

Request for Qualifications

**Energy Management Services
for
Investigating Energy Efficiency at
Material Recovery Facilities**

April 2009

RFQ Submission Deadline: Thursday, May 14, 2009

Waste Diversion Ontario's

**CONTINUOUS
IMPROVEMENT
FUND**

CIF

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Request for Qualifications (RFQ)

Energy Management Services for Investigating Energy Efficiency at Material Recovery Facilities

1.0 General Information

1.1. The Continuous Improvement Fund

The Continuous Improvement Fund (CIF) is a funding program developed through the cooperation of the Association of Municipalities of Ontario, the City of Toronto, Stewardship Ontario and Waste Diversion Ontario. Its purpose is to support improvements to municipal blue box programs in Ontario. As part of this mandate, the CIF intends to engage qualified firms capable of providing energy management services to investigate and improve energy efficiency at Material Recovery Facilities (MRFs) across Ontario (Section 1.3 below provides a description of a typical MRF), for and on behalf of the CIF. The CIF's annual budget exceeds \$10 million.

1.2. Procurement Approach

The CIF intends to procure the energy management services through a two-step process, as discussed below.

Step 1 is this Request for Qualifications (RFQ). It is the CIF's intention to list respondents that are deemed qualified through this RFQ process on a roster of pre-qualified firms under either of two (2) categories of energy management services expertise (see Section 2 below for more information on the two roster categories). The determination of qualified firms will be based on demonstrated competence and professional qualifications according to the specific criteria identified in this RFQ. The CIF expects to list up to three (3) firms under each category (i.e., the top 3 scoring firms from this RFQ process under each category). Firms that qualify for both categories may be listed under both categories. The roster is expected to be maintained until the end of the current mandate of the CIF in May 2011 with opportunities to add or remove pre-qualified firms and amend their information annually.

In Step 2 the CIF intends to retain firms listed on the roster to investigate and improve energy efficiency at municipally owned MRFs across Ontario. Firms will be retained through a Request for Proposals (RFP) process. There are approximately 54 MRFs in Ontario and the CIF expects to choose approximately 10-15 of these MRFs for energy efficiency evaluation (it is anticipated that at least half of these facilities will be located in northern Ontario). The CIF may issue a separate RFP for each MRF to be evaluated or it may bundle several MRFs together under one RFP, with the RFP containing specifics on the project scope, the applicable roster category and the proposal evaluation.

For each RFP, the firms under the applicable roster category will be invited to submit a proposal, with award generally to the firm offering the best combination of project approach, schedule and price. Firms that have been awarded a project through this process are eligible to be awarded other projects. However, the CIF will endeavour to distribute

work equitably amongst firms listed on the roster and, to this end, may not include a firm that has been awarded several projects on an RFP invite.

The CIF recognizes that, depending on the actual number of MRF projects identified for energy efficiency evaluation and the number of RFPs issued, the proposed procurement approach could lead to many proposal submissions from the rostered firms. The CIF will endeavour to ensure proposal submissions are not too onerous by requiring fairly comprehensive submissions to this RFQ but succinct submissions at the RFP stage that focus specifically and primarily on project approach (i.e., how the specified project scope will be delivered), schedule and price.

Notwithstanding the above described procurement approach involving issuance of RFPs and submission of proposals, the CIF reserves the right to award directly to firms on the roster, without issuing an RFP, to complete lower-value projects (up to approximately \$50,000 in energy management firm fees) by negotiating scope, schedule and cost with the highest ranking firms on the roster that have not yet been awarded a project or that have been awarded fewer projects.

Firms awarded contracts from the CIF will receive direction from and coordinate their work through assigned CIF staff.

