D7. ACCESSIBLE CUSTOMER SERVICE REQUIREMENTS

D7.1 The Accessibility for Manitobans Act (AMA) imposes obligations on The City of Winnipeg to provide accessible customer service to all persons in accordance with the Customer Service Standard Regulation ("CSSR") to ensure inclusive access and participation for all people who live, work or visit Winnipeg regardless of their abilities.

D7.1.1 The Consultant agrees to comply with the accessible customer service obligations under the CSSR and further agrees that when providing the Goods or Services or otherwise acting on the City of Winnipeg's behalf, shall comply with all obligations under the AMA applicable to public sector bodies.

D7.1.2 The accessible customer service obligations include, but are not limited to:

- (a) providing barrier-free access to goods and services;
- (b) providing reasonable accommodations;

- (c) reasonably accommodating assistive devices, support persons, and support animals;
- (d) providing accessibility features e.g. ramps, wide aisles, accessible washrooms, power doors and elevators;
- (e) inform the public when accessibility features are not available;
- (f) providing a mechanism or process for receiving and responding to public feedback on the accessibility of all goods and services; and
- (g) providing adequate training of staff and documentation of same.

D8. UNFAIR LABOUR PRACTICES

- D8.1 Further to C3.2, the Consultant declares that in bidding for the Work and in entering into this Contract, the Consultant and any proposed Subconsultant(s) conduct their respective business in accordance with established international codes embodied in United Nations Universal Declaration of Human Rights (UDHR) <https://www.un.org/en/about-us/universal-declaration-of-human-rights> International Labour Organization (ILO) [https://www.ilo.org/global/lang--en/index.htm](https://www.ilo.org/global/lang-en/index.htm) conventions as ratified by Canada.
- D8.2 The City of Winnipeg is committed and requires its Consultants and their Subconsultants, to be committed to upholding and promoting international human and labour rights, including fundamental principles and rights at work covered by ILO eight (8) fundamental conventions and the United Nations Universal Declaration of Human Rights which includes child and forced labour.
- D8.3 Upon request from the Consulting Contract Administrator, the Consultant shall provide disclosure of the sources (by company and country) of the raw materials used in the Work and a description of the manufacturing environment or processes (labour unions, minimum wages, safety, etc.).
- D8.4 Failure to provide the evidence required under D7.3, may be determined to be an event of default in accordance with C14.
- D8.5 In the event that the City, in its sole discretion, determines the Consultant to have violated the requirements of this section, it will be considered a fundamental breach of the Contract and the Consultant shall pay to the City a sum specified by the Consulting Contract Administrator in writing ("Unfair Labour Practice Penalty"). Such a violation shall also be considered an Event of Default, and shall entitle the City to pursue all other remedies it is entitled to in connection with same pursuant to the Contract.
- D8.5.1 The Unfair Labour Practice Penalty shall be such a sum as determined appropriate by the City, having due regard to the gravity of the Consultant's violation of the above requirements, any cost of obtaining replacement goods/ services or rectification of the breach, and the impact upon the City's reputation in the eyes of the public as a result of same.
- D8.5.2 The Consultant shall pay the Unfair Labour Practice Penalty to the City within thirty (30) Calendar Days of receiving a demand for same in accordance with clause D7.5. The City may also hold back the amount of the Unfair Labour Practice Penalty from payment for any amount it owes the Consultant.
- D8.6 The obligations and rights conveyed by this clause survive the expiry or termination of this Contract, and may be exercised by the City following the performance of the Work, should the City determine, that a violation by the Consultant of the above clauses has occurred following same. In no instance shall the Unfair Labour Practice Penalty exceed the total of twice the Contract value.

SUBMISSIONS

D9. AUTHORITY TO CARRY ON BUSINESS

D9.1 The Consultant 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 Consultant does not carry on business in Manitoba, in the jurisdiction where the Consultant does carry on business, throughout the term of the Contract, and shall provide the Consulting Contract Administrator with evidence thereof upon request.

D10. INSURANCE

D10.1 The Consultant shall procure and maintain, at their own expense and cost, insurance policies with limits no less than those shown below.

