

City of Morden

Request for Proposals for Organic Waste Processing

Project #: COM-OP-2020-5

Issue Date: **July 08, 2020**

Closing Date and Time: **July 29, 2020 at 11:00:00 a.m. Local Time**

Proposals shall be submitted to: City of Morden
100-195 Stephan Street
Morden MB R6M 1V3

Proposals may be delivered to the City by hand, courier or mail. No faxed or other electronically transmitted Proposals will be accepted by the City. Late submissions will **NOT** be considered.

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1. DEFINITIONS

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

- a) "City" means the City of Morden, a municipal corporation duly constituted under the laws of Manitoba;
- b) "Closing Date and Time" means the deadline for submission of a complete proposal.
- c) "Contract" means the written agreement negotiated and entered into by the Successful Proponent and City to provide the Services contemplated by this RFP;
- d) "Evaluation Criteria" means those criteria described in Section 7.5;
- e) "Mandatory Requirements" means the minimum requirements that must be addressed or contained in a Proposal as described in this RFP;
- f) "Proponent" means an individual, a corporation, a partnership or any combination of the foregoing, assembled for a common purpose that submits a Proposal to the City for evaluation in response to this RFP;
- g) "Proposal" means all the information which is presented to the City by a Proponent for evaluation in response to this RFP;
- h) "RFP" means this Request for Proposals for Processing of Organic Waste collected and delivered by City of Morden or it's Service Provider;
- i) "Services" means the functions, duties, tasks, responsibilities, and **deliverables** upon which this RFP is based;
- j) "Successful Proponent" means the Proponent which the City selects to enter into the Contract with.

2. PROJECT BACKGROUND

City of Morden is providing three stream collection through MWM Environmental Inc. The Organic waste is currently being processed at Enviro Clean Inc Compost Facility at 41 Jefferson Ave Morden. The current contract for processing is ending on Dec 31, 2020. During 2019 City collected and delivered a total of approximately 1100 tonnes of organic waste which was processed at the Enviro clean Facility.

3. PROJECT DESCRIPTION:

The city of Morden is looking to enter into a contract with an experienced compost processing service provider for a period of 5 years commencing Jan 01, 2021 and ending on Dec 31, 2025, to process the organic waste collected through the City's curbside collection program and produce a finished stabilised product compliant with compost regulations and quality standards. The City may add any other permissible stream of organic waste for processing in future.

4. SCOPE OF SERVICES

The scope of services included in this RFP is as provided in ANNEXURE- C Specifications for Organic Waste Processing.

5. TERMS AND CONDITIONS

Terms and conditions as per Annexure-B.

6. MANDATORY REQUIREMENTS

- Proponents must have the capacity to process the 100% quantity of organics delivered to the facility.
- Proponent must have all required licenses and permits for the facility and include a copy of the same with their proposal.
- WCB clearance
- Proof of insurance

7. PROPOSAL SUBMISSION REQUIREMENTS AND FORMAT

7.1 CLOSING DATE & TIME

The prospective Proponents must submit their completed proposals on or before 11:00 am July 29, 2020 to the City of Morden under sealed cover, by mail or hand-delivery to the City of Morden, 100-195 Stephen Street, Morden, MB.

7.2 LETTER OF TRANSMITTAL:

A letter of transmittal or covering letter, dated and signed by an official authorized to negotiate, make commitments, and provide any clarifications with respect to the proposal. Transmittal letter shall include, Name of Proponent, Contact info, undertaking regarding acceptance of RFP terms and conditions and acceptance of all addenda.

7.3 EXECUTIVE SUMMARY:

An Executive Summary will identify pertinent points in the proposal you wish to highlight over and above requirements.

7.4 CORPORATE PROFILE:

A brief corporate profile will cover the company's history, office locations(s), individuals(s) who will be assigned to lead the project team including the same for any sub-consultant services.

The corporate profile should also include the corporate operating philosophy.

7.5 PROPONENT'S TEAM:

Proponents are to clearly identify each member on the project team and describe the involvement they have on the team. Each team member will include a personal resume complete with their experience. The proponent should identify the team member(s) that will be the primary client contact(s).

7.6 PROPONENT'S EXPERIENCE AND EXPERTISE:

The proponent will provide a related experience and expertise for the past five (5) years starting with the most recent.

Proponents that have current with municipal organic waste processing, shall provide a comprehensive list that will identify the municipality, the year the agreement was commenced, if the agreement is still active or if the agreement has concluded. In the event that the agreement is concluded, please provide a brief description of the reason.

7.7 ABILITY TO COMPLY WITH IDENTIFIED REQUIREMENTS:

Proponents will identify and detail their ability to satisfy all aspects as outlined in the “Scope of Work – Project Scope” section of this proposal.

7.8 FORMAT

All bidders shall submit one (1) original proposal package with original signatures (in blue ink) and **three** (3) copies of the proposal.

The proposal should include:

- Signed cover page/Transmittal Letter;
- A title page displaying the RFP number; the RFP closing date and time; the proponent’s name, address, telephone number, fax number, and e-mail address;
- Table of contents including page numbers;
- A short (one or two page) summary of the key features of the proposal;
- The body of the proposal (i.e. the “Proponent Response”);
- The maximum number of pages of the proposal is **Twenty (20) pages 8.5” X 11” (letter size) plus appendices**,
- The minimum allowed font size is 11 point;
- The minimum allowed margin for each page is one half (1/2) inch;
- Appendices, appropriately tabbed and referenced, if applicable.

NOTE: If the Proponent is corporations, in addition to signature, affix corporate seal (if available). If a natural person makes the proposal, the Proponent must sign it with his/her name typed or clearly printed below the signature. If the Proponent is carrying on business under a firm name and NOT incorporated, the members of the firm must sign below the firm name and their names must be typed or clearly printed below the signature.

8. COST

Proponents are required to complete the unit price table in the Annexure-A Schedule of Rates.

9. EVALUATION OF PROPOSALS

The Proposals will be evaluated based on the following:

7.1. EXPERIENCE, STAFF AND REPORTING

Provide description of Firm’s experience in processing of organic waste. Provide details on full staff managing the facility and their capacity to provide required reports to the City in a timely fashion.

7.2. COST

Please complete the Schedule of rates. The total cost of the proposal will be worked out on the basis of estimated quantities provided by the city and the unit rates offered by the Proponent.

7.3. QUALITY OF FINISHED PRODUCT/COMPOST

Provide detail of certifications for the finished compost product. Also provide detail on the utilization of finished product.

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7.4. PROXIMITY TO CITY OF MORDEN

The proximity of the Proponent's Processing Facility to the City of Morden will be evaluated as a factor as it will have impact on the Collection Service Provider's Costs.

7.5. EVALUATION CRITERIA

The following evaluation criteria and weight factors will be used to evaluate proposal submissions:

Evaluation Criteria	Points
Experience of Firm in Organics processing, Staff and Reporting	10
Finished compost product quality and utilization	10
Proximity to the City of Morden	10
Schedule of Rates and Fees	70
Total Points Available	100

7.6. AWARD & AGREEMENT

The work will be awarded to the proponent securing highest points after the Council's approval. The City reserves the right to negotiate with any or all of the proponents at its discretion and award the work to any of the proponents or not to award the work. The City decision in this regard shall be final. The successful proponent shall have to enter into an agreement with the City as provided in Annexure-D.

