



Essex-Windsor Solid Waste Authority

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REQUEST FOR QUOTE

RFQ No.2022-0629

Printing and Distribution of Enviro Tips Newsletter to Windsor and Essex County Households

CLOSING DATE: Wednesday, July 20, 2022 - 12:00 PM (NOON)

*****ELECTRONIC PROPOSAL SUBMISSIONS ONLY*****

Printing and Distribution of Enviro Tips Newsletter

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1.0 Introduction

- 1.1 This Request for Quote ("RFQ") is an invitation from the **Essex-Windsor Solid Waste Authority** (the "Authority") to Proponents to prepare and submit competitive offers for the provision of **Printing and Distribution of Enviro Tips Newsletter to Windsor and Essex County Households** (the "Services") as further described in the Scope of Work attached hereto as Schedule "A".

2.0 Background

- 2.1 The Authority is a municipal agency that was created by the City of Windsor and the County of Essex to manage solid waste on behalf of the City of Windsor and the seven County of Essex municipalities; Amherstburg, Essex, Kingsville, Lakeshore, LaSalle, Leamington, and Tecumseh. For additional information about the Authority please visit www.ewswa.org.

3.0 RFQ Overview

- 3.1 Proponents should read this RFQ carefully and thoroughly to understand all terms and conditions. Submissions may be deemed non-compliant or be rejected for failure to fulfil procedural or content requirements stipulated in this RFQ.
- 3.2 The RFQ is comprised of instruction to Proponents, Schedules and Appendices. Proponents are to review the RFQ table of contents to ensure they are aware of all the RFQ documents. Each Schedule and Appendix is an integral part of this RFQ as of set at length in the body of this RFQ.

4.0 RFQ Not Binding

- 4.1 This RFQ is not intended to create and does not create a formal legally binding bidding process. This RFQ does not commit the Authority in any way to select a Preferred Proponent, or to proceed to negotiations for a Contract, or to award any Contract, and the Authority reserves the right to, at any time reject all Proposals, and to cancel this RFQ process. This RFQ is not intended to create, and should not be construed as creating, contractual relations between the Authority and any Proponent, including any "Contract D".

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5.0 Draft Contract

5.1 A draft version of the Contract (the "Draft Contract") is attached hereto as Schedule "D". Proponents will be expected to enter into a Contract with the Authority for the Services on substantially the same terms as the Draft Contract, as it may be amended by Addendum. Proponents should prepare their Proposals based on the Draft Contract, as amended, as of the deadline for final Addenda indicated within this RFQ. The Service Fees under the Contract will be based on the information provided by the Proponent in response to this RFQ. The Authority reserves the right to negotiate any and all terms and conditions (including price) of the Contract with any Proponent in its sole discretion.

6.0 Questions, Clarifications and Addenda

6.1 Proponents should submit all questions and inquiries regarding the RFQ documents, the RFQ process and their submission not later than the deadline set out in this RFQ.

6.2 The Authority will make reasonable efforts to provide the Proponents with written responses to questions that are submitted, subject to the provision of this section. Questions and answers will be distributed in numbered Addenda to Proponents via email.

6.3 The Authority may in its sole discretion:

6.3.1 Edit questions(s) for clarity;

6.3.2 Answer similar questions from various Proponents only once.

6.4 The Authority may seek a written clarification from a Proponent where an unintentional non-substantial error has been observed. Any response, which leads to a substantial change in the bid is considered bid repair and will not be considered further.

6.5 At any time prior to the Submission Deadline, the Authority may issue an Addendum to this RFQ. Addenda, if any, will be emailed to all Proponents. The Authority reserves the right, but does not intend, to issue Addenda 2 days prior to the closing date of this RFQ.

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- 6.6 Contact with the Authority personnel other than the individual may, in the sole discretion of the Authority, result in the disqualification of the Proponent and/or rejection of its submission.
- 6.7 Questions regarding the Service should be direct to the Waste Diversion Manager, Cathy Copot-Nepszy via email at CCNepszy@ewswa.org.
- 6.8 Questions will be accepted until 3:00 pm, 2 days prior to the closing date. After this date, no further questions will be allowed in an effort to provide responses to all Proponents.

7.0 Submissions

- 7.1 All submissions received by the Authority will be reviewed for compliance with the requirements set out herein.
- 7.2 Quotes must be e-mailed per the information below by (the "Submission Deadline"):

12:00 PM (Noon) Local Time on Wednesday, July 20, 2022

Teresa Policella – Executive Assistant
E-mail: tpolicella@ewswa.org
- 7.3 Proponents are required to submit its Quote prior to the Submission Deadline. It is the Proponent's sole responsibility to ensure that it is able to respond to the RFQ via e-mail. In the event of a dispute as to the time, the time that will prevail for the purposes of evaluating compliance with submission requirements will be the time the e-mailed Quote was received by the Authority.
- 7.4 A Proponent may amend any aspect of its Submission at any time on or before the Submission Deadline by submitting a complete replacement Submission. Where a Proponent submits more than one Quote before the Submission Deadline, the last Quote submitted will supersede and invalidate all earlier Quotes submitted by that Proponent. Proponents may withdraw submissions prior to the Submission Deadline.
- 7.5 Quotes received after the Submission Deadline and date specified above will not be considered.

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8.0 Submission Requirements

The submission shall include the following:

- 8.1 Quotations must be sent via e-mail by the Submission Deadline and per the direction of Section 7 of this RFQ.
- 8.2 Submissions by any other means other than via e-mail will not be accepted.
- 8.3 The Schedules and Appendices should be completed fully and emailed per direction of Section 7 as the Quote.
- 8.4 Proponents must submit an executed Conflict of Interest Declaration Form attached hereto as Schedule E.

9.0 Evaluation, Negotiation and Award

- 9.1 The evaluation of submissions will be carried out by a committee (the "Evaluation Committee") appointed by the Authority. The Evaluation Committee may include, or be assisted by, such Persons as the Authority may decide it requires.
- 9.2 The evaluation of submissions shall be comprised of the following stages:
 - 9.2.1 Compliance: submissions will be reviewed to confirm compliance with all the mandatory requirements of the RFQ. Submissions meeting all the submission requirements will proceed to price evaluation.
 - 9.2.2 Price: the Quotation with the best price will proceed to the award of contract phase as further described below.
- 9.3 Subject to the provision of this RFQ, the Preferred Proponent and the Authority shall enter into negotiation to finalize the terms of Contract.
- 9.4 If for any reason the Authority determines it is unlikely to reach complete agreement with the Preferred Proponent, the Authority may discontinue the discussion with the Preferred Proponent and proceed in any manner that the Authority may decide, in consideration of its own best interests including without limitation:

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- 9.4.1 Terminating the RFQ and proceeding with some or all of the Services in some other manner including without limitation by engaging other Service Providers.
 - 9.4.2 Inviting one of the other Proponents to enter into discussions to reach an agreement for the Services, commencing with the Proponent having the second-best score and so forth.
- 9.5 Where an agreement has been reached on the terms of the Contract, the Authority shall prepare a Contract for execution, which, subject to any negotiated changes as permitted by this RFQ, shall be in substantially the same form as the Contract and shall include all terms, conditions, requirements and obligations imposed by this RFQ.