1.3. Material Recovery Facilities

Municipal MRFs are specialized facilities that receive, sort, separate and prepare blue box recyclable materials for shipment to markets. These facilities differ by municipality but a typical MRF will have:

- building areas including; tip floors (where blue box materials collected in the municipality are dumped), process equipment areas, bale storage area and product load-out bays, maintenance areas and staff/amenity areas (offices, lunchroom, change rooms, etc);
- process equipment including; conveyors to move material throughout the facility, automated sorting equipment and various screens to sort the materials into product and residue streams and balers to bale the product streams; and
- manual sorting stations (sometimes climate controlled enclosures, but not always) to supplement, or sometimes entirely in lieu of, automated sorting equipment.

One of the biggest differences from one MRF to the next is the age and type of building used. Newer facilities are normally purpose-built structures but there are many examples of older facilities that involve conversion of buildings, which were constructed for different uses, to accommodate the MRF functions and spaces. MRFs, with the exception of the staff/amenity areas, can normally operate properly in uninsulated and unheated buildings. Open-style manual sorting stations typically employ radiant heating for sorter comfort while enclosed manual sorting stations are typically climate controlled with dedicated HVAC units.

MRFs range in capacity from relatively small facilities up to 10,000 tpy throughput (perhaps 2,000 m² building footprint) to larger facilities in excess of 100,000 tpy throughput (8,000 m² or more). These facility footprints can vary substantially however, depending on the extent that the MRF was purpose-built, other functions in the building space, building height available, the specific materials processed (fibres, containers, both) and other factors.

General energy consumption areas typical of a MRF include, but are not limited to:

- interior high bay and other interior/exterior building lighting;
- HVAC (primarily for the staff/amenity areas and the manual sorting stations);
- process electrical load;
- non-Process electrical loads (overhead doors, general building ventilation, etc); and
- utilities consumption such as water and natural gas.

Again, there can be much variability from one facility to the next but to give some sense of the energy load at MRFs, larger facilities could have a total connected load in the order of 1,000 kW with roughly 50% of this load associated with process equipment. Smaller facilities are expected to have a disproportionately higher connected load. MRF processing equipment is typically started in a “downstream to upstream” sequence so that equipment does not discharge onto downstream equipment that has failed to start but also so that the total connected process electrical load is not started all at once.

2.0 NATURE OF REQUIRED SERVICES

The MRFs targeted for energy efficiency evaluation will all be somewhat different with unique energy efficiency evaluation service requirements. The required energy management services can include, but are not limited to;

- auditing of energy infrastructure (primarily building envelope, HVAC, central plant, lighting, building control system, process equipment drives/controls);
- utility analysis and energy tracking;
- development of energy management business plans; and
- turnkey project implementation (specifying, installing and commissioning energy improvement initiatives) and operator training.

As well, and depending on the municipality, provision of financing and energy performance contracting for implementation of energy improvement initiatives recommended through investigations may also be required.

The CIF is therefore seeking firms with expertise in one or both of the following services categories:

- **Category 1:** Auditing of energy infrastructure, utility analysis, energy tracking, development of energy management business plans, turnkey project implementation;
- **Category 2:** Same services as Category 1 plus ability to finance or arrange financing for the recommended efficiency upgrades, preparation of and willingness to enter into energy performance contracts with the facility owner to recover investments through energy savings.

3.0 INSTRUCTIONS TO RESPONDENTS

3.1. Schedule of Events

The RFQ process will be governed according to the following schedule. Although every attempt will be made to meet all dates, the CIF reserves the right to modify any or all dates at its sole discretion.

Release of RFQ	Tuesday April 21, 2009
Inquiry Deadline	Tuesday May 05, 2009
Last Date for Issuance of Addenda	Friday May 08, 2009
RFQ Submission Deadline	Thursday May 14, 2009
Notification of Selection	Thursday June 11, 2009

3.2. RFQ Submission Deadline

Submissions shall be made before:

**4:00 p.m. local time,
Thursday May 14, 2009**, at:

Continuous Improvement Fund
92 Caplan Avenue, Suite 511
Barrie, Ontario
L4N 0Z7

Attention: Mr. Mike Birett
Manager, Continuous Improvement Fund

Or by email in PDF format to: mbirett@wdo.ca

3.3. Questions or Clarification Requests

Direct all inquiries in writing to Mr. Mike Birett by facsimile at (866) 472-0107 or email at mbirett@wdo.ca, by the "Inquiry Deadline" date noted above. Responses to clarification requests will be posted as addenda on the WDO web site at <http://www.wdo.ca/cif>. Any and all changes to the RFQ required before the submission closing will be issued in the form of written addenda, posted on the same web site. The CIF will assume no responsibility for oral instructions or suggestions.