D10.2 As a minimum, the Consultant shall, without limiting their obligations or liabilities under any other contract with the City, procure and maintain, at their own expense and cost, the following insurance policies:

(a) Commercial General Liability including:

- (i) an inclusive limit of not less than two million dollars (\$2,000,000) for each occurrence or accident with a minimum \$2,000,000 Products and Completed Operations aggregate and \$5,000,000 general aggregate;
- (ii) all sums which the Consultant shall become legally obligated to pay for damages because of personal injury or bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to the Services or any operations carried on in connection with this Contract;
- (iii) coverage for products and completed Operations, blanket contractual, consultant's protective, personal injury, employer's liability, broad form property damage, employees as additional insureds, and non-owned automobile liability;
- (iv) a cross liability clause and/or severability of Interest clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other Insured hereunder in respect to any claim, demand, suit or judgment made against any other Insured.

(b) Automobile liability Insurance covering all motor vehicles, owned and operated and used or to be used by the Consultant directly or indirectly in the performance of the Service. The limit of liability shall not be less than five million dollars (\$5,000,000) inclusive for loss or damage including personal injuries and death resulting from any one accident or occurrence.

(c) Professional liability insurance including:

- (i) an amount not less than five million dollars (\$5,000,000) per claim and five million dollars (\$5,000,000) in the aggregate.

D10.2.1 The Consultant's professional liability Insurance shall remain in force for the duration of the Project and for twenty-four (24) months after Total Performance, or the policy shall be endorsed to allow for a twenty-four month claim reporting period after Total Performance.

D10.3 The policies required in D9.2(a) shall provide that the City and Manitoba and their Ministers, employees and agents are added as additional insureds thereunder and that said policies are primary without any right of contribution from any insurance otherwise maintained by the City.

D10.4 The Consultant shall require any Consultants hired to perform geo technical drilling and sample collecting or closed-circuit television to procure and maintain, at their own expense and cost, comparable insurance to that set forth under D9.2(a) and D9.2(b).

- D10.5 The Consultant shall require each of their Subconsultants hired for design, architectural or engineering services as outlined in the Scope of Services to provide comparable insurance to that set forth under D9.2(a) and D9.2(c).
- D10.6 The Consultant shall provide the Consulting 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 Services, but in no event later than the date specified in C4.4(a) for the return of the executed Contract. Such certificates shall state the exact description of the Services and provide for written notice in accordance with D9.9.
- D10.7 The Consultant may take out such additional insurance as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City.
- D10.8 All insurance, which the Consultant is required to obtain with respect to this Contract, shall be with insurance companies registered in and licensed to underwrite such insurance in the Province of Manitoba.
- D10.9 The Consultant shall not cancel, materially alter, or cause any policy to lapse without providing at least thirty (30) Calendar Days prior written notice to the City.

SCHEDULE OF SERVICES

D11. COMMENCEMENT

- D11.1 The Consultant shall not commence any Services until it is in receipt of a notice of award from the City authorizing the commencement of the Services.
- D11.2 The Consultant shall not commence any Services until:
- (a) the Consulting Contract Administrator has confirmed receipt and approval of:
 - (i) evidence of authority to carry on business specified in D8; and,
 - (ii) evidence of the insurance specified in D9.
 - (b) the Consultant has attended a meeting with the Consulting Contract Administrator, or the Consulting Contract Administrator has waived the requirement for a meeting;
 - (c) The direct deposit application specified in D14.1
- D11.3 The City intends to award this Contract by March 10, 2023.

D12. CRITICAL STAGES

- D12.1 The Consultant shall achieve critical stages of the Services for this Contract in accordance with the following requirements:
- (a) Issue RFP – April 30, 2023;
 - (b) Award of RFP – June 30, 2023;
 - (c) Substantial Performance – December 31, 2024.

D13. COVID-19 SCHEDULE DELAYS

- D13.1 The City acknowledges that the schedule for this Contract may be impacted by the COVID-19 pandemic. Commencement and progress of the [Services](#) shall be performed by the Consultant with due consideration to the health and safety of workers and the public, directives from health authorities and various levels of government and in close consultation with the Consulting Contract Administrator.
- D13.2 If the Consultant is delayed in the performance of the [Services](#) by reason of the COVID-19 pandemic, the [Services](#) schedule may be adjusted by a period of time equal to the time lost due to such delay and costs related to such delay will be determined as identified herein.