10.0 Insurance

- 10.1 The Preferred Proponent shall provide the Authority with a Certificate of Insurance from an acceptable licensed insurer prior to the commencement of the contract.
- 10.2 Throughout the term of this Contract, the Proponent must obtain and maintain at its own expense, including the cost of any applicable deductible, the following policies of insurance:
 - 10.2.1 Commercial General Liability Insurance including, but not limited, to bodily injury including death, personal injury and property damage having an inclusive limit of not less than **five million dollars (\$5,000,000) per occurrence.
 - 10.2.2 Standard Form Automobile Liability Insurance that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than **five million dollars (\$5,000,000) per occurrence and for Third Party Liability, in respect of the use or operation of vehicles owned, operated or leased by the Proponent for the provision of services.
 - 10.2.3 Non-Owned Automobile Liability Insurance in standard form having an inclusive limit of not less than **two million dollars (\$2,000,000) per occurrence in respect of vehicles not owned by the Proponent, that are used

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or operated on its behalf for the provision of services under this Contract.

- 10.2.4 **Umbrella and/or Excess Liability Insurance policies may be applied to increase liability limits for coverages indicated by double asterisks (**). Certificate(s) of insurance must specify the underlying policies (**) to which the umbrella/excess coverages apply and indicate any applicable aggregates.
- 10.2.5 Property Insurance, All Risk, Replacement Cost basis with respect to loss or damage of its own property and property of the Authority in Proponent's care, custody and control, used in connection with the Contract.
- 10.2.6 Deposit with the Authority such evidence of its insurance as provided in or required under this Contract, and must be in a form and issued by an insurance company satisfactory to the Authority, that is licensed to carry on business in Ontario; and
- 10.2.7 be maintained continuously during the course of carrying out the Contract, or for such period of time as may be required after completion of the Contract, as deemed necessary by the Authority.

10.3 Terms and Conditions of Policies

- 10.3.1 All policies of insurance within the scope of 10.0 must:
 - 10.3.1.1 include as additional insureds:
 - Essex-Windsor Solid Waste Authority
 - The Corporation of the City of Windsor
 - The Corporation of the County of Essex
 - Town of Amherstburg
 - Town of Essex
 - Town of Kingsville
 - Municipality of Lakeshore
 - Town of LaSalle
 - Municipality of Leamington
 - Town of Tecumseh
 - 10.3.1.2 deposit with the Authority such evidence of its insurance as provided in or required

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under this Contract, and must be in a form and issued by an insurance company satisfactory to the Authority, that is licensed to carry on business in Ontario; and

- 10.3.1.3 be maintained continuously during the course of carrying out the Contract, or for such period of time as may be required after completion of the Contract, as deemed necessary by the Authority.

11.0 Terms and Conditions of the RFQ Process

- 11.1 Proponents should structure their Quote in accordance with the instructions of the RFQ.
- 11.2 Website links or documents incorporated into a Quote by reference will not be considered to form part of the Quote and will be disregarded.
- 11.3 The Authority and its advisors make no representation or warranty as to the accuracy of the information contained in this RFQ or issued by way of Addenda.
- 11.4 The submission must not be restricted or qualified in any manner including without limitation with a statement in a covering letter. Any submission containing restrictions or qualifiers may be rejected by the Authority as non-compliant.
- 11.5 By submitting a Quote, the Proponent is representing, warranting and certifying to the Authority as follows:
 - 11.5.1 It has carefully examined, read and understood the RFQ and confirms that it has received the entirety of the RFQ and has all necessary information to submit its Quote.
 - 11.5.2 It has read, understood and accepted all Addenda issued by the Authority.
 - 11.5.3 It has made or submitted all necessary questions or clarification with respect to the RFQ.
 - 11.5.4 Its Quote is based on the terms and conditions of the RFQ and all Addenda.

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- 11.5.5 It acknowledges and accepts all terms and conditions and obligations set out in the RFQ and all Addenda.
- 11.5.6 Its Quote has been prepared and submitted without collusion or fraud, and in fair competition with other Proponents.
- 11.6 It has the financial and technical capability to carry out the Services in the manner set out in the RFQ.
- 11.7 Any failure of a Quote or a Proponent to meet the requirements of this RFQ may result in disqualification of the Proponent or rejection of its Quote.
- 11.8 The Authority makes no representation or warranty as to the accuracy or completeness of any information provided by it in connection with this RFQ and disclaims all express and implied representations, warranties, and conditions in connection with this RFQ.
- 11.9 Proponents are responsible to conduct any examinations deemed necessary by the Proponent for the proper preparation of a Quote. Nothing in this RFQ shall relieve the Proponent from undertaking all investigation and clarification on all matters related to this RFQ. No allowance will be made for additional costs nor will any claim be considered in connection with conditions or circumstances that could have been reasonably ascertained by the Proponent had reasonable efforts been made prior to the Submission Deadline.
- 11.10 Proponents are responsible to ensure that they have received the complete RFQ, plus any Addenda. A submitted Quote will be deemed to have been prepared based on the entire RFQ, which includes any Addendums issued prior to the Submission Deadline. The Authority accepts no responsibility for any Proponent lacking any portion of the RFQ.
- 11.11 Each Proponent acknowledges by its submission of a Quote that it has investigated and satisfied itself of the requirements for the Services. Each Proponent further acknowledges and represents that its investigations have been based on its own examination, knowledge, information, and judgment, and not upon any statement, representation, or information made or given by the Authority or any other Representative of the foregoing, other than the information contained in this RFQ.

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12.0 Reservation of Rights

- 12.1 Notwithstanding, and without limiting, any other provisions of the RFQ, the Authority reserves the right, in its unfettered discretion, to:
- 12.1.1 Seek clarification of a Quote from a Proponent and consider such clarifying explanations in the evaluation of its Quote.
 - 12.1.2 Amend the scope, schedule, or details of the Services, or modify, cancel, amend, supplement, clarify or suspend the whole or any part of this RFQ at any time for any reason.
 - 12.1.3 Accept or reject any Quote or disqualify a Proponent based on a failure to comply with the requirements or provisions of this RFQ.
 - 12.1.4 Waive any material or non-material deficiency, irregularity or non-compliance with the requirements of this RFQ.
 - 12.1.5 Disqualify any Proponent whose Quote contains misrepresentations or any other inaccurate or misleading information relating to matters which the Authority, in its sole discretion, considers material.
 - 12.1.6 Cancel this RFQ at any time up until execution of the Contract/Services Agreement by the Authority and the Preferred Proponent(s).
 - 12.1.7 Re-advertise for new Quotations, call for Quotes, or enter into negotiations for the Services or for services of a similar nature following termination of this RFQ.
 - 12.1.8 Verify with any Proponent or with a third party any information contained in or submitted as part of the Quote.
 - 12.1.9 Amend any terms and conditions of this RFQ and of the business opportunity described in this RFQ including severing any portion of this RFQ.
 - 12.1.10 Change the dates, schedule, deadlines, process and requirements described in this RFQ.

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- 12.1.11 Request additional information, or seek clarification or confirmation, from any or all Proponents in connection with any or all Quotes.
- 12.2 Without limitation to any other rights of the Authority hereunder, in order to ensure the integrity, openness and transparency of the procurement process, the Authority may, at its sole discretion:
 - 12.2.1 Impose at any time on all Proponents additional conditions, requirements or measures with respect to bidding or procurement practices or ethical behavior of the Proponent.
 - 12.2.2 Notwithstanding anything to the contrary in this RFQ, this RFQ does not commit the Authority in any way to proceed to select a Preferred Proponent or enter into a Contract/Services Agreement and, the Authority may at any time (whether before or after the Submission Deadline) terminate the RFQ and elect to proceed with the Services in some other manner without any liability whatsoever to any Proponent.