3.4. Confidentiality

Any submission and all correspondence, documentation and information provided to the CIF by any respondent in connection with, or arising out of this RFQ will become the property of the CIF. The CIF may, at its sole discretion, make public respondents' names and any other aspect of any submission. Respondents are advised to identify in their submission any scientific, technical, commercial, proprietary or similar confidential information, the disclosure of which could cause them injury. Any such information in the respondent's submission that is not specifically identified as confidential may be treated as public information.

3.5. Submission Requirements

Respondents must provide their submission in compliance with the requirements set out in Section 4 of this RFQ. Failure to do so may render the submission non-compliant and result in rejection of the respondent's submission. The CIF reserves the right to accept or reject any or all submissions, and to request and obtain further information not adequately addressed in a respondent's submission or written clarification to address specific requirements from respondents at any time.

All submissions shall be signed and dated by an authorized official(s) of the entity(ies) making a submission.

4.0 RFQ SUBMISSION REQUIREMENTS

4.1. Prerequisites for Eligibility

To be eligible to be listed on the roster, respondents must include the following declarations in their submission (may be included in the signed cover letter to the submission):

- 1) The respondent (both parent and/or subsidiaries if applicable) is not directly in, or associated with a firm or individual in litigation with the CIF, and any of its partners or any municipality in Ontario;
- 2) respondent (both parent and/or subsidiaries, if applicable) is not under investigation or actively defending itself against a charge by a government;
- 3) The respondent has no outstanding bankruptcy, judgment or pending legal action that could impair operations as an ongoing concern;
- 4) The respondent has read, understands and accepts all the terms and conditions of the RFQ (except such specific terms and conditions that the respondent has taken exception to in the Exceptions section of their submission).

4.2. Corporate Information

Provide the following:

- 1) The respondent's company name and address;
- 2) Contact name, phone number, fax number and email;
- 3) A brief outline of the ownership and structure of the firm;
- 4) A brief description of your firm and the general service areas offered;
- 5) A discussion of any sub-contract arrangements anticipated to be entered into to allow your firm to provide the complete level of services proposed, and if sub-contract arrangements are anticipated, provide details of the sub-contract firms;
- 6) An indication of the areas of the province of Ontario that your firm provides the proposed services and an indication of your firm's willingness to conduct the services proposed at MRFs in northern Ontario;

- 7) An indication of whether your firm has provided energy management services for municipal clients and on projects as contemplated in this RFQ (i.e., MRFs or other facilities having similar energy usage).

4.3. Key Personnel

Provide the following:

- 1) Identify key personnel who would perform the energy management services proposed as well as overall project management, including a brief description of their experience and expertise;
- 2) Resumes for the personnel named (include in an appendix) that demonstrate their experience and expertise.

4.4. Areas of Expertise

Provide the following:

- 1) Identify under which of the two (2) service categories listed in Section 2 of this RFQ your firm would like to be considered for roster eligibility (Category 1, Category 2, or both).
- 2) Provide a description of your firm's expertise with, and typical approach to providing, the following energy management services:
 - auditing of energy infrastructure (primarily building envelope, HVAC, central plant, lighting, building control system, process equipment drives/controls);
 - utility analysis and energy tracking;
 - development of energy management business plans;
 - turnkey project implementation (specifying, installing and commissioning energy improvement initiatives);
 - operator training on energy efficiency upgrades/initiatives; and
 - any other energy management services (related to Category 1) that you consider potentially relevant to this RFQ.
- 3) For respondents wishing to be pre-qualified under Category 2, provide a description of your firm's expertise with, and typical approach to providing, the following energy management services:
 - financing or arrangement of financing for recommended efficiency upgrades;
 - preparation of and willingness to enter into energy performance contracts with the facility owner to recover investments through energy savings; and
 - any other energy management services areas (related to Category 2) that you consider potentially relevant to this RFQ.