10. QUESTIONS/CLARIFICATIONS

The questions/clarifications can be submitted via email no later than 3:00pm July 22, 2020 to:

Santokh Singh Randhawa P. Eng.
Deputy City Manager- Operations
City of Morden
Email:srandhawa@mymorden.ca

Schedule of Rates

ANNEXURE-A SCHEDULE OF RATES

UNIT PRICES

S. No.	ACTIVITY	Quantity	Rate	TOTAL
1	Processing of Solid Waste Delivered at the Reception Point of the Proponent's Processing Facility (The delivered load shall not have more than 10% contamination by weight)	1100 tonnes		
2	Contaminated load sorting / disposal charge (applicable only if delivered load has more than 10% contamination by weight)	100 tonnes		
3	Out of operation hours, load acceptance extra charge	20 loads		
TOTAL (excluding GST but inclusive of PST)				

YEARLY INCREASE IN UNIT PRICE:

A yearly increase to the quoted unit rates shall be applied based on the following formula:

$$\text{Unit Rate (Year}_{n+1}\text{)} = \text{Unit Rate (Year}_n\text{)} + \text{Unit Rate (Year}_n\text{)} \times (\text{CPI (Year}_n\text{)} - \text{CPI (Year}_{n-1}\text{)}) / \text{CPI (Year}_{n-1}\text{)}$$

Where:

Unit Rate (Year_n) = Unit rates in the current year

Unit Rate (Year_{n+1}) = Unit rates for the next year

CPI = Consumer Price Index as per Stats Canada

CPI (Year_{n-1}) = CPI for the previous year

CPI (Year_n) = CPI for the current year

The first increase will be applied on Jan 01, 2022.

ANNEXURE-B STANDARD TERMS AND CONDITIONS

1. PROPOSAL

Project Title: Processing of mixed organic waste collected and delivered by City of Morden.

The Proponent confirms it has obtained and carefully examined all of the documents making up the Request for Proposal issued by the City of Morden and any addenda issued in connection therewith.

2. EXECUTION OF CONTRACT

If the offer contained in this proposal is accepted, upon being advised that the Contract Documents are available, the Proponent will obtain the Contract Documents and will execute and identify the Documents and Drawings in a form and manner acceptable to the City and will deliver the same within 14 days from the time when the same are available or are delivered or mailed to the Proponent.

3. NO COLLUSION

Except as otherwise specified or as arising by reason of the provision of the Contract Documents, no person whether natural, or body corporate, other than the Proponent has or will have any interest or share in this proposal or in the proposed contract which may be completed in respect thereof. There is no collusion or arrangement between the Proponent and any other actual or prospective Proponents in connection with proposals submitted for this project and the Proponent has no knowledge of the contents of other proposals and has made no comparison of figures or agreement or arrangement, express or implied, with any other party in connection with the making of the proposal.

4. ACCEPTANCE OF PROPOSAL

The acceptance of the proposal by the City shall be made only by the notice in writing, and will be addressed to the successful Proponent at the address given in this Form of Proposal; and if the Proposal Documents are so worded, the proposal may be accepted either in whole or in part.

5. FAILURE OR DEFAULT OF PROPONENT

If the Proponent for any reason whatsoever fails or defaults in respect of any matter or thing which is an obligation of the Proponent under the terms of this proposal, the City at its option may consider the Proponent has abandoned the offer made or the contract if the offer has been accepted, whereupon the acceptance, if any, of the City shall be null and void and the City shall be free to select an alternate solution of its choosing.

6. INSTRUCTIONS TO PROPONENTS

The following terms will apply to this RFP and to any subsequent Contract. Submission of an RFP in response to this RFP indicates acceptance of all the following terms:

a. General

- i. The law applicable to this RFP shall be the law in effect in the Province of Manitoba. Except for an appeal from a Manitoba Court to the Supreme Court of Canada, no action in respect to this RFP shall be brought or maintained in any court other than in a court of the appropriate jurisdiction of the Province of Manitoba.

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- ii. In carrying out its obligations hereunder, the Proponent shall familiarize itself and comply with all applicable laws, bylaws, regulations, ordinances, codes, specifications and requirements of all regulatory authorities, and shall obtain all necessary licenses, permits and registrations as may be required by law. Where there are two or more laws, ordinances, rules, regulations or codes applicable to the Services, the more restrictive shall apply.
- iii. Applicability of law: All references in the RFP to statutes and regulations thereto and City bylaws shall be deemed to be the most recent amendments thereto or Replacements thereof.
- iv. Copyright: All designs, drawings, concept drawings, specifications, digital, hard copies, web pages, internet pages, maps and plans commissioned by the City of Morden, shall remain the property of the City of Morden.
- v. In the case of any inconsistency or conflict between the provisions of the RFP, the provisions of such documents and addenda thereto will take precedence in governing in the following order: (1) Addenda; (2) RFP; (3) Special Conditions; (4) Specifications; (5) Drawings; (6) all other documents.
- vi. Headings are for convenience only: Headings and titles in the RFP are for convenience only and are not explanatory of the clauses with which they appear.
- vii. City policy as well as applicable Federal and Provincial laws govern method of payment.
- viii. The RFP, accepted submission, and City contract documents represent the entire Agreement between the City and the Successful Proponent and supersede all prior negotiations, representations or agreements either written or oral. The contract documents may be amended only by written instrument agreed and executed by the Successful Proponent and the City.

b. Not a Tender Call

This RFP is not a tender call, and the submission of any response to this RFP does not create a tender process.

c. No Obligation to Proceed

Though the City fully intends at this time to proceed through the RFP, in order to select the services, the City is under no obligation to proceed to the Contract, or any other stage. The receipt by the City of any information (including any submissions, ideas, plans, drawings, models or other materials communicated or exhibited by any intended Proponent, or on its behalf) shall not impose any obligations on the City.

There is no guarantee by the City, its officers, employers or Managers, that the process initiated by the issuance of this RFP will continue, or that this RFP process or any RFP process will result in a contract with the City for the purchase of the equipment, service or project.

d. Late Proposals

Proposals received after the final date and time for receipt of Proposals will be considered as "Late Proposals". Late proposals will not be accepted and will be returned unopened to the sender.

e. Cost of Preparation

Any cost incurred by the proponent in the preparation of this Proposal will be borne solely by the

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Proponent.

f. Intention of the City

The Proponent that submits to the City the most advantageous proposal and which represents the interests of the City, best overall, may be awarded the contract. The City reserves the right to accept or reject all or part of the RFP, however, the City is not precluded from negotiating with the successful Proponent to modify its Proposal to best suit the needs of the City.

g. Rejection of Proposals

The City reserves the right to reject, at the City's sole discretion, any or all proposals, without limiting the foregoing, any Proposal which either:

- i. is incomplete, obscure, irregular or unrealistic;
- ii. has non-authorized (not initialed) erasures or corrections in the Proposal or any schedule thereto;
- iii. omits or fails to include any one or more items in the proposal for which a price is required by the RFP;
- iv. fails to complete the information required by the RFP to be furnished with a Proposal or fails to complete the information required whether the same purports to be completed or not;

Further, a Proposal may be rejected on the basis of the Proponents past performance, financial capabilities, completion schedule and compliance with Federal, Provincial and Municipal legislation. As it is the purpose of the City to obtain a Proposal most suitable to the interests of the City and what it wishes to accomplish, the City has the right to waive any irregularity or insufficiency in an Proposal submitted and to accept the Proposal which is deemed most favorable to the interest of the City.

h. Clarification

The City reserves the right to seek Proposal clarification with the proponents to assist in making evaluations.

i. Acceptance of Proposal

The City of Morden shall not be obligated in any manner to any Proponent whatsoever until a written agreement has been duly executed relating to an approved Proposal.