- D13.3 A minimum of seven (7) Calendar Days prior to the commencement of **Services**, the Consultant shall declare whether COVID-19 will affect the start date. The Consultant shall provide sufficient evidence that the delay is directly related to COVID-19, including but not limited to evidence related to availability of staff, availability of material or work by others.
- D13.4 For any delay related to COVID-19 and identified after **Services have** commenced, the Consultant shall within seven (7) Calendar Days of becoming aware of the anticipated delay declare the additional delay and shall provide sufficient evidence as indicated in D12.3. Failure to provide this notice will result in no additional time delays being considered by the City.
- D13.5 The **Services** schedule, including the durations identified in the Contract, will be adjusted to reflect delays accepted by the Consulting Contract Administrator.
- D13.6 Any time or cost implications as a result of COVID-19 and in accordance with the above, as confirmed by the Consulting Contract Administrator, shall be documented in accordance with C8.

MEASUREMENT AND PAYMENT

D14. INVOICES

- D14.1 Further to C11, the Consultant shall submit an invoice for each portion of Work performed. 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
Send Invoices to CityWpgAP-INVOICES@winnipeg.ca
Send Invoice Inquiries to CityWpgAP-INQUIRIES@winnipeg.ca
- D14.2 Invoices must clearly indicate, as a minimum:
- the City's purchase order number;
 - date of delivery;
 - delivery address;
 - type and quantity of work performed;
 - the amount payable with GST and MRST shown as separate amounts; and
 - the Consultant's GST registration number.
- D14.3 The City will bear no responsibility for delays in approval of invoices which are improperly submitted.

D15. PAYMENT

- D15.1 Further to C11.14, the City shall make payments to the Consultant by direct deposit to the Consultant's banking institution, and by no other means. Payments will not be made until the Consultant has made satisfactory direct deposit arrangements with the City. Direct deposit application forms are at https://winnipeg.ca/finance/files/Direct_Deposit_Form.pdf.

DISPUTE RESOLUTION

D16. DISPUTE RESOLUTION

- D16.1 If the Consultant disagrees with any opinion, determination, or decision of the Consulting Contract Administrator, the Consultant shall act in accordance with the Consulting Contract

Administrator's opinion, determination, or decision unless and until same is modified by the process followed by the parties pursuant to D15.

D16.2 The entire text of C17.4 is deleted, and amended to read: "Intentionally Deleted"

D16.3 The entire text of C17.5 is deleted, and amended to read:

- (a) If Legal Services has determined that the Disputed Matter may proceed in the Appeal Process, the Consultant must, within ten (10) Business Days of the date of the Legal Services Response Letter, submit their written Appeal Form, in the manner and format set out on the City's Materials Management Website, to the Chief Administrative Officer, and to the Consulting Contract Administrator. The Consultant may not raise any other disputes other than the Disputed Matter in their Appeal Form.

D16.4 Further to C17, prior to the Consulting Contract Administrator's issuance of a Final Determination, the following informal dispute resolution process shall be followed where the Consultant disagrees with any opinion, determination, or decision of the Consulting Contract Administrator ("Dispute"):

- (a) In the event of a Dispute, attempts shall be made by the Consulting Contract Administrator and the Consultant's equivalent representative to resolve Disputes within the normal course of project dealings between the Consulting Contract Administrator and the Consultant's equivalent representative.
- (b) Disputes which in the reasonable opinion of the Consulting Contract Administrator or the Consultant's equivalent representative cannot be resolved within the normal course of project dealings as described above shall be referred to a without prejudice escalating negotiation process consisting of, at a minimum, the position levels as shown below and the equivalent Consultant representative levels:
 - (i) The Consulting Contract Administrator;
 - (ii) Supervisory level between the Consulting Contract Administrator and applicable Department Head;
 - (iii) Department Head.

D16.4.1 Names and positions of Consultant representatives equivalent to the above City position levels shall be determined by the Consultant and communicated to the City at the pre-commencement or kick off meeting.

D16.4.2 As these negotiations are not an adjudicative hearing, neither party may have legal counsel present during the negotiations.

D16.4.3 Both the City and the Consultant agree to make all reasonable efforts to conduct the above escalating negotiation process within twenty (20) Business Days, unless both parties agree, in writing, to extend that period of time.

D16.4.1 If the Dispute is not resolved to the City and Consultant's mutual satisfaction after discussions have occurred at the final escalated level as described above, or the time period set out in D15.4.3, as extended if applicable, has elapsed, the Consulting Contract Administrator will issue a Final Determination as defined in C1.1(v), at which point the parties will be governed by the Dispute Resolution process set out in C17.

THIRD PARTY AGREEMENTS

D17. FUNDING AND/OR CONTRIBUTION AGREEMENT OBLIGATIONS

D17.1 Funding for the Services of the Contract is being provided to the City of Winnipeg by the Government of Manitoba and/or the Government of Canada and accordingly, as required by the applicable funding agreements, the following terms and conditions shall apply.