4.5. Reference Facilities/Projects

Provide the following:

- 1) Provide a projects/services matrix (table) that lists projects completed in the last 5 years on one axis, the energy management services (as listed in Section 4.4.2 and, if applicable 4.4.3, of this RFQ) on the other axis, and an indication with check marks in the matrix of which services were provided at which projects (a service should have played a significant role in a project to be indicated in the matrix).
- 2) A description of up to 3 projects that demonstrate your firm's experience/expertise in the range of services listed in Section 4.4.2 and, if applicable 4.4.3 of this RFQ. Each project's description should indicate:
 - the project name, location, duration, client and approximate fee;
 - the personnel from your firm that worked on these projects and their roles;
 - a listing of the energy management services that were provided, the approach to providing these services (reference to the information provided in response to Section 4.4.2 and, if applicable 4.4.3, is acceptable), the efficiency upgrades implemented and the project outcome (energy/cost savings);
 - a client contact and that person's contact information (phone number and/or email address), who may be contacted by the CIF to verify project details and respondent claims.

4.6. Exceptions

In the event that a respondent wishes to propose exceptions to any specified requirements of this RFQ, such exceptions must be clearly identified in a separate section of the RFQ submission. For each exception, the following information should be provided:

- reference to specific Section of this RFQ to which the exception applies;
- a description of the exception; and
- the rationale for the exception and proposed alternative.

Should a submission contain significant exceptions that at the CIF's sole discretion render the submission non-responsive to the CIF's needs, the CIF reserves the right to declare the submission non-compliant and not consider it further.

5.0 SUBMISSION EVALUATION

5.1. Selection Process

A selection team will evaluate submissions. Where a respondent wishes to be pre-qualified under both Category 1 and Category 2, the submission will be evaluated for each category separately. By responding to this RFQ respondents agree and acknowledge that the CIF has the sole right of decision to include or exclude a respondent from one or both of the proposed roster categories. The selection criteria below is provided for general guidance only, and the CIF reserves the unqualified right to modify or eliminate any aspect of this process at any time, without notice to respondents.



The submission evaluation will include but not necessarily be limited to the following criteria:

Table 1: Evaluation Criteria

The submission's; organization, clarity, responsiveness (to the information requested), level of detail and nature of any exceptions.	20
Relevance and applicability of the reference facilities/projects and outcome of discussions with reference contacts.	30
Extent of energy management services provided and demonstrated experience/expertise in these service areas.	25
Qualifications and experience of key personnel, as demonstrated through requested write-ups and resumes.	15
Experience implementing and managing municipal projects of a similar nature to the projects contemplated in this RFQ.	10
Total points possible:	100

6.0 TERMS AND CONDITIONS

6.1. Costs Incurred by Respondents

Participation in this process, including the provision of a submission, shall not give rise to any liability, contractual or otherwise, on the part of the CIF or the respondent. Similarly, the provision of a submission shall not create any obligation on the part of a respondent to enter into a contract. Furthermore, the CIF shall not be responsible for any liabilities, costs, loss or damage incurred, sustained or suffered by any interested party, prior or subsequent to, or by reason of acceptance or non-acceptance by the CIF of any submission, or by reason of any delay in the acceptance of any submission.

6.2. Roster Upkeep

It is the intention of the CIF to review the proposed roster annually to determine if additional energy management firms and/or services are required and to review the performance of listed firms who have completed work to date. Qualified respondents can expect to remain listed on the roster for the entire term of the CIF or until use of the roster is discontinued, unless they request to have their names removed or are otherwise removed by the CIF. It is the obligation of selected respondents, therefore, to inform the CIF of any change in the nature and cost of the services they provide that would otherwise affect their qualifications and/or ability to complete assigned work.