No act of the City other than a notice in writing shall constitute an acceptance of a Proposal. Such acceptance shall bind the successful proponent to execute in a manner satisfactory to the City.

j. Negotiation Delay

If a written Contract cannot be negotiated within thirty days of notification of the successful proponent, the City may, at its sole discretion at any time thereafter, terminate negotiations with that proponent and either negotiate a Contract with the next qualified proponent or choose to terminate the RFP process and not enter into a Contract with any of the Proponents. Proposals must not be sent electronically. Proposals and their envelopes should be clearly marked with the name and address of the Proponent and the RFF project title.

7. PROPOSAL PREPARATION

a. Alternative Solutions

If alternative solutions are offered, please submit the information in the same format, as a separate Proposal.

b. Changes to Proposal Wording

The proponent will not change the wording of its proposal after closing and no words or comments will be added to the proposal unless requested by the City for purposes of clarification.

c. Limitation of Damages

The Proponent, by submitting a "Proposal" agrees that it will not claim damages, for whatever reason, relating to the RFP, by reason of submitting a Proposal, in respect of the competitive process, or in respect of any breach of any implied duty of fairness, including but not limited to any costs incurred by the Proponent in preparing its Proposal. The Proponent, by submitting a Proposal, waives any and all such claims.

d. Firm Pricing

Proposals must be firm for at least 60 days after the final date. Prices will be firm for the entire contract period.

e. Currency and Taxes

Prices quoted are to be:

- In Canadian dollars
- Inclusive of duty, where applicable;
- FOB destination, delivery charges included where applicable; and
- Including GST and PST, or HST, as applicable.

8. ADDITIONAL TERMS

a. Sub-Contracting

Using a subcontractor (who must be clearly identified in the proposal) is acceptable. This includes a joint submission by two Proponents having no formal corporate links. However, in this case, one of these proponents must be prepared to take overall responsibility for successful interconnection of the two product or service lines and this must be defined in the proposal. Subcontracting to any firm or individual, whose current or past corporate or other interests may, in the City's opinion, give rise to a conflict of interest in connection with this project will not be permitted. This includes, but is not limited to, any firm or individual involved in the preparation of this proposal.

b. Liability for Errors

While the City has used considerable efforts to ensure an accurate representation of information in this RFP, the information contained in this RFP is supplied solely as a guideline for Service Providers. The information is not guaranteed or warranted to be accurate by the City, nor is it necessarily comprehensive or exhaustive. Nothing in this RFP is intended to relieve Service Providers from forming their own opinions and conclusions with respect to the matters addressed in this RFP.

c. Agreement with Terms

By submitting a proposal the proponent agrees to all the terms and conditions of this RFP. Proponents who have obtained the RFP electronically must not alter any portion of the document, with the exception of adding the information requested. To do otherwise will invalidate the proposal.

9. MODIFICATION

The City reserves the right to modify the terms of the Request for Proposal at any time at its sole discretion. The City will endeavor to distribute all modifications to proponents that register. To register, please submit an email address.

Modifications to the RFP will be made in the form of written addenda or re-issued documents. All addenda shall be considered to be integral to the RFP and having the same effect as if part of the original RFP. It is the proponent's responsibility to ensure that they have all modifications. The modifications will be made available on MB Bid (www.bcbid.gov.bc.ca). Proposals should include acknowledgement of receipt of all addenda.

10. LIABILITY

While the City has used considerable efforts to ensure an accurate representation of the information in this Request for Proposal, the information contained in the Request for Proposal is supplied solely as a guideline for Proponents. The information is not guaranteed or warranted to be accurate by the City, nor is it necessarily comprehensive or exhaustive. Nothing in this Request for Proposal is intended to relieve Proponents from performing their own due diligence and forming their own opinions and conclusions with respect to the matters addressed in this Request for Proposal.

11. SAFETY

The successful Bidder will be designated as the Prime Service Provider for this project, assuming all health and safety obligations and requirements.

12. IRREVOCABILITY

The Proposals shall be irrevocable and valid for a period of 60 days after the closing date.

13. AWARD

The City may not necessarily accept the lowest priced proposal or any proposal. At its sole discretion, the City reserves the right to reject any or all proposals received and to accept any proposal which it considers advantageous, whether or not it is the lowest priced proposal. The City is not under any obligation to award a contract and reserves the right to terminate the Request for Proposal process at any time, and to withdraw from discussions with all or any of the Proponents who have responded.

The City shall not be obligated in any manner to any Proponent whatsoever until a written agreement has been duly executed relating to an approved proposal. No Contract is formed as a consequence of this Invitation to Submit Proposals. The City reserves the right to accept the proposed offer in total or in part, to reject any or all offers, to waive any minor informalities, irregularities, or technicalities, and to accept the offer deemed most favourable to the City. The City may, however, in its sole discretion, reject or retain for its consideration Proposals, which are nonconforming because they do not contain

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the context or form required by this RFP or for failure to comply with the process for submission set out in this RFP. Proposals that are unsigned, incomplete, conditional, illegible, unbalanced, obscure or that contain additions not called for, reservations, erasures, alteration, or irregularities of any kind may be rejected. The City reserves the right to obtain additional information from the Proponents to clarify the information in their submission. In the event that only one proposal is received, the City reserves the right to return the proposal unopened.

ANNEXURE-C SPECIFICATIONS FOR ORGANIC PROCESSING

City of

Morden

**Organic Waste Processing
Specifications**

1 DEFINITIONS AND INTERPRETATION

1.1 The following terms shall have the meanings described below:

"Authorized Officer" means Deputy City Manager- Operations or his designate.

"Available" means the Facility or Reception Point is available to the receive City Vehicles to deliver Organic Waste during the agreed Operating Hours. Unavailable and Unavailability shall be construed accordingly.

"City" means the Council as defined in the Council's Standard Terms and Conditions issued with this Specification.

"City Vehicles" means vehicles operating for the City or any other vehicle undertaking services on behalf of the City and bringing Organic Waste to the Reception Point on the City's behalf and with the approval of the Authorized Officer.

"Commencement Date" means from 06:00 hours on 1st January 2021.