D17.2 For the purposes of D16:

- (a) **“Government of Canada”** includes the authorized officials, auditors, and representatives of the Government of Canada; and
- (b) **“Government of Manitoba”** includes the authorized officials, auditors, and representatives of the Government of Manitoba.

D17.3 Indemnification By Consultant

D17.3.1 In addition to the indemnity obligations outlined in C13 of the General Conditions for Consultant Services, the Consultant agrees to indemnify and save harmless the Government of Canada and the Government of Manitoba and each of their respective Ministers, officers, servants, employees, and agents from and against all claims and demands, losses, costs, damages, actions, suit or other proceedings brought or pursued in any manner in respect of any matter caused by the Consultant or arising from this Contract or the Services, or from the goods or services provided or required to be provided by the Consultant, except those resulting from the negligence of any of the Government of Canada’s or the Government of Manitoba’s Ministers, officers, servants, employees, or agents, as the case may be.

D17.3.2 The Consultant agrees that in no event will Canada or Manitoba, their respective officers, servants, employees or agents be held liable for any damages in contract, tort (including negligence) or otherwise, for:

- (a) any injury to any person, including, but not limited to, death, economic loss or infringement of rights;
- (b) any damage to or loss or destruction of property of any person; or
- (c) any obligation of any person, including, but not limited to, any obligation arising from a loan, capital lease or other long term obligation;

in relation to this Contract or the Work.

D17.4 Records Retention and Audits

D17.4.1 The Consultant shall maintain and preserve accurate and complete records in respect of this Contract and the Services, including all accounting records, financial documents, copies of contracts with other parties and other records relating to this Contract and the Services during the term of the Contract and for at least six (6) years after Total Performance. Those records bearing original signatures or professional seals or stamps must be preserved in paper form; other records may be retained in electronic form.

D17.4.2 In addition to the record keeping and inspection obligations outlined in C7.16 of the General Conditions for Consultant Services, the Consultant shall keep available for inspection and audit at all reasonable times while this Contract is in effect and until at least six (6) years after Total Performance, all records, documents, and contracts referred to in D16.4.1 for inspection, copying and audit by the City of Winnipeg, the Government of Manitoba and/or the Government of Canada and their respective representatives and auditors, and to produce them on demand; to provide reasonable facilities for such inspections, copying and audits, to provide copies of and extracts from such records, documents, or contracts upon request by the City of Winnipeg, the Government of Manitoba, and/or the Government of Canada and their respective representatives and auditors, and to promptly provide such other information and explanations as may be reasonably requested by the City of Winnipeg, the Government of Manitoba, and/or the Government of Canada from time-to-time.

D17.5 Other Obligations

D17.5.1 The Consultant consents to the City providing a copy of the Contract Documents to the Government of Manitoba and/or the Government of Canada upon request from either entity.

D17.5.2 If the Lobbyists Registration Act (Manitoba) applies to the Consultant, the Consultant represents and warrants that it has filed a return and is registered and in full compliance

with the obligations of that Act, and covenants that it will continue to comply for the duration of this Contract.

- D17.5.3 The Consultant shall comply with all applicable legislation and standards, whether federal, provincial, or municipal, including (without limitation) labour, environmental, and human rights laws, in the course of providing the Services.
- D17.5.4 The Consultant shall properly account for the Services provided under this Contract and payment received in this respect, prepared in accordance with generally accepted accounting principles in effect in Canada, including those principles and standards approved or recommended from time-to-time by the Chartered Professional Accountants of Canada or the Public Sector Accounting Board, as applicable, applied on a consistent basis.
- D17.5.5 The Consultant represents and warrants that no current or former public servant or public office holder, to whom the Value and Ethics Code for the Public Sector, the Policy on Conflict of Interest and Post Employment, or the Conflict of Interest Act applies, shall derive direct benefit from this Contract, including any employment, payments, or gifts, unless the provision or receipt of such benefits is in compliance with such codes and the legislation.
- D17.5.6 The Consultant represents and warrants that no member of the House of Commons or of the Senate of Canada or of the Legislative Assembly of Manitoba is a shareholder, director or officer of the Consultant or of a Subconsultant, and that no such member is entitled to any benefits arising from this Contract or from a contract with the Consultant or a Subconsultant concerning the Work.

APPENDIX A –WINNIPEG TRANSIT FORT ROUGE GARAGE – HYDROGEN INFRASTRUCTURE