The CIF reserves the right to amend or discard the roster at any time. Further, the CIF reserves the right to directly engage other firms including energy management firms that may not have made submissions in response to this RFQ, for specialized work that in the CIF's opinion involves services and/or skill sets not provided by the firms on the roster. Inclusion of a firm on the roster is not a guarantee that they will receive any work during the duration of the CIF's mandate.

6.3. Contracting with Respondents Listed on the Roster

A contract between a respondent on the roster and the CIF will vary depending on the nature of the work contemplated but is not expected to exceed the current term of the CIF which ends in May, 2011 and will be based on a scope of work provided by the CIF. Appendix A contains the CIF contract template. This template and the respondent's submission will be used as a basis for negotiating contracts between respondents and the CIF.

The CIF reserves the right to contract, if at all, with the respondent(s) that it determines, in its sole and absolute discretion, will offer the best combination of value and service and best meet its requirements by reference to any stated or undisclosed criteria. The CIF reserves the right to enter into negotiations and to do so concurrently or consecutively with one or more respondents, in the CIF's sole and unfettered discretion for the purposes of awarding one or more contracts. If the CIF and the selected respondents are unable to negotiate a mutually acceptable contract, the CIF may begin or continue negotiations with any other respondent, at any time with no obligation to the unsuccessful respondent. No respondent shall have any rights against the CIF arising from such negotiations.

CIF

Appendix A

CIF Contract Template

Appendix: CIF Contract Template

PROJECT AGREEMENT

Continuous Improvement Fund Project #XXX

THIS AGREEMENT made as of the ■ day of ■ 200X.

AMONG:

Waste Diversion Ontario,

a corporation without share capital incorporated under the laws of the Province of Ontario, having its place of business at:

45 Sheppard Ave East, Suite 920, Toronto, Ontario, M2N 5W9

(hereinafter referred to as the “WDO”)

- and -

Company XXXXXXXX

a corporation incorporated under the laws of the Province of Ontario, having its place of business located at:

Address XXXXXX

(hereinafter referred to as the “Contractor”)

- and -

Stewardship Ontario,

a corporation without share capital incorporated under the laws of the Province of Ontario, having its place of business located at:

26 Wellington Street, East, Suite 601, Toronto, Ontario, M5E 1S2

(hereinafter referred to as “Stewardship Ontario”)

(Collectively referred to as “the Parties”)

WHEREAS a waste diversion program plan for blue box wastes has been established through WDO (the "**Blue Box Program Plan**") in accordance with all the legislative requirements of the *Waste Diversion Act 2002* (Ontario) (the "**WDA**");

AND WHEREAS a fund known as the "Continuous Improvement Fund" (occasionally herein referred to as the “CIF”) has been established through an agreement dated as of September 6, 2007 among the Association of Municipalities of Ontario, The City of Toronto, Stewardship Ontario and WDO under the Blue Box Program Plan;

AND WHEREAS WDO is desirous of entering into an Agreement with the Contractor to undertake a project in connection with certain aspects of the waste diversion program for blue box wastes;

AND WHEREAS Stewardship Ontario has been designated under the WDA as the industry funding organization for blue box waste and is responsible for the execution of the Blue Box Program Plan;

AND WHEREAS Contractor funding for the Project is to be received from the Continuous Improvement Fund on the terms and subject to the conditions herein set out;

AND WHEREAS Stewardship Ontario, as custodian of the Continuous Improvement Fund, is to provide funding from the Continuous Improvement Fund for the Project; and

AND WHEREAS the day to day management of the project and Continuous Improvement Fund is being carried out under the supervision of the Director of the Continuous Improvement Fund (the "**Director CIF**").