"Compost" means solid particulate material that is the result of composting, which has been sanitized and stabilized, and which confers beneficial effects when added to soil, used as a component of growing media or used in another way in conjunction with plants;

"Composting" - means the controlled biological decomposition and stabilization of organic substrates, under conditions that are permanently aerobic and that allow the development of thermophilic temperatures as a result of biologically produced heat. It results in a final product that has been sanitized and stabilized, is high in humic substances and can be used as a soil improver, as an ingredient in growing media, or blended to produce a top.

"Composting Facility" means the Facility identified in the Service Provider's Proposal as the Facility at which the Service Provider will undertake stabilization of the Organic Waste by Composting as part of the Services. The facility must be licensed from Province of Manitoba.

"Contaminated Material" means items that may contaminate the Organic Waste to be transferred for Organic Waste treatment and result in a reduction in the amount of Organic Waste that can be recovered for transfer to the Organic Waste Treatment Facility. Contaminated Material will require disposal to a suitably authorized waste management Facility for treatment or end disposal. For the purposes of this Specification householders are advised that Organic Waste is as defined in this Specification. Contaminated material shall also include Prohibited Material which is defined in this Specification.

"Food Waste" means waste derived from food materials, typically vegetable peelings, meat and fish scraps, excess or spoiled prepared food and other discards from household kitchens.

"Green Waste" means bark, branches up to 100 mm diameter, flowers and plants, grass cuttings, hedge and tree cuttings and similar clippings and prunings, soil entrained in roots from plants being deposited for recycling and weeds.

"Necessary Consents" means all permits, licenses, permissions, consents approvals, certificates and authorizations (whether statutory or otherwise) which are required for Organic Waste Treatment and the performance of the Services or which are required in order to comply with legislation;

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"Operating Hours" means the hours at which the Reception Point shall be available to receive Organic Waste

"Employee" means an employee or agent of or other person for the time being engaged by the Service Provider or any sub-Service Provider of the Service Provider deployed in connection with the provision of the Services.

"Organic Waste"- means Green Waste and Food Waste that has been collected in a co-mingled form as part of the Organic Waste Collection Service.

"Organic Waste Collection Service" means the co-mingled collection service provided by the City or its agents.

"Products" means those materials that have been recovered or recycled as a result of the Service that are not considered wastes and can be marketed in line with Good Industry Practice.

"Prohibited Materials" are contaminants that cannot be handled at the Facility and may, by their very presence mean that the load is rejected in line with the Load Acceptance Procedure. The list of Prohibited Materials shall include Clinical Waste, asbestos, hazardous waste materials.

"Reception Point" means the location identified in the Proposal at which Organic Waste is to be delivered to the Service Provider by or on behalf of the City, and which is at the Composting Facility and the locations shall be agreed at the commencement of the Service. For the avoidance of doubt, proposals will be evaluated taking into account the proximity of the Reception Point to the City's PW Office.

"Service Provider" means the successful Proponent whose proposal is accepted by the City and with whom City enters into a contract for providing the services defined in this specification.

"Services" means the provision of processing and reprocessing capacity for defined fractions of the household and municipal organic waste stream as more particularly described within this Specification.

"Week" means a period of seven (7) days commencing at 00.01 hours on Monday.

- 1.2 Any reference to Employees of the Service Provider will be deemed to also include the Service Provider's agents and sub-Service Providers unless the context otherwise requires.
- 1.3 In the event of any contradiction or discrepancy between this Specification and the Contract, the terms of the Contract shall prevail.
- 1.4 Words importing the singular only shall also include the plural and vice versa where the context requires.

2 THE CITY'S SERVICE REQUIREMENTS

- 2.1 The City is seeking to procure a 5-year contract from the Commencement Date for the treatment of Organic Waste:
 - a) Principally collected by the City's Curbside Organic Waste collection fleet and
 - b) potentially other City sources.
- 2.2 The City is seeking a Service Provider to:

Organic Waste Processing Specifications

- a. receive and accept Organic Waste arising from Curbside collection services undertaken by the City using automated refuse collection vehicles. These vehicles will tip either directly to the Composting Facility.
 - b. make arrangements for the treatment of the Organic Waste by treatment at the Service Provider's composting facility and to ensure that the materials diverted can be included in the figures that represent the City's overall achievement of recycling targets; and
 - c. manage all haulage, treatment, and disposal for any rejected and Contaminated Materials, in accordance with an agreed protocol and associated Schedule of Rates.
 - d. Facilitate elected member visits to the operational Composting Facility as part of the City's member education program. Such visits would be undertaken with a senior City representative and the successful Service Provider. A key aim of the visit would be to understand the treatment process and the Products as well as removal of unwanted residues
- 2.3 The City is seeking to commence delivering Organic Waste to the Reception Point from the Commencement Date.
- 2.4 The prospective Service Provider will demonstrate to the City in their proposal that the Reception Point and/or the Composting Facility receiving the Organic Waste has all the Necessary Consents in place and is operated in line with Good Industry Practice.
- 2.5 The Service Provider shall be responsible for all liability and costs associated with the necessary Consents associated with the operation of Reception Points and processing facility.
- 2.6 The Organics to be delivered will be weighed at the Service Provider's weighbridge certified by a designated third party Certification System or in case the Service Provider does not have a weighbridge, weighed at a certified third party weighbridge by the City's collection Service Provider for recording weights of Organic Waste delivered to the Reception Point.
- 2.7 A weighbridge ticket shall be issued either by the Service Provider if the Service Provider operates a weighbridge or by the City's Collection Service Provider through third party weighbridge for every movement of the Organic Waste delivered to the Reception Point. Details of the information required are as stated in sections 7.
- 2.8 The Authorized Officer reserves the right to require a more frequent reporting of weights and associated information than is outlined in Sections 7.

3 DELIVERIES OF ORGANIC WASTE

- 3.1 The Authorized Officer shall notify the Service Provider of the registration number and description of each and any City Vehicle that will deliver Organic Waste under the Contract together with its maximum gross weight. In urgent cases, such notification may be initially by telephone to the Reception Point but will be confirmed by the Authorized Officer in writing, by e-mail or by facsimile within two Business Days. If a vehicle, which has not been notified to the Service Provider, attempts to deliver Organic Waste under the Contract the Service Provider shall not accept any such vehicle and shall inform the Authorized Officer immediately of each incident.
- 3.2 For the avoidance of doubt a notification complying with paragraph 3.1 shall apply to all future deliveries by the vehicle so notified and notification shall not be required for each delivery by

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that vehicle.

- 3.3 Organic Waste will be principally collected from households by the City in automated Household Refuse Collection Vehicles.
- 3.4 The Service Provider shall ensure:
- a) that City Vehicles delivering Organic Waste for the purposes of the Contract are not unduly delayed at the Reception Point;
 - b) the turnaround time taken at a Facility or Reception point, for any City Vehicle to deliver Organic Waste, shall not exceed 20 minutes. The time will be measured from the point of entry to the Facility to the point of departure from the Facility. No City Vehicle shall be expected to queue to obtain entry to the Facility. If a City Vehicle is unable to gain direct access to a Facility and has to queue outside the entrance to the Facility, then the Facility shall not be deemed to be Available; and
 - c) that any City Vehicle shall be able to access the Reception Point, unload and leave the Reception Point without obstruction or interference.
- 3.5 The Service Provider shall ensure that the internal access roads and maneuvering areas within the Reception Point are provided and maintained in a suitable condition to allow all City Vehicles delivering Organic Waste to safely reach the point of discharge without suffering undue wear and tear and that all City Vehicles can be unloaded promptly and safely and that their movement into and out of the Reception Point from the public road is expedited.