13.0 Limitation of Liability

- 13.1 Each Proponent agrees that in no event will the Authority, nor any of its Representatives, be liable, under any circumstances, to reimburse or compensate the Proponent in any manner whatsoever for losses of any nature whatsoever, including costs of preparation of a Quote, cost of participation in the processes described in the RFQ, loss of anticipated profits, loss of opportunity or for any other matter. Without limitation, each Proponent specifically agrees that it will have absolutely no claim against the Authority nor any of its Representatives of the Authority for any reason whatsoever and the Authority shall have no liability to the Proponent whether in contract, tort, equity or other principle of law, including without limitation if the Authority:
 - 13.1.1 Does not select a Preferred Proponent;
 - 13.1.2 Suspends, cancels or in any way modifies the Services, the RFQ; or
 - 13.1.3 Accepts any compliant or non-compliant Quote.

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- 13.2 Each Proponent waives any and all claims for compensation whatsoever for all losses of any nature, whether direct or indirect and whether foreseeable or not, including for loss of profits or loss of opportunity.
- 13.3 If, notwithstanding the above, a Proponent is determined by a court of competent jurisdiction to be entitled to compensation arising from this RFQ or for the actions of the Authority or any Representative, including without limitation any exercise of the Authority's sole and absolute discretion, Proponents expressly acknowledge and agree by submitting a Quote that the total maximum compensation for, without limitation, any and all direct and indirect damages, economic losses, profits, opportunities, expenses, costs or other losses, whether or not foreseeable, either individually or cumulatively, is limited to one thousand dollars (\$1,000.00).

14.0 Proponent's Cost

- 14.1 Each Proponent is solely responsible for all costs it incurs in the preparation of its Quote, including, without limitation, all costs of providing information requested by the Authority, attending and participating in any interviews or meetings and conducting due diligence, or responding to any questions or clarifications or requests for additional information made by the Authority.

15.0 Confidentiality

- 15.1 All specifications, drawings, patterns, samples and other information furnished to the Service Provider by the Authority in connection with the Service Provider will be used solely for the purpose of carrying out the work and for no other purpose; will remain the property of the Authority; and be returned or destroyed at the Authority's request at the expense of the Service Provider. The Service Provider may retain irretrievable electronic copies of information contained in routine back-ups created as part of its information technology system back-up and disaster recovery protocols. Such retained confidential information shall remain subject to the provisions of this s. 15 until destruction of such confidential information.
- 15.2 The Service Provider and information issued, used or disclosed in connection with the work are confidential and may be classified as to the degree of precaution necessary for their safeguarding. The Service Provider shall at all times take all measures reasonably

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necessary, including those set out in any instructions issued by the Authority, for the protection of same.

- 15.3 The restrictions on the use and disclosure of the confidential information shall not apply to information which (a) was known to the Service Provider before receipt of same from the Authority; or (b) becomes publicly known other than through breach of any confidentiality obligations; or (c) is disclosed pursuant to the requirements of a governmental authority or judicial order, but only to the extent required to comply with the said requirements of the government authority or judicial order.

16.0 Interpretation

- 16.1 In this RFQ, except to the extent the context or the express provisions of this RFQ otherwise require:
- 16.1.1 The words "include", "includes" or "including" are to be construed as meaning, "include without limitation", "includes without limitation" or "including without limitation", respectively.
 - 16.1.2 The words "must", "shall", and "required" mean a mandatory condition that must be met in a substantially unaltered form in order for the Quote to receive consideration.
 - 16.1.3 The words "should" and "desirable" mean a recommended condition having a significant degree of importance to the objectives of the RFQ, for which preference may be given and which, if not met, may, alone or in combination with other conditions not met, be considered by the Authority in its discretion to result in disqualification or otherwise impact on the RFQ Process in a manner permitted under Section 11 Reservation of Rights.
- 16.2 If there is any inconsistency between this RFQ and any of its appendices or the other RFQ documents, the terms of this RFQ shall prevail to the extent of the inconsistency.

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17.0 Applicable Law

17.1 This RFQ shall be interpreted and construed in accordance with Laws of Canada and the applicable Laws of the Province of Ontario.

18.0 Severability

18.1 If any provision of this RFQ is in conflict with any statute or rule of law or is determined by a court of competent jurisdiction to be illegal or unenforceable, then such provision will be automatically amended only as needed to remove the conflict, illegality or unenforceability. All of the other provisions of the RFQ will remain as they are and in full force and effect.

Definitions

“Addenda” or **“Addendum”** means a written amendment to this RFQ issued by the Authority Contact Person.

“Affiliate” means in respect of a Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first person.

“Appendices” a section or table of additional material located at the end of the document.

“Canada Post Precision Targeter Tool (Householder Counts)” is information consisting of the number of houses (residences) apartments, farms and businesses served by Canada Post Corporation's various delivery modes, anywhere in Canada. By using this data, mailers may determine their volume and distribution requirements for “Neighbourhood Mail” (formerly Unaddressed Admail) mailings for Urban and Rural delivery installations.

“Forest Stewardship Council (FSC) Certified” indicates compliance with the highest social and environmental standards on the market. Public concern about the state of the world's forests and timber resources is increasing, and FSC provides a credible solution to complex environmental and social issues.

“Person” or **“Persons”** if the context allows, includes any individual, firm, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital,

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unincorporated association, trust, trustee, executor, administrator or other legal personal representative, and any Governmental Authority;

"Preferred Proponent" means the Proponent selected by the Authority to perform the Services pursuant to the terms of this RFQ.

"Proponent" means a Person who submits a Proposal in response to this RFQ.

"Representative" or "Representatives" means the directors, officers, employees, agents, solicitors, accountants, consultants, financial or legal advisers and all other representatives of the party being referred to.

"Services" means the services and deliverables set out in Appendix "A" (Scope of Work).

"Service Provider" has the meaning set out in the Draft Contract.

"Subcontractor" means any person who will enter into a subcontract with the Proponent (if selected as the Preferred Proponent) for any portion of the Services.

"Submission Deadline" is the date and time by which a proposal must be submitted to be accepted.

"Turnaround Time" is the amount of time taken to complete the service and deliverables.

"Unit" means the Service Providers printed newsletter.

"Quote" means a submission submitted by a Proponent in response to this RFQ.

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Schedule "A" Scope of Work

19.0 Background

19.1 Annually the Authority produces a Spring/Summer issue of a newsletter called "Enviro Tips", that is distributed to every household, apartment, farm and business in the City of Windsor and County of Essex via Canada Post. The Authority produces the newsletter electronically using Adobe InDesign CC (Windows). The newsletter is then transferred to the Service Provider electronically to be printed and delivered to five (5) Canada Post locations in the City of Windsor and the County of Essex.

20.0 Objective

20.1 The Service Provider will supply all materials (see Appendices A-1) and labour to print and prepare for distribution, the 2022 Spring/Summer issue of Enviro Tips.

20.2 The Service Provider shall deliver the newsletter to the five (5) Canada Post locations as specified in the Scope of Work.

20.3 The Service Provider shall prepare the newsletter in accordance with all specifications contained within this RFQ.

Appendices "A-1" Specification

1.0 Paper Stock

1.1 The Authority asks that Proponents Quote two (2) options for paper stock that meet the specifications listed below:

Option 1: Paper Stock #1	Option 2: Paper Stock #2
<ul style="list-style-type: none">• White• 80lb text• Gloss	<ul style="list-style-type: none">• White• 80lb text• Gloss
Colour	Colour
<ul style="list-style-type: none">• 4/4• 2 sided• No Bleed	<ul style="list-style-type: none">• 4/4• 2 sided• No Bleed
Size	Size
<ul style="list-style-type: none">• 17" X 11"• 2-Fold• Folded Down to 5.5" X 8.5"	<ul style="list-style-type: none">• 17" X 11"• 2-Fold• Folded Down to 5.5" X 8.5"

Note: Paper that contains a percentage of recycled content, or post-consumer waste content and is Forest Stewardship Council (FSC) Certified is preferred, but it's the final discretion of the Authority that will award these Services.