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the respective covenants and agreements of the Parties contained herein, it is agreed as follows:

ARTICLE I – ENGAGEMENT

1.1 Retainer. WDO hereby retains the Contractor to undertake Project **XXX** (the "**Project**") as outlined in the following documents (hereinafter referred to as the "**Terms of Reference**":

- (a) *Scope of Work titled XXX (attached as Appendix A),*
- (b) *Budget (attached as Appendix B).*
- (c) *Payment Schedule (attached as Appendix C).*

The Contractor will provide resources to oversee the Project and to ensure that the final Project report document is practical and usable. The Contractor shall scrutinize and review the progress of the Project and the completion of Project deliverables on an on-going basis and will provide written status reports to CIF as required from time to time, such reports to be in form and substance satisfactory to CIF, acting reasonably.

1.2 Term of Agreement. This Agreement shall remain in full force and effect from the date hereof *until all deliverables are completed and the final report is accepted and approved by the Director CIF*, subject to earlier termination as hereinafter provided (see Section 4.1), with the said term being capable of extension by mutual written agreement of the Parties hereto.

1.3 Provision of Services. The Project shall be carried out by the Contractor in consultation with the Director CIF. The Contractor shall devote a sufficient amount of staff time and other resources to carry out the Project in accordance with the timelines, budget and other parameters set out in the appendices hereto.

1.4 Sub-Contractors. The Contractor may, from time to time, sub-contract the performance of the services required to carry out the Project to other persons, firms and associations as detailed in Appendix A. It is agreed and acknowledged that any sub-contracting provided to the Contractor will be at the cost of the Contractor, except as detailed in Appendix A, and the Contractor will be fully responsible for the performance of the obligations hereunder and its obligations in relation to the Project whether or not such obligations have been sub-contracted to a third party.

1.5 Board Policy. The Contractor shall act in accordance with any policy established by the CIF, WDO and/or Stewardship Ontario.

1.6 Remuneration. In consideration of the services to be rendered by the Contractor in relation to the Project hereunder, Stewardship Ontario shall pay to the Contractor up to the sum of **\$YYY plus GST**. Payments to the Contractor shall be made according to the payment schedule detailed in Appendix C, linked to the Project deliverables within 30 days of receiving fully documented labour and expense invoices. Stewardship Ontario may withhold 25% of the total contract amount pending the submission of a final Project report that is acceptable to the CIF.

Invoices are to include a reference to Project title (“XXX”) and the percentage of task completed (e.g. Component 1 is 25% complete) and are to be directed to:

***Continuous Improvement Fund
92 Caplan Avenue, Suite 511
Barrie, ON L4N 0Z7
Attention: Accounts Payable***

1.7 Expenses. Expenses include travel costs actually and properly incurred by the Contractor in connection with undertaking the Project hereunder and as outlined in the Terms of Reference. The Contractor shall include original statements and vouchers with invoices to support expense claims. Notwithstanding the foregoing, the Contractor will not be entitled to obtain reimbursement for travel costs in excess of [\$1,000] unless prior approval of the Director CIF has been obtained for such travel.

ARTICLE II- COVENANTS

2.1 No Delegation of Services. The Contractor shall not delegate or sub-contract the performance of the Project to anyone without the prior written consent of the CIF, except as set out in Appendix A.

ARTICLE III- CONFIDENTIALITY

3.1 Confidential Information. The Contractor shall, and shall require each sub-contractor, to covenant and agree in writing, not to disclose to anyone any confidential information with respect to any material provided by and about the business or affairs of the CIF, WDO or Stewardship Ontario except as may be necessary or desirable to further the interest of the Project, but only as approved, in writing, by WDO and Stewardship Ontario. The Contractor and its sub-contractors will sign confidentiality agreements with WDO and Stewardship Ontario as required relating to data supplied by the CIF, WDO and/or Stewardship Ontario. This obligation shall survive the expiry or termination of this Agreement.

3.2 Return of Property. Upon expiry or termination of this Agreement, the Contractor and its sub-contractors shall return to WDO any property, documentation, or confidential information which is the property of WDO.