4 QUANTITIES OF ORGANIC WASTE

- 4.1 The quantities of Organic Waste delivered by the City will vary on a daily, weekly, monthly and annual basis. No guarantee can or will be offered by the City in this regard and the Service Provider shall make due allowance to deal with seasonal variations and surges in delivery by having adequate arrangements for the Acceptance of Organic Waste at peak periods.
- 4.2 In 2019 the City's Curbside comingled food and garden collection waste has delivered 1,010 tons to the current Compost Facility for processing. As the City grows, the organic waste quantity to be processed is expected to increase at a rate of 3% per annum. However, no warranty is provided with regards to future tonnages.

5 OPERATION OF THE RECEPTION POINT AND COMPOST FACILITY

- 5.1 The Service Provider shall execute all operations necessary for the reception and treatment of the Organic Waste delivered to it by or on behalf of the City and shall operate in compliance with all applicable Necessary Consents and permits.
- 5.2 If for any reason the Reception Point and/or the Compost Facility becomes, or is likely to become, unavailable for the acceptance of Organic Waste the Service Provider will immediately notify the Authorized Officer.
- 5.3 The Service Provider shall also immediately inform the Authorized Officer of the reason for unavailability of the Reception Point and/or the Compost Facility, the steps being taken to make it available again and the date and time when it is expected to be available to receive and/or (as applicable) recommence the treatment of Organic Waste.

Organic Waste Processing Specifications

- 5.4 The Service Provider shall reimburse the City for any additional costs and loss of any diversion rebates for the period Compost Facility remains unavailable for processing of the organic waste.

6 OPERATING HOURS

- 6.1 The City requires that, as a minimum, the Reception Point shall be open to admit City Vehicles during the defined Operating Hours.
- 6.2 At times when adverse weather conditions or holidays delay or prevent deliveries to the Reception Point, the Service Provider shall afford assistance in terms of extended or varied hours of access to the Reception Point to allow City Collection Service Provider to catch-up within as short a period as possible.
- 6.3 The Reception Point may need to be open from 8:00am to until 5:00pm hours Monday to Friday. Any hours outside of the defined Operating Hours, as required, will be paid for in accordance with the rates contained in the Schedule of Rates.

7 WEIGHT RECORDING

- 7.1 The City will provide to the Service Provider a list of vehicles to be used for organics collection and their empty tare weights (net of vehicle crew) weighed at a certified weigh station.
- 7.2 The City's Collection Service Provider will be responsible for the cost of weight measurement (if Service Provider does not own a weighbridge) and provide the weigh slips to the Service Provider at the Reception Point. The Service Provider shall keep the record of the weigh slips and make the results available to the Authorized Officer as required.
- 7.3 Each ticket shall carry a unique serial number and clearly state the following information
- a) date of delivery; (to be entered by Reception Point)
 - b) time of entry; (to be entered by Reception Point)
 - c) time of exit; (to be entered by Reception Point)
 - d) gross vehicle weight on entry; (entered by weighbridge operator)
 - e) gross vehicle weight on exit; (entered by weighbridge operator)
 - f) vehicle registration number and type; (entered by weighbridge operator and verified by Reception Point)
 - g) name of weighbridge operator; (entered by weighbridge operator)
- 7.4 A summary sheet showing the weighbridge tickets issued for each delivery on each Business Day (or other times as agreed between the City and the Service Provider) shall be prepared by the Service Provider and passed to the Authorized Officer at the end of each Month. The format of the summary sheet shall state:
- a) ticket number and date issued;
 - b) gross, unladen and net weight of each load;
 - c) total weight of Organic Waste deliveries in that period;
 - d) be signed by a representative of the Service Provider as a true record of all Organic

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Waste delivered to the Reception Point; and

- e) total weight of any Contaminated Materials removed from the Organic Waste in that period and in accordance with Sections 8 and 9. The summary sheet shall clearly state the source of the Contaminated Material, the date of delivery and the registration number of the vehicle making the delivery.

8 CONTAMINATION OF ORGANIC WASTE

- 8.1 It is recognized that some contamination of Organic Waste will occur. The City will endeavor to minimize the contamination by:
 - a) working with residents and users of the Curbside collection program to educate and inform them as to the types of Organic Waste that are acceptable and not acceptable at the Composting Facility or for collection; and
 - b) working with the City's Curbside collection team in the training of relevant staff to recognize and prevent contamination of Organic Waste.
- 8.2 A load shall not be rejected in its entirety by the Service Provider at the Reception Point where Contaminated Material can be easily removed or where the level of contamination can be brought to an acceptable level by minimal and safe hand sorting or picking.
- 8.3 **For the purposes of this Contract the Service Provider will accept up to 10% by weight or by volume, whichever the greater, of Contaminated Material in any individual load received at the Reception Point. Any Contaminated Materials found in individual loads up to this level will be disposed of by the Service Provider at its own cost.**
- 8.4 Where a load contains Prohibited Material, it can be rejected after following the Load Acceptance Procedure.
- 8.5 Where there is any disagreement between the Service Provider or the City concerning the extent of any contamination, each party shall have the right to have the load analyzed as set down in the Load Acceptance Procedure. The cost of the analysis shall be borne by the party who was proved to be at fault.
- 8.6 The Service Provider will make its own arrangements for the temporary and separate storage of rejected loads at the Reception Point for inspection and Acceptance by the Authorized Officer, prior to their disposal. Except in cases of emergency or regulatory restriction, the rejected materials will be stored separately at the Reception Point for up to one Business Day.
- 8.7 The Service Provider will immediately supply the Authorized Officer with details of the City Vehicle that delivered the contaminated load. This should include:
 - the estimated level of contamination;
 - a broad description of the nature of the Contaminated Material;
 - the vehicle registration number; and
 - its arrival time at the Reception Point and whether the Service Provider is able to separate and remove the Contaminated Material.
- 8.8 Any cleaning of the load will be undertaken by the Service Provider and he will endeavor to isolate the Contaminated Material so that the whole load is not rejected.

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- 8.9 Should the load, or any part of it, need to be rejected this will be arranged by the Service Provider and charged to the City. Any charge will be at a reasonable cost and assessed based on the Schedule of Rates to be agreed with the Authorized Officer. The costs associated with cleaning of loads and disposal of Contaminated Materials will form part of a Schedule of Rates item.
- 8.10 Where a load has been Accepted at the Reception Point and later determined to have not been acceptable, the responsibility for having Accepted the load will lie with the Service Provider, who shall deal with the load at its own expense.