2.0 Bundling, Number of Copies and Revisions

- 2.1 The Service Provider is required to bundle the newsletters in 100's with elastics or ties.
- 2.2 Bundles are required to be boxed and labelled with the appropriate mail tags attached to the box per Canada Post's specifications (see Section 3.0 for delivery details).
- 2.3 The number of copies is expected to be 173,500 based on Canada Post's Precision Targeter Tool (formerly known as Householder Counts). The Authority will supply the Service Provider with the Householder counts when the contract is awarded. The Service Provider will require the information obtained from the Precision Targeter Tool in order to accurately label and sort the bundles of newsletters for mailing. The Enviro Tips newsletter is sent out as "Neighbourhood Mail" (formerly Unaddressed Admail) as per Canada Post definitions.

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- 2.4 The Authority may wish to request the Service Provider to provide proof-reading services. Schedule B asks that the Proponent provide the cost for this service (if applicable).
- 2.5 The Authority may require that the newsletter be revised or changed (File Fixing) if deemed necessary. The Authority requests that the Proponent provide a cost associated with any additional costs attributable to revisions in the Schedule B.
- 2.6 The final newsletter print must be approved by Authority staff before all newsletters are printed.

3.0 Delivery, Turnaround Time and Post Office Location

- 3.1 The Turnaround Time should be no later than ten (10) working days after receipt of the Authority's in-house newsletter design.
- 3.2 The Authority will provide the Service Provider with the Authority's Canada Post contract number and the Federation of Canadian Municipalities (FCM) discount number which will allow the Service Provider to book the mailing through Canada Post. The cost of distribution to individual houses, farms, apartments and businesses is invoiced directly to the Authority through the contract number provided.
- 3.3 The newsletters must be sorted as per Canada Post's Precision Targeter Tool (Householder Counts), labeled correctly and delivered directly to five (5) Canada Post locations specified below:
 - 3.3.1 Canada Post
 - Location 1: Main (Walker) – LCD 4 -4255 Walker Rd.
Windsor, ON
 - Location 2: Downtown LCD 3 – 185 Ouellette,
Windsor, ON
 - Location 3: Tecumseh LCD 1 – 4910 Tecumseh Rd. East,
Windsor, ON
 - Location 4: South Windsor (Grand Marais) LCD 2 –1430
Grand Marais, Windsor, ON
 - Location 5: Tecumseh LCD – 11910 Tecumseh Rd. East,
Tecumseh, ON

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3.4 It is the responsibility of the Service Provider to ensure the newsletters are delivered to the correct Canada Post location. Any additional costs associated with delivery is the sole responsibility of the Service Provider.

3.5 The Authority requests that the Service Provider print extra copies of the newsletter and deliver them to:

3.5.1 3560 North Service Rd. E., Windsor ON

3.5.2 The number of extra copies will be provided to the Service Provider when the contract is awarded

4.0 Penalties

4.1 If the newsletter is not completed and delivered to Canada Post in accordance with this RFQ, the Service Provider will be penalized at a rate of \$1,000.00 per day of late delivery.

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Schedule "B" Bid Form

The Proponent is required to complete the tables below. All monetary values are stated in Canadian dollars exclusive of HST. Pricing is to be inclusive of all costs associated with providing the Services.

The Authority expects that the digital newsletter created by the in-house administration staff be submitted to the Service Provider between the dates of July 25th and August 5th, 2022.

Specifications of Paper Stock

	Name of Paper Stock	FSC Certified	Recycled Content	Post Consumer Waste Content	Additional Information
Option 1-Paper Stock #1					
Option 2-Paper Stock #2					

Cost

	Price Per Unit (\$)	Number of Copies	Total Price for Print (Excl. Tax) (\$)	Price for Delivery (Excl. Tax) (\$)	Total Cost (Excl. Tax) (\$)
	(A)	(B)	(A X B) = (C)	(D)	(C + D) = (E)
Option 1- Paper Stock #1		173,500			
Option 2- Paper Stock #2		173,500			
Proof Reading Cost (\$) =					
Cost associated with revisions (file fixing) (\$)=					
Extra Printed Copies (\$) =					

Printing and Distribution of Enviro Tips Newsletter

RFQ No.2022-0629

Schedule "C"
Proponent Information

Please complete the following form:

Company Name:	
Company Address:	
Company Phone Number:	
Company Web Site:	
Contact Person/ Signing Officer:	
Title:	
Address:	
Contact Person Phone Number:	
Contact Person Mobile Number:	
Contact Person E-mail:	

Schedule "D"
Draft Contract

(see attached document)

Schedule "E"
Conflict of Interest

(see attached document)

Schedule D

Draft Contract

This contract is made and is first effective as of the Effective Date.

Between:

The Essex-Windsor Solid Waste Authority
360 Fairview Avenue, West, Essex, Ontario N8M 1Y6
(the "Authority")

And:

Legal Business Name
Address
City, Prov, Postal Code
(the "**Contractor**")

1.0 Background

The Essex-Windsor Solid Waste Authority is a municipal agency that was created by the City of Windsor and the County of Essex to manage waste on behalf of the City of Windsor and the seven (7) county municipalities (Amherstburg, Essex, LaSalle, Leamington, Kingsville, Tecumseh and Lakeshore).

The Authority desires to retain the Contractor provide the Services (defined below), at the prices stipulated, and in accordance with, the terms of the Contract (defined below).

In Consideration of the mutual covenants, conditions and agreements set forth in this Contract, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

2.0 Interpretation

All terms appearing with the first letter capitalized shall have the meanings assigned in the Definitions Section.

3.0 Contract Documents

The terms of the Contract between the Authority and the Contractor for the supply of the Services, Deliverables and Goods, as applicable, are comprised of the following (collectively, the "Contract"):

- a) the main body of this Contract;
- b) Schedule "A" Scope of Work;
- c) the Authority RFQ 2022-0629, including (i) all Addenda (which, for greater certainty, shall supersede the contents of the RFQ) and (ii) all documents incorporated by reference into the RFQ; and
- d) the Contractor's proposal dated [MMDDYY] (the "**Proposal**"), a copy of which is attached hereto as **Schedule "C"** for ease of reference, submitted in response to the above-noted RFQ to the extent that the proposal clarifies the Services and Deliverables. For greater clarity, the proposal shall not amend the terms under this Contract.

Where the document is not included as a schedule, it is deemed incorporated by reference. In the event of a conflict or inconsistency between any of the above documents, the conflict or inconsistency shall be resolved in favour of the document first appearing on the above list.

4.0 Supply of Services, Deliverable and Goods

The Authority hereby retains the Contractor to provide to the Authority with the services (the "**Services**") and to supply the work product (the "**Deliverables**") and goods (the "Goods") described in the attached **Schedule "A"**. Where the context permits, the term "Services" shall be deemed to include Deliverables.

If **Schedule "A"** provides that the Services shall be performed by a specific individual (the "**Representative**"), the Authority engages the Contractor to provide the Services on the express and essential condition that the Services shall be performed by the Representative and by no other person. In the event that the Representative is no longer (i) able or willing to perform the Services, or (ii) active with, or employed by the Contractor, for any reason whatsoever, the Authority shall have the right to terminate this Contract immediately upon written notice, without any liability to Contractor and without prejudice to the Authority's rights hereunder. Notwithstanding the foregoing, the Contractor may replace the Representative with another

individual reasonably satisfactory to the Authority with the prior written consent of the Authority.

5.0 Term

This Agreement is effective as of the commencement date set out in Schedule "A" hereto (the "**Effective Date**"), and, unless earlier terminated pursuant to Section 11.0 (Termination), shall continue until the expiration date set out in Schedule "A" (the "**Term**").

6.0 Delivery Dates

The Contractor shall supply the Goods and Services by the date(s) specified in Schedule "A" or such other date as may be agreed upon by the Parties.

The Contractor shall notify the Authority as soon as it becomes aware that it cannot meet the agreed delivery dates for Goods or Services.

In the event of a delay, the Contractor shall, at no additional cost to the Authority, employ accelerated measures such as premium transportation costs or labour overtime to ensure the Goods or Services are delivered on or before the revised delivery date.

In the event a delay in delivery or a new delivery date proposed by Contractor is not acceptable to the Authority, acting reasonably, in addition to any other rights and remedies that may be available to the Authority at law, the Authority may terminate the Contract without any liability to the Contractor for such termination.

For greater certainty, Contractor shall not be held responsible for delays outside the Contractor's reasonable control or to the extent any delay is caused by the Authority.

7.0 Shipping (Goods)

Where applicable, and unless otherwise specified herein, the Contractor shall ship the Goods Delivery Duty Paid (DDP-Incoterms, 2018) (equivalent to FOB Destination), to the place of destination specified by the Authority in the Contract, using the most direct and economical means. Title to the Goods will pass to the Authority upon acceptance by the Authority as set out in these terms. In the event of loss or damage during shipping, the Contractor shall be required to promptly ship replacement Goods, at Contractor's cost.

8.0 Inspection and Acceptance

The Authority, or persons authorized by the Authority, shall have the right, at all reasonable times and with prior notice of not less than one (1) business day, to inspect the Goods and Services; or otherwise review the Services performed, or being performed, to ensure compliance with the Contract requirements.

In addition, the Authority shall have ten (10) business days following receipt to inspect and accept the delivered Goods or Deliverables prior to having any obligation to pay for such Goods or Deliverables.

Prior to accepting Goods or Deliverables, where the Authority discovers defective or non-conforming Goods or Deliverables, the Authority may at its option and without prejudice to any other rights or remedies it may have hereunder or at law: (a) at the Contractor's expense, return Goods or Deliverables for a refund, credit, repair or replacement or (b) obtain a price reduction or re-performance of non-conforming Services at no charge to the Authority. No payment shall be owed for the Goods or Services unless and until the Authority has finally accepted the particular Good or Deliverable.

9.0 Fees and Invoicing

Fees. For and in consideration of the Goods and Services furnished by the Contractor to the Authority under this Contract, the Authority shall pay the prices and fees set out in Schedule "B" (the "Fees").

Taxes. The Fees set out in Schedule "B" may not set out the relevant sales, goods and services, excise, value added or similar taxes, whether of provincial or other jurisdictional level, however taxes should be charged to the Authority and shown separately on each invoice in the normal course. The Contractor acknowledges that it may be subject to withholding tax under Canadian law. All taxes shall be shown separately on each invoice. The Contractor is entitled to apply for any tax credits applicable to or in relation to its services and shall be entitled to provide such information as may be required by the relevant tax authority to such authority.

Invoicing. Unless otherwise agreed in writing or in this Contract, the Contractor shall invoice the Authority for the Services on a monthly basis during the Term, with each invoice for the prior month being issued within five (5) days following the end of the month, and for Goods, upon the Authority's acceptance of such Goods in accordance with this Contract.

Invoices shall be submitted to the attention of "Accounts Payable" at the address as set out in this Draft Contract. The invoice shall contain: (i) a

description of the Goods or, if Services and Deliverables, a description of the Services and Deliverables, provided in the previous month; (ii) details of the Fees and, shown separately and applicable taxes due; and (iii) a description of any disbursements and expenses claimed. If not previously provided, the first invoice shall contain the Contractor's HST registration number. The Authority shall pay any undisputed amounts owing to the Contractor within thirty (30) days of receipt of the invoice. The Contractor understands that failure to include all supporting documentation with the invoice and/or failure to provide any or all of the foregoing information as part of the invoice may result in a delay of payment to the Contractor and that the invoice may be returned to the Contractor unpaid and unprocessed.

Disputed Invoices. If the Authority disputes an invoice, the Authority shall notify the Contractor in writing of the reasons for its dispute within fourteen (14) days of receiving the invoice. The Authority shall pay only the undisputed portion of the Fees in accordance with the payment terms in this Contract. Any dispute in respect of an invoice shall be resolved through the dispute resolution process set out in Section 25 (Dispute Resolution) of this Contract.

Withholdings. If any Fees payable to the Contractor are subject to withholding taxes, the Authority shall withhold and remit such amounts to the applicable taxing authority, unless the Contractor provides the Authority with an exemption or waiver certificate. The Authority will provide the Contractor with written confirmation of any such withholding and remittance.

Disbursements and Expenses. The Contractor agrees that in no event shall any expenses or disbursements be payable by the Authority, nor shall the Authority be in any way liable for the same, unless such disbursement or expense was pre-approved in writing by the Authority and supporting documentation is provided to the Authority along with the invoice for the same.

10.0 Fee Increases

Unless otherwise specified in the Contract, all prices and fees are the maximum prices and fees to be charged for the Goods, Services and Deliverables during the term of the Contract.

Any additional Services not within the scope of the Contract must be offered by the Contractor at a price that is not higher than Contractor's published prices at the time that the Contract is executed (where not published, then at commercially reasonable and competitive prices) and must not increase

until completion of the project or, where the Contract is for a defined term, then for the term of the Contract.

11.0 Termination

Either party may terminate this Contract:

- immediately upon written notice if the other party becomes insolvent, or is made the subject of bankruptcy, conservatorship, receivership or similar proceedings.

Each party may also terminate this Contract, without prejudice to the other party's rights hereunder if the other party breaches any provision of, or any of its obligations under, this Contract or the Schedules attached hereto and fails to remedy such breach within five (5) business days following notice thereof (or such extended period of time as may be agreed upon by the parties to remedy such breach if it cannot reasonably be cured within five (5) business days).

12.0 Consequences of Termination

Upon expiration or termination of this Contract, the Authority shall pay the Contractor for all of the Goods, Services and Deliverables delivered to, and accepted by, the Authority prior to expiration or termination and for all pre-approved expenses reasonably and properly incurred by the Contractor prior to expiration or termination, if payable pursuant to Section 9 (Fees and Invoicing) and further, upon such termination of this Contract, Contractor shall have no further obligation to provide the Goods, Services or Deliverables and the Authority shall have no obligation to pay the Fees or make any other payments hereunder.

In the event of termination for cause by the Authority, the Authority may set-off any unpaid amounts due to the Contractor under this Contract, against any amounts owing by the Contractor to the Authority hereunder (including any amounts required to indemnify the Authority pursuant to Section 14 (Liability and Insurance), as determined by the Authority in its sole discretion) and any costs that the Authority may incur to supply the Goods or complete the Services or Deliverables.

Upon termination, if the Contractor owes any amounts to the Authority, including after any set-off made by the Authority pursuant to Section 9 (Fees and Invoicing), the Contractor shall promptly pay such amounts to the Authority.

Upon termination of this Contract, the Contractor shall immediately return to the Authority all records, files, lists, documents (including electronic material), equipment, software, intellectual property and any other property belonging to the Authority, unless otherwise directed by the Authority in writing.

13.0 Indemnity

The Contractor hereby undertakes to indemnify and save harmless (but not defend) the Authority and its directors, officers, employees, agents and other representatives from and against any and all losses, claims, demands, debts, actions, causes of actions, damages, penalties, interest, costs or expenses (including reasonable legal fees and disbursements) or liability to the extent caused by:

- a) the negligent or wrongful acts or omissions of the Contractor or its employees and/or agents, including the Representative, arising in connection with this Contract or the Schedules attached hereto;
- b) any and all breaches by the Contractor or its employees and/or agents, including the Representative, of any representations, warranties, covenants, terms or conditions of this Contract or the Schedules attached hereto;
- c) any employee source deduction, employer contribution or other employer/employee obligation, including interest and penalties thereon, which the Authority may be assessed or otherwise may incur under any federal, provincial, state or municipal law as a result of a federal, provincial or municipal governmental department or agency, authority or competent tribunal determining that the Representative is considered an employee of the Authority; and any claim by any third party that the Goods, Services or Deliverables infringe the Intellectual Property Rights of any person.

14.0 Liability and Insurance

The Contractor shall provide a Certificate of Insurance and shall include the Authority as an additional insured, with the following coverage being required to be in place by the Authority at all times during the Contract and the guarantee/warranty or maintenance period of the Contract, at the sole, entire, and absolute expense of the Contractor:

- (1) Commercial General Liability Insurance including but not limited to bodily injury including death, personal injury and property damage having an inclusive limit of not less than **five million dollars (\$5,000,000) per occurrence;
- (2) Standard Form Automobile Liability Insurance that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than **five million dollars (\$5,000,000) per occurrence and for Third Party Liability, in respect of the use or operation of vehicles owned, operated or leased by the Proponent for the provision of services;
- (3) Non-Owned Automobile Liability Insurance in standard form having an inclusive limit of not less than **two million dollars (\$2,000,000) per occurrence in respect of vehicles not owned by the Proponent, that are used or operated on its behalf for the provision of services under this Contract;
- (4) **Umbrella and/or Excess Liability Insurance policies may be applied to increase liability limits for coverages indicated by double asterisks (**). Certificate(s) of insurance must specify the underlying policies (**) to which the umbrella/excess coverages apply and indicate any applicable aggregates;
- (5) Property Insurance, All Risk, Replacement Cost basis with respect to loss or damage of its own property and property of the Authority in Proponent's care, custody and control, used in connection with the Contract.

Each of the said policies shall contain a cross-liability/separation clause and the following shall be named as additional insured in the policies of insurance referenced above:

- (1) Essex-Windsor Solid Waste Authority
- (2) The Corporation of the City of Windsor
- (3) The Corporation of the County of Essex
- (4) Town of Amherstburg
- (5) Town of Essex
- (6) Town of Kingsville
- (7) Municipality of Lakeshore
- (8) Town of LaSalle
- (9) Municipality of Leamington
- (10) Town of Tecumseh

The Contractor expressly understands and agrees that the coverage provided by the policies referenced above will not be changed or amended in any way to the detriment of the Authority, nor cancelled until 30 days after written notice by registered mail of such change or cancellations has been delivered to the Authority.

Throughout the term of the Contract, the Contractor shall, at any time requested by the Authority, provide a copy of the Contractor's Worker's Compensation Certificate, showing the Contractor's Worker's Compensation Certificate is in good standing.

Proof of the insurance coverage referenced above shall be in a form and issued by an insurance company licensed to carry on business in Ontario satisfactory to the Authority in its sole absolute discretion.

15.0 Warranty

The Contractor represents and warrants that Services will be performed in a diligent, good and workmanlike manner in accordance with an applicable schedule or committed delivery date, and of a quality at least equal to that generally accepted in the industry or profession for similar work (which includes providing Deliverables reasonably free of formatting and typographical errors); that the Goods are not subject to economic sanctions, will be new and of current production and that, for a period of one (1) year following acceptance by the Contractor (or such longer warranty period as may be specified in the Contract), the Goods and Deliverables will be of satisfactory quality, free from defects in design, material and workmanship; and where applicable, will conform to and perform in accordance with specifications, drawings and samples accepted by the Authority or included in the Contract.

Goods, Services or Deliverables failing to comply with applicable warranties will be, at the Authority's option and at no charge to the Authority: (i) returned for a full refund or credit of amounts paid by the Authority for the defective Goods, (ii) repaired, (iii) replaced; (iv) re-performed by Contractor using alternate personnel if instructed by the Authority or (v) rejected by the Authority, at no cost or expense to the Authority and with any shipping and transportation costs and risk of loss and damage in transit borne by Contractor. Repaired and replaced Goods or re-performed Services or Deliverables shall be warranted as set forth in this Section. The above warranties, together with any additional Contractor warranties, survive inspection, test, acceptance of and payment for the Goods, Services or Deliverables.

Unless otherwise specified in the Contract, if an additional warranty-related obligation (e.g. manufacturer's warranty) sets a warranty time period or warranty standard that is not consistent with a warranty time period or warranty standard set out in this Section, Contractor shall comply with the longest time period and highest standard.

16.0 Change Orders

The Authority or the Contractor may, at any time, propose a change to Schedule "A", or to the Goods, Services or Deliverables outside the scope of Schedule "A" provided that no changes to this Contract are valid unless made in writing and mutually agreed by the parties.

Where a change is proposed, the party proposing the change shall submit a written change order request to the other party.

If the change order request is accepted in writing by both parties, the additional or changed Goods, Services or Deliverables (as applicable) shall be supplied at the prices stipulated in the Contract or, where such prices are not listed, then at prices mutually agreed to in writing.

For greater certainty, where no prices have been clearly agreed to in writing in connection with a change order, then the prices last agreed to in the Contract shall apply for purposes of calculating the cost of Goods, Services or Deliverables.

17.0 Non-Exclusivity

Subject to any conflict of interest, nothing in this Contract shall prohibit or restrict the Contractor and the Representative from contracting with or being engaged in any capacity in promoting, undertaking, providing services to or in any way being involved with another person, firm or entity.

Nothing in this Contract shall prohibit or restrict the Authority from contracting with or engaging in any capacity any person to provide services or perform work for the Authority that are similar to or compete with the Goods, Services or Deliverables provided by the Contractor hereunder.

18.0 Intellectual Property

"Intellectual Property Rights" means all intellectual and industrial property rights of the Authority which include rights to inventions and patents for inventions, including reissues thereof and continuations in part, copyright, designs and industrial designs, trademarks, know-how, trade

secrets and confidential information, and other proprietary rights. Subject to the provisions of Schedule "A", the Contractor agrees that upon full payment of all monies properly owed to the Contractor, the Authority shall be the exclusive owner of all Intellectual Property Rights howsoever created or developed by the Contractor, whether by it alone or jointly or with the contribution or assistance of others arising out of its engagement with the Authority, including without limitation all Intellectual Property Rights in the Deliverables. The Authority agrees, to the fullest extent permitted by law, to indemnify and hold the Contractor harmless from any claim, liability or cost (including reasonable attorney's fees and defense costs) arising or allegedly arising out of any reuse or modification of the Intellectual Property by the Authority or any person or entity that obtains the Intellectual Property from or through the Authority.

The Contractor further agrees that it has no rights in any such Intellectual Property Rights and hereby assigns to the Authority all rights, title and interest that may accrue to the Contractor as a result of its engagement with the Authority. The Contractor hereby undertakes and agrees to cause the Representative to waive all moral rights and *droits de suite* that either the Contractor or Representative now or in the future may have to the Intellectual Property Rights. Each of the Contractor and the Representative agree that all Deliverables and other works created in full or in part by the Contractor may be maintained, changed, modified and/or adapted by the Authority without consent of either the Contractor or the Representative.

Notwithstanding the foregoing, the Contractor and the Authority may agree in writing that certain identified and designated Intellectual Property Rights will remain with the Contractor.

The Authority acknowledges that Contractor and Representative possess knowledge and expertise relating to the subject matter of the Services and Deliverables and may be contributing pre-existing materials to the Deliverables which may include intellectual property rights ("**Contractor Background IP**"). Nothing in this Contract is intended to transfer to the Authority any rights in the Contractor Background IP, which shall remain the property of the Contractor. To the extent that any Contractor Background IP is included in any Goods or Deliverables, Contractor hereby grants to the Authority a perpetual non-exclusive right and license to use the Background IP to the extent reasonably necessary to exercise the Authority's rights in the Goods and Deliverables.

19.0 Confidentiality

All specifications, drawings, patterns, samples and other information furnished to Contractor by the Authority in connection with the Contract will be used solely for the purpose of carrying out the work and for no other purpose; will remain the property of the Authority; and be returned or destroyed at the Authority's request at the expense of Contractor. The Contractor may retain irretrievable electronic copies of information contained in routine back-ups created as part of its information technology system back-up and disaster recovery protocols. Such retained confidential information shall remain subject to the provisions of this s. 21 until destruction of such confidential information.

This Contract and information issued, used or disclosed in connection with the work are confidential and may be classified as to the degree of precaution necessary for their safeguarding. Contractor shall at all times take all measures reasonably necessary, including those set out in any instructions issued by the Authority, for the protection of same.

The restrictions on the use and disclosure of the confidential information shall not apply to information which (a) was known to the Contractor before receipt of same from the Authority; or (b) becomes publicly known other than through breach of any confidentiality obligations; or (c) is disclosed pursuant to the requirements of a governmental authority or judicial order, but only to the extent required to comply with the said requirements of the government authority or judicial order.

20.0 Compliance with Laws

The Contractor acknowledges that the Authority is subject to the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c M.56 ("FOI Legislation") and that information provided to or from the Authority in connection with this Contract may be subject to the provisions of these acts and other applicable law.

Without limiting anything else in this Contract, the Contractor hereby covenants and agrees that it shall comply with all duties and obligations as set out in all applicable laws, as amended from time to time, and shall make all reasonable efforts to assist the Authority in complying with the Authority's duties and obligations as set out in and which arise from law applicable to this Contract or to the Goods, Services and Deliverables provided hereunder.

21.0 Audit

The Contractor shall keep proper accounts and records of the cost relating to the Goods, Services and Deliverables, including all invoices, receipts and vouchers.

If this Contract includes payment for time spent by the Contractor, its employees, Representatives, agents or subcontractors providing the Goods, Services and Deliverables, the Contractor must keep a record of the actual time spent each day by each individual providing any part of the Goods, Services and Deliverables.

Unless the Authority has consented in writing to its disposal, the Contractor must retain all the information described in this section for seven (7) years after either:

- the Contractor receives the final payment under this Contract; or
- until the settlement of all outstanding claims and disputes, whichever is later.

During this time, the Contractor must make this information available for audit, inspection and examination by the representatives of the Authority, who may make copies and take extracts. The Contractor must provide all reasonably required facilities for any audit and inspection and must furnish all the information the Authority or its representatives may, from time to time, require to perform a complete or partial audit of this Contract. Notwithstanding the foregoing, the Authority's right to inspect, copy and audit shall not extend to the composition of the Contractor's rates and fees, percentage mark-ups or multipliers but shall apply only to their application to the applicable units.

Where such audit or inspection discloses an overpayment by the Authority, the Authority shall have a right to set-off the amount of such overpayment against future Contractor invoices issued pursuant to this or any other Contract and, to the extent that the Authority's right of set-off is not exercised or not adequate to cover such overpayment, Contractor shall be responsible for promptly repaying such overpayment.

22.0 Subcontractors

The Contractor may subcontract portions of the work pursuant to this Contract provided that the Contractor shall be liable for its subcontractors' compliance with the Contract.

23.0 Relationship

The Contractor shall render the Goods, Services and Deliverables hereunder as an independent Contractor and that the Contractor's employees and/or agents, including the Representative, are not employees of the Authority.

Neither the Contractor nor any of its employees and/or agents, including the Representative, shall have any right to any the Authority employee benefit, entitlement or advantage.

Nothing in this Contract shall be construed as creating a partnership, joint venture or agency relationship between the parties, or as authorizing either party to act as agent for the other or to enter into any contracts on behalf of the other party. Neither the Contractor nor the Representative is authorized to bind or commit the Authority, either actually or apparently, in any manner whatsoever, without express prior written authority from the Authority to do so.

24.0 Dispute Resolution

The parties agree that any dispute between the parties under this Contract shall be resolved in the following manner.

The parties shall first endeavour to resolve any such dispute matter or matters by good-faith negotiation, which shall conclude when: (a) the parties reach an agreement settling the dispute; (b) a party declares impasse; or (c) thirty (30) days following the start of the negotiations have expired. If requested in writing by either the Authority or the Contractor, the Authority and the Contractor shall attempt to resolve any dispute between them arising out of or in connection with this Contract by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties.

If a dispute cannot be settled within a period of thirty (30) calendar days with the mediator, if mutually agreed, the dispute shall be settled by binding arbitration subject to the terms of the Commercial Arbitration Act (R.S.C., 1985, c. 17 (2nd Supp.)). In no case shall a dispute between the parties, or involving either of them, delay the supply of the Goods, Services or Deliverables.

25.0 Severability

All notices and communications hereunder shall be in writing and shall be either (a) delivered personally, (b) delivered by commercial courier service, (c) sent by registered or certified mail to the postal address indicated below or such other address as may hereafter be designated in writing in accordance herewith, or (d) transmitted by e-mail address indicated below:

To the Contractor:

Company Name.
Address
City, Ontario, postal code
Tel: 519-XXX-XXXX
Email:

To the Authority:

The Essex-Windsor Solid Waste Authority
360 Fairview Avenue, West Essex, Ontario, N8M 1Y6
Tel: (519) 776-6441 ext.1394
Attention: Michelle Bishop
Email: mbishop@ewswa.org

Notices delivered personally shall be deemed to have been received when delivered; if delivered by courier, shall be deemed to have been delivered on the delivery date and time recorded by the courier in its delivery records; if transmitted by facsimile or by e-mail, shall be deemed to have been received when confirmed by the recipient as having been received and notices sent by certified or registered mail shall be deemed to have been received four (4) days after mailing.

26.0 Amendment, Waivers and Assignment

This Contract may be amended in whole or in part only by the express written agreement of the parties hereto.

No waiver of any provision of this Contract shall be implied, and no waiver shall be valid unless it is in writing and signed by the party waiving its rights. No waiver of any breach of any of the terms, provisions or conditions of this Contract shall be construed as or held to be a waiver of any other breach, or a waiver of, acquiescence in, or consent to, any further or succeeding breach hereof.

The Contractor may not assign its rights under this Contract without the prior written consent of the, and any attempt to do so shall be a breach of this Contract and shall be void.

27.0 Entire Agreement

This Contract and the Schedules attached hereto constitute the entire agreement between the parties and supersede all previous negotiations, understandings and agreements, verbal or written with respect to any matters referred to in this Contract except as specifically set out in this Contract.

28.0 Governing Law and Attornment

This Contract shall be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Without limiting the requirement to address disputes in accordance with Section 25 (Dispute Resolution) above prior to exercising any other right the Parties may have, each Party irrevocably and unconditionally attorns to the exclusive jurisdiction of the courts located in the Province of Ontario for the purpose of any action or proceeding brought by either of them in connection with this Contract or any alleged breach thereof.

29.0 Survival

The representations, warranties and other provisions in this Contract that by their sense and context are intended to survive completion of performance, expiration or termination of this Contract, shall so survive the performance, expiration or termination of this agreement as necessary to give effect to their intention.

30.0 Counterparts

This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one agreement. To evidence the fact that it has executed this Contract, a party may send a copy of its executed counterpart to the other party by electronic transmission and the signature transmitted by such transmission shall be deemed to be that party's original signature for all purposes.

31.0 Definitions

In this Contract, capitalized terms shall have the following meanings:

- a) Background IP has the meaning assigned in Section 18 (Intellectual Property);
- b) Contract has the meaning assigned in Section 3 (Contract Documents);
- c) Deliverables means the deliverables described in Schedule "A".
- d) Effective Date has the meaning assigned Schedule "A";
- e) Force Majeure has the meaning assigned in Section 32 (Force Majeure).
- f) Contractor has the meaning assigned in the preamble.
- g) Fees means the prices and fees set out in Schedule "A".
- h) Authority has the meaning assigned in the preamble.
- i) Goods the goods described Schedule "A".
- j) Services means the services described in the attached Schedule "A".
- k) Intellectual Property Rights has the meaning assigned in Section 18 (Intellectual Property Rights).
- l) Services, Deliverables have the meanings assigned in Section 4 (Supply of Services and Deliverables) and Services may be used to describe Services and Deliverables collectively.
- m) RFQ has the meaning assigned in Section 1 (Background).
- n) FOI Legislation has the meaning assigned in Section 20 (Compliance with Laws).
- o) Representative means the representative described in the attached Schedule "A".
- p) Term has the meaning assigned in Section 5.0 (Term).

32.0 Force Majeure

In the event that either party is delayed or unable to perform any part of its obligations under this contract due to circumstances that were not foreseeable and were beyond the reasonable control of such party, including acts of nature or the elements, war, riot, insurrection, military action, terrorist activity, economic sanction, blockade or embargo, sabotage, flooding, earthquake, or action or restraint by the order or act of a government authority properly exercising its jurisdiction (each, an event of "Force Majeure"), such party shall be excused from the performance of such obligation to the extent that performance is prevented, hindered, or delayed by such Force Majeure. For clarity, in no event shall lack of funds or economic hardship, failure to obtain necessary licenses or approvals, import or export restrictions or customs clearance or compliance, or strikes by or lockouts of unionized employees or other labour unrest constitute an event of Force Majeure. Upon the occurrence of a Force Majeure event, the affected party shall notify the other party of same and use its reasonable efforts to remedy or correct the delay or failure to perform as soon as possible. In no circumstances shall the party prevented or delayed from performing any part of its obligations be liable to the other party for any damage caused by the event of Force Majeure. In the event that such Force Majeure results in a delay exceeding thirty (30) days, the other party may suspend the contract pending resolution of the Force Majeure, or terminate the contract.

33.0 Limit of Liability; Waiver of Consequential Damages

- a) The total amount of all claims the Authority may have against the Contractor under this Contract or arising from the performance or non-performance of the Services under any theory of law, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, shall be strictly limited to the higher of: i) the fees paid to the Contractor; or ii) the limit of insurance required to be maintained hereunder. This limit of liability shall not apply to claims arising under sections 14, 18, and 20
- b) Neither the Authority nor the Contractor shall be liable to the other or shall make any claim for any incidental, indirect, consequential damages, damages related to loss of use, loss of profits, loss of income, unrealized energy savings, diminution of property value or loss of reimbursement or credits from governmental or other agencies ("Consequential Losses") arising out of or

connected to this Contract. This s. 34b) shall not apply to Consequential Losses arising under sections 14, 18, and 20.

The parties hereto have each executed this Contract by their respective duly authorized officers.

**ESSEX-WINDSOR SOLID WASTE
AUTHORITY**

Per:

Per:

We have the authority to bind the Authority.

[COMPANY NAME]

Per: Name, Position

I have authority to bind the Contractor.

Schedule "A"

Scope of Work

Effective Date: MMDD, 2022
Commencement Date: MMDD, 2022
Termination Date: MMDD, 20XX
Representative: Name
Tel: (XXX) XXX-XXX
Representative the Authority: Name
Tel: (XXX) XXX-XXXX

Description of Services:

Fees

Total Cost of Contract

The fees and amounts set out in bid number RFP EWSWA 2022-0629 are in Canadian funds unless otherwise specified herein.

Please refer to Section 9 (Fees and Invoicing) of this Contract for further terms regarding the fees.

Schedule E

Conflict of Interest Declaration Form

The undersigned, on behalf of the organization named below, hereby represents and warrants that diligent inquiry has been made within the organization and of persons involved or to be involved in preparing a Proposal to determine whether a Conflict of Interest exists as set out in the following paragraphs:

- a) No Unfair Advantage. There is no situation in relation to the RFQ process, where the Proponent has or may have an unfair advantage or has engaged in conduct directly or indirectly, that gives or may appear to give it an unfair advantage over other bidders. Circumstances which may result in an unfair advantage include, but are not limited to:
- listing, working with or in any way directly or indirectly consulting with anyone employed or engaged by the Corporation of the County of Essex, the Corporation of the City of Windsor, and/or the Essex-Windsor Solid Waste Authority (the "**Authority**") in the preparation of the Proposal;
 - being in possession of, or having access to confidential information of the Authority that is: (a) relevant to the preparation of its Proposal; (b) not likely to be available to other Proponents; or
 - communicating with any person with a view to influencing preferred treatment in the RFQ process; or
 - engaging in any other conduct that compromises or could be seen to compromise the integrity of the RFQ process.
- b) No Conflicting Corporate or Personal Interests. Should the Proponent be awarded the Contract, in relation to the performance of its contractual obligations with the Authority, the Proponent's other commitments, relationships or financial interests will not give rise to a conflict of corporate or personal interests. Circumstances which may result in a conflict of personal or corporate interests include, but are not limited to, any circumstance that:

- could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of the Proponent's or a decision-maker's independent judgement; or
- could or could be seen to compromise, impair or be incompatible with the effective performance of the Proponent's contractual obligations.

NO CONFLICT OF INTEREST

- The Proponent declares that there is NO actual, apparent or potential Conflict of Interest relating to the preparation of its response, and the Proponent does NOT foresee an actual, apparent or potential Conflict of Interest in performing the contractual obligations contemplated in the RFQ.

POTENTIAL, APPARENT OR ACTUAL CONFLICT OF INTEREST

- The Proponent declares that there MAY be an actual, apparent or potential Conflict of Interest relating to the preparation of its response, and/or the Proponent foresees the potential of an actual, apparent or potential Conflict of Interest in performing the contractual obligations contemplated in the RFQ.

Below are the details of the circumstances giving rise to the apparent or potential Conflict of Interest:

The Proponent hereby seeks clarification from the Authority on whether the Authority believes the above circumstances constitutes a Conflict of Interest and if so, whether there are any measures that may be implemented to manage the conflict that will allow the Proponent to participate in the RFQ process.

I hereby acknowledge, on behalf of the Proponent, that the Authority may, upon discovering a potential, actual, or apparent Conflict of Interest at any time during the RFQ process, or during the term of any Contract resulting from the RFQ process, in its sole and absolute discretion without any liability whatsoever to the Proponent, require the Proponent to take steps to resolve

or otherwise deal with a Conflict of Interest as a condition of eligibility to participate in this RFQ process or to provides Services under a Contract; reject the Proponent's Proposal; or terminate the Contract for default.

Signature of Proponent
Representative

Name of Proponent
Representative

Title of Proponent Representative

Date

I have the authority to bind the
Proponent.