ARTICLE IV– TERMINATION

4.1 Termination of Agreement. Either WDO or the Contractor may terminate this Agreement by giving the other thirty (30) days notice. If this Agreement is so terminated, the liability of Stewardship Ontario for any unpaid portion of the Project Cost shall be limited to an amount that, in the opinion of Stewardship Ontario and WDO, is a reasonable payment for the Contractor's partial performance of the Project to the date of termination. The Contractor shall provide a written report to the CIF summarizing all of the work undertaken in relation to the Project and the results achieved up to the date of termination, such report to be in form and substance satisfactory to CIF acting reasonably. If the Project is terminated and Stewardship Ontario has made a partial payment towards the Project Cost, WDO and Stewardship Ontario reserves the right to make public the deliverable(s) for which the Contractor has been paid.

4.2 Survival. With the exception of the provisions of this Agreement concerning payment in Article One, confidentiality in Article Three, communications in Section 6.17 and any other provisions specifically stated to survive the termination of this Agreement, the obligations of the Parties under this Agreement shall terminate upon the termination of this Agreement.

ARTICLE V– RELATIONSHIP OF PARTIES

5.1 Relationship of Parties. It is acknowledged by the Parties hereto that the Contractor is being funded by Stewardship Ontario in the capacity of Project funder. The Contractor, WDO and Stewardship Ontario acknowledge that this Agreement does not create a partnership, agency or joint venture relationship between them and none of the Parties shall have any right to bind any of the other Parties hereto to any contractual obligations.

5.2 Indemnity. The Contractor agrees to indemnify and hold harmless the CIF, WDO and Stewardship Ontario in respect of any losses, costs, claims, damages or expenses incurred by either of them as a result of any act or omission of the Contractor in carrying out its obligations under this Agreement or its obligations in relation to the Project.

ARTICLE VI- GENERAL CONTRACT PROVISIONS

6.1 Data and Publications

(a) WDO and Stewardship Ontario shall be the owners of the copyright pertaining to the reports or other documents or data prepared under the terms of this Agreement or of the Project and the owners of all other intellectual property rights arising as a result of the Project. WDO and Stewardship Ontario retain the full capacity, free of all royalties or other charges, to publish or use, at any time, or times, any reports, data, or related documents or information, in whole or in part, produced under this Agreement in relation to the Project.

(b) The Contractor shall include the following copyright notice in at least one prominent place in the reports and other documents related to the Project, in the following manner:

*© 200X Waste Diversion Ontario and Stewardship Ontario
All rights reserved. No part of this publication may be reproduced,
recorded or transmitted in any form or by any means, electronic,
mechanical, photographic, sound, magnetic or other, without advance
written permission from the owner.*

(c) The Contractor shall recognize and state in an appropriate manner, as approved by WDO and Stewardship Ontario, the support offered by WDO and Stewardship Ontario concerning the Project. Unless the Contractor has received written notice to the contrary from WDO, the following shall be incorporated into the reports and other documents produced by the Contractor or sub-contractor in connection with the Project:

*This Project has been delivered with the assistance of Waste Diversion Ontario's Continuous Improvement Fund, a fund financed by Ontario municipalities and stewards of blue box waste in Ontario.
Notwithstanding this support, the views expressed are the views of the author(s), and Waste Diversion Ontario and Stewardship Ontario accept no responsibility for these views.*

(d) The provisions of Section 6.16 shall survive the termination of the Agreement.

6.2 Communications

(a) The Parties recognize the importance of making information about the Project available for public use. The Contractor shall cooperate in providing reasonable information on the Project to the public as directed by the Director CIF. WDO may separately contract for communications in addition to communications activities outlined in Appendix A. **The**

Contractor shall be responsible for replying to public and media inquiries regarding the Project for a period of 12 months after the final report has been approved by the Director CIF.

- (b) The Contractor shall assist WDO and