9 PROCESSING OF ORGANIC WASTE

- 9.1 The Service Provider must process 100% of the Organic Waste that meets the required input specification.
- 9.2 The Compost Facility must produce an output Product that is capable of use as Compost that meets compost quality as set by CCME Guidelines for Compost Quality and should be in compliance with T-4-120-Regulation of Compost under the Fertilizers Act administered by the Canadian Food Inspection Agency (CFIA).
- 9.3 The Service Provider must ensure that the stabilization process used at Compost Facility conforms to the definition of Composting and contributes to the reduction of the amount of bio-degradable municipal waste landfilled by the City.
- 9.4 The Service Provider must ensure that the Products are utilized in line with Good Industry Practice. The Service Provider must make available to the City, a list of the end markets for each finished product. The list shall be made available to the Authorized Officer at all reasonable times.
- 9.5 The Service Provider must take all reasonable steps to ensure that no product of the Organic Waste from the Composting Facility is sent to landfill for disposal or used in a manner that would be contrary to any landfill avoidance program adopted by the City.
- 9.6 The Service Provider must treat and dispose of the Organic Waste in accordance with the contract and any applicable provincial or federal regulation.

10 OWNERSHIP OF ORGANIC WASTE

- 10.1 Once the Service Provider has received the Organic Waste at the Reception Point, the Organic Waste will be deemed to be Accepted by the Service Provider and shall be deemed to be acquired by and in the ownership of and at the risk of the Service Provider who shall take full responsibility for it and shall handle and dispose of such Organic Waste in accordance with the terms of the Contract. All Products produced as a result of this Contracts shall be used in line with Good Industry Practice.

11 EMPLOYEES

- 11.1 The Service Provider must ensure that every Employee deployed by the Service Provider in and about the provision of the Services at the Reception Point and/or the Compost Facility is at all times properly and sufficiently skilled and/or instructed with regard to:
- a) the Task or Tasks that such Employee has to perform;
 - b) any relevant provisions of the Contract;

Organic Waste Processing Specifications

- c) all rules, procedures and standards referred to in the Contract and this Specification relevant to the work that the Employee is deployed to perform;
- d) all relevant rules, procedures and statutory requirements concerning health and safety at work;
- e) fire risks and fire precautions and emergency action including evacuation procedures;
- f) the need to maintain the highest standards of hygiene, courtesy and consideration;
- g) the need to recognize situations which may involve any actual or potential risk of personal injury to any person (including members of the public), and the need to make such situations safe; and

12 HEALTH AND SAFETY

- 12.1 In providing the Services, the Service Provider shall be responsible for all health and safety matters and must adopt safe methods of work and comply at all times with the requirements of the Manitoba Workplace Safety and Health Regulation MR 217/2006 and its amendments and of any other legislation, regulations or Orders pertaining to the health and safety of the public, Employees, sub-Service Providers or staff of the City and all other persons. The Service Provider shall act as prime Service Provider for the purpose of the implementation of Manitoba Regulation MR 217.
- 12.2 The Service Provider shall provide a monthly report to the City that provides details of any accidents relating to the provision of the Service and the corrective and preventative action taken by the Service Provider in relation to these accidents. The Service Provider shall agree with the City the reporting mechanism and the details to be provided in the reports to the City prior to the commencement of the Service.

13 RECORDS

- 13.1 The Service Provider shall maintain, in the format set out in Section 1.8, accurate records of all Organic Waste deliveries made by the City vehicles, and shall provide the Authorized Officer with copies of those records each month within one Business Day of the end of the month concerned, or on demand.
- 13.2 The Service Provider shall provide any relevant management information required by the Authorized Officer.
- 13.3 The Service Provider shall maintain all other records required by the Authorized Officer, the Environment Agency or other controlling City.

14 PERFORMANCE FAILURE AND PERIODS FOR REMEDY

- 14.1 The Service Provider shall carry out the Services in accordance with the Contract and this Specification.
- 14.2 The unavailability of Reception Point/Compost Facility during the normal operating hours, failure to respond to call out, failure to process the organics and produce a product as required by this specification or failure to comply with any of the clauses of this specification. shall be considered a performance failure.
- 14.3 The Authorized Officer will issue a rectification notice in writing if a performance failure is

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observed.

- 14.4 The Service Provider shall, upon receiving a Rectification Notice from the Authorized Officer or his representatives, rectify a performance failure within the period set out in the Rectification Notice.
- 14.5 Failure by the Service Provider to remedy a performance failure in line with the Rectification Notice shall require Service Provider to pay to the City any costs incurred or loss as a result of the performance failure or cause termination of the contract at the discretion of Authorized Officer

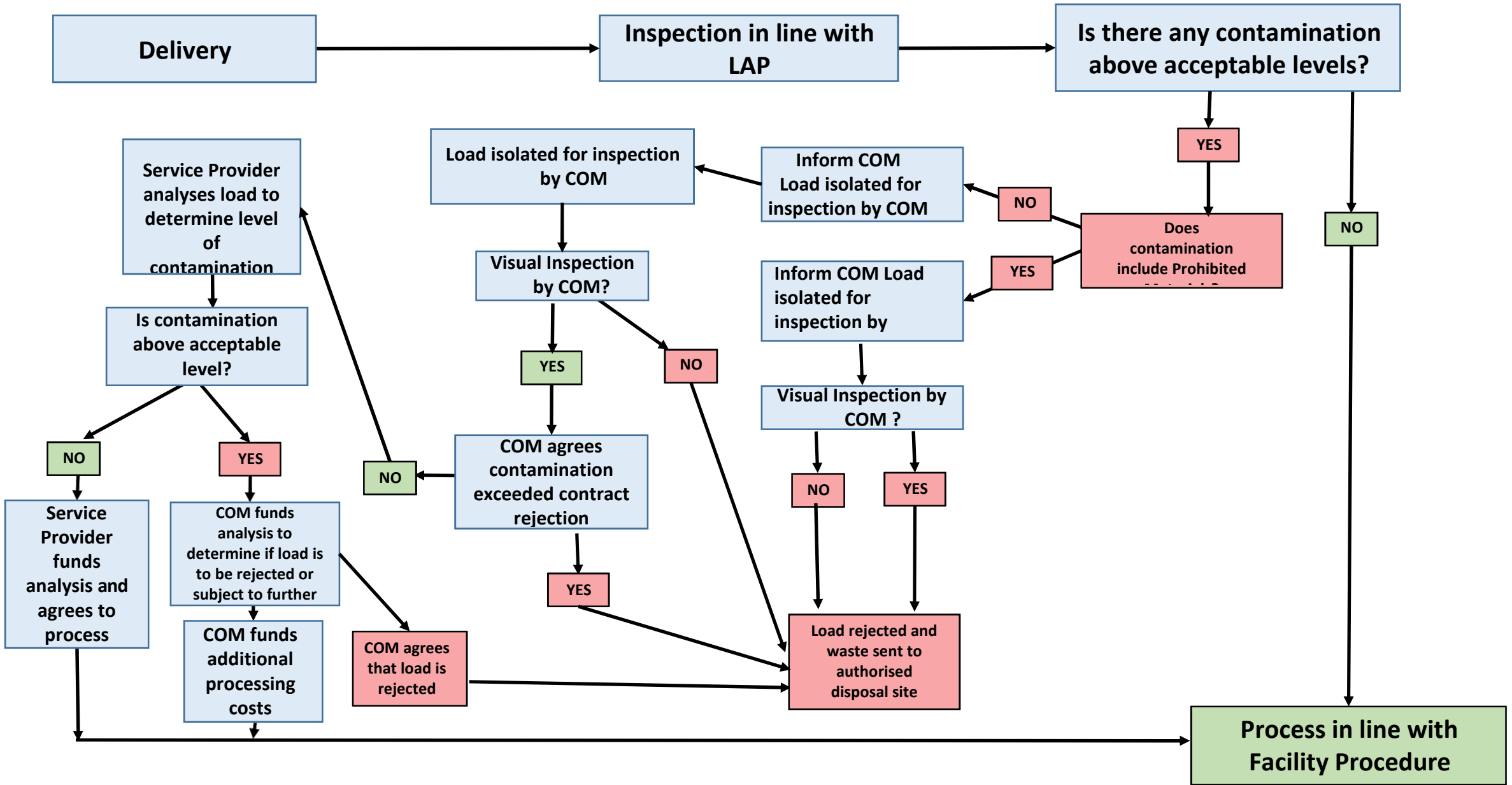
15 PAYMENTS

- 15.1 Payment for providing the Services, shall be at the rates set out in the Schedule of Rates in the contract. Any adjustment to the Schedule of Rates for indexation shall be made in line with contract agreement.
- 15.2 Service Provider shall submit monthly Invoices to the City for the Organic waste processed during the month by 7th day of the following month along with supporting tickets and summary sheet as per 7.4. City will ensure to make payment within 30 days from the receipt of the invoice.

16 MEETINGS

- 16.1 The Service Provider will attend such meetings convened by the City upon request, at which the operation of the Service shall be the reason for the meeting. At the meetings, the Service Provider's representative shall be the Contract Manager (or person agreed between the City and the Service Provider who shall be at an appropriate level in the company).
- 16.2 All monthly reports required by the City shall be submitted by the Service Provider to the City within one week from the end of each calendar month.
- 16.3 All Monthly Reports required by the City shall be submitted by the Service Provider to the City within one week from the end of each calendar month. The Monthly Reports shall provide details of: -
- Authorized Waste tonnages and deliveries
 - Health and Safety
- 16.4 The precise details of the reports and proformas used to submit data shall be agreed between the City and the Service Provider prior to the commencement of the Service.

Organic Waste Load Acceptance Procedure



KEY COM = City of Morden LAP = Load Acceptance Procedure

ANNEXURE-D AGREEMENT FORM

1. AGREEMENT

This Agreement made as of this _____ day of _____, 20____, by and between City of Morden (hereinafter called "the City" of the first part and _____ of the City _____ in the Province of _____ (hereinafter called "the Service Provider") of the second part.

The City and the Service Provider agree as follows:

- 1.1 This agreement will come into force on 6:00am Jan 01, 2021 and remain in force until Dec 31, 2025 unless terminated in accordance with Clause__.
- 1.2 Contract means this written agreement and the contract documents listed in Section 2.0 of this written agreement and subsequent amendments made in accordance with the provisions of the contract documents.
- 1.3 The Service Provider shall perform The Work required by the Contract for:

Organic Waste Processing

in strict accordance with the Organic Waste Processing Specifications and to deliver the services to the satisfaction of the City of Morden.

2. CONTRACT DOCUMENTS

The following documents, together with this Agreement, shall constitute the Contract Documents referred to in article 1.2:

- A. RFP
- B. RFP Terms and Conditions
- C. Addenda (if any)
- D. Proponent's Proposal
- E. Schedule of Rates
- F. Notice of Acceptance
- G. Organic Waste Processing Specifications

3. CONTRACT PRICE

The Contract Price shall be as follows:

- 3.1 The Proposal cost, as set out in the Schedule of Rates (Annexure-A), for the unit prices agreed upon and for the actual quantities of work performed by the Service Provider; and
- 3.2 Any changes made to contract price in writing on account of scope changes, as may be required.

4. PAYMENT

The City of Morden shall make payments in Canadian funds to the Service Provider for the actual Work/services provided at the unit prices stated in the Service Provider's proposal and in accordance with the payment conditions and other applicable provisions of the Contract.

- 4.1 Payment will be made monthly within 30 calendar days of the submission of the invoice and monthly reports by the Service Provider unless the City and Service Provider make other arrangements.
- 4.2 Provided that the City may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any Certificate of Completion to such an extent as may be necessary to protect the City from loss on account of:
 - 4.2.1 The Service Provider's unsatisfactory execution of the Work.
 - 4.2.2 Defective or damaged Work requiring correction or replacement.
 - 4.2.3 Claims or liens filed or reasonable evidence indicating the probable filing of claims or liens.
 - 4.2.4 Failure of the Service Provider to make payments promptly to subcontractors or for materials or labour.
 - 4.2.5 Damage to another contractor's Work which has not been settled which may result in the Other contractor whose Work has been damaged bringing action against the City; in case of such action, the Service Provider shall bear the expense of same.

When the above grounds are satisfactorily accounted for, payment shall be made for the amounts withheld because of them.

5. TIME

Time shall be of the essence of this Agreement. The Service Provider shall commence the Work on the date agreed upon by both parties and shall perform the services to the satisfaction of the City during the duration of this agreement.

6. SERVICE PROVIDER'S COVENANTS

Service Provider undertakes and agrees:

- 6.1 To perform & fulfill all obligations contained in the Contract Documents and to furnish all labour, materials and equipment unless otherwise indicated, together with all work incidental thereto, necessary and required to perform all the Work described in the Contract Documents and which have been executed in duplicate by both parties and which were prepared by the City.
- 6.2 In the event of the Contract being extended to include additional Work, the additional work will be subject to the same terms and conditions as this Contract.
- 6.3 Should the Service Provider fail to provide the services in accordance with the Contract and to the satisfaction of the City within the time specified, the Service Provider shall pay to the City amounts payable specified as liquidated damages that the City will suffer due to said delay and default. The City reserves the right to recover any other kind of damages or losses which were not known or calculable when the liquidated damages were determined. The City may deduct and retain the amounts of such liquidated damages out of the monies, which may be due or become due to the Service Provider under the Contract.

7. SERVICE PROVIDER'S REPRESENTATIONS

In order to induce the City to enter into this Agreement the Service Provider makes the following representations:

- 7.1 The Service Provider is skilled in providing the services described in the Contract Documents and is well able to perform the Work in accordance therewith.
- 7.2 The Service Provider has examined the scope of services and has familiarized himself with the nature and extent of the Contract Documents, Work/services, locality, and with all local conditions and federal, provincial and local laws, ordinances, rules and regulations that in any manner affect cost, progress or performance of the Work.
- 7.3 The Service Provider has given the City written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by the City is acceptable to the Service Provider or, no written notice having been given, the Service Provider takes no exception to the Contract Documents as written.

8. INDEMNITY

- 8.1 The Service Provider shall save harmless and indemnify the City against all costs, damages or expenses arising from actions, claims, demands and proceedings, by whomsoever brought, made or taken as a result of acts or omissions of the Contractor, his Subcontractor, employees or agents in the performance or purported performance of the Work, and more particularly from:
 - a. accidental injury to or death of any person whether retained by or in the employ of the Service Provider
 - b. or not, arising directly or indirectly by reason of the performance of the Work, or by reason of any
 - c. trespass on or damage to property;
 - d. damage to any property owned in whole or in part by the City, or which the City by duty or custom
 - e. is obliged, directly or indirectly, in any way or to any degree, to construct, repair or maintain;
 - f. damage to, or trespass or encroachment upon, property owned by persons other than the City;
 - g. any claim for lien or trust claim served upon the City pursuant to The Builders' Liens Act;
 - h. failure to pay a Workers Compensation assessment, or Federal or Provincial taxes;
 - i. unauthorized use of any design, device, material or process covered by letters patent,
 - j. copyright, trademark or trade name in connection with the Work;
 - k. inaccuracies in any information provided to the City by the Service Provider.
- 8.2 The City has the right, acting reasonably and upon notice to the Service Provider, to settle any such action, proceeding, claim or demand and charge the Service Provider with the amount so paid or to be paid in effecting a settlement.
- 8.3 The Service Provider shall pay to the City the value of all legal fees and disbursements required to settle any such claim or to defend the City against any such claim, action, proceeding, claim or demand notwithstanding that the settlement or defence of the said action, proceeding, claim or demand was undertaken on behalf of the City by a salaried employee of the City.
- 8.4 If the Service Provider fails to make any payment required to be made to the City pursuant to 8.2 and 8.3 the City shall be entitled to deduct the amount of such payment from any payment required to be made by the City to the Service Provider under the Contract or take whatever other remedies against the Service Provider that the City may have at law.

9. INSURANCE

- 9.1 Service Provider shall maintain at their own expense, the following types of insurance in at least the minimum limits set forth below. In addition, other insurance or increased limits may reasonably required, which at the time is usual and commonly obtained in connection with services and/or products provided within the Agreement. All, such insurance will be written on a primarily basis and be required to respond and pay prior to any other available coverage:

9.1.1 Statutory Workers Compensation

9.1.2 Commercial General Liability written on an occurrence form basis with minimum liability limit of \$5,000,000 per occurrence. Coverage shall include; bodily injury, personal injury and death, property damage, Service Providers liability coverage, contractual liability coverage and completed operations coverage.

9.2 Service Provider shall furnish to City of Morden certificates of insurance evidencing the required insurance provisions under prior to the execution of the service agreement. City of Morden shall be named as an additional insured on Service Provider's insurance requirements for policies described under Section IV Insurance (c), (d), (e) and (f). Service Provider's insurance coverage shall be primary and non-contributory. Except with respect to the limits of insurance, Service Provider's required insurance shall apply separately to each insured or additional insured. Service Provider agrees to waive all claims and rights of subrogation against City of Morden, its agents and employees as respects to loss, damage, claim, suits or demands, howsoever caused, to the extent such loss, damage, claims, suits or demands are covered, or should be covered by the insurance required herein.

10. INDEPENDENT CONTRACTOR

Contractor shall be an independent contractor in the performance of its obligations under this Agreement. City of Morden and Contractor are not and shall not be considered joint ventures or partners and none of those parties has the power or authority to bind, obligate or act on behalf of the other parties. Service provider or his subcontractor's or Employees are not an Employee of the City of Morden.

11. NOTICES

All notices, requests, nominations, consents, approvals, statements, authorizations, documents or other communications required or permitted to be given under the Contract shall be in writing and shall be delivered by hand, by mail or by email sent to the authorized person.

12. TERMINATION

12.1 If the Service Provider fail to rectify any performance failure for which a written notice was given as provided under this contract, the City may choose to terminate the contract by giving a 30-days written notice to the Service Provider. The Service Provider can terminate the contract by giving City a written 30 -days notice if the City fails to make payment to the Service Provider as agreed under this contract. In the event of termination by City or by Service Provider any unpaid amounts/ claims due to the Service Provider or to the City shall be paid by the other party.

13. ARBITRATION

13.1 If, at any time before the termination of the contract any dispute, difference or question shall arise between the City and the Contractor regarding the Work, The City and the Service Provider will try to resolve it through direct discussion. If the dispute cannot be resolved through direct discussion then every such dispute, difference or question may, with the consent of the Chief Administrative Officer, on behalf of the City, and the Contractor, be referred to arbitration.

13.2 The party desiring arbitration (the "Requesting Party") shall request the consent of the other party (the "Other Party") to refer a particular dispute, difference or question to arbitration.

13.3 The Other Party shall reply to the request within seven (7) Calendar Days of receiving same.

13.4 If the Other Party has consented to arbitration, the Requesting Party shall nominate an arbitrator (the "Requesting Party's Nominee") within seven (7) Calendar Days of receiving the reply. The Other

Party shall have seven (7) Calendar Days after receiving notice of the nomination to accept or reject the Requesting Party's Nominee.

- 13.5 If the Other Party accepts the Requesting Party's Nominee, the dispute, difference or question shall be promptly referred to him or her.
- 13.6 If the Other Party rejects the Requesting Party's Nominee, it shall, within seven (7) Calendar Days of rejection, appoint its own arbitrator.
- 13.7 The Requesting Party shall, within seven (7) Calendar Days of receiving the Other Party's rejection, appoint its own arbitrator.
- 13.8 The arbitrators appointed under 13.5 and 13.6, within seven (7) Calendar Days of the date on which the last of them was appointed, appoint a third arbitrator (the "Panel Chair") who will act as chair of the arbitration panel.
- 13.9 The Arbitration Act (Manitoba) or any successor legislation thereto shall apply to the arbitration in all respects except as expressly otherwise provided in these General Conditions.
- 13.10 The single arbitrator or the Panel Chair, as the case may be, shall determine the procedure to be followed in the arbitration, which shall be consistent with The Arbitration Act (Manitoba) or any successor legislation thereto.
- 13.11 Where the matter proceeds with a single arbitrator, each party shall be responsible for its own legal expenses, expenses to produce expert evidence or other expenses voluntarily incurred, and for an equal share of the fees and expenses of the single arbitrator and of any other expenses related to the arbitration.
- 13.12 Where the matter proceeds with an arbitration panel, each party shall be responsible for its own legal expenses, expenses to produce expert evidence or other expenses voluntarily incurred, for the fees and expenses of the arbitrator appointed by it, and for an equal share of the fees and expenses of the Panel Chair and of any other expenses related to the arbitration.

14. RIGHTS AND REMEDIES

- 14.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- 14.2 No action or failure to act by the City or Service Provider shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.
- 14.3 The Contract shall be interpreted under and governed by the laws of Province of Manitoba and Canada.

IN WITNESS WHEREOF the Service Provider and the City have executed this Agreement this ____ day of _____, 2020.

SIGNED, SEALED and DELIVERED
on behalf of the Service Provider

In the presence of:

Print Name of Witness

Company Name

Signature

Print Name & Title

Address

Signature of Witness

SIGNED, SEALED and DELIVERED
on behalf of the City of Morden

In the presence of:

Print Name of Witness

Address

Signature of Witness

Signature

Print Name & Title

City of Morden

Company Name

Signature

Print Name & Title

Signature

Print Name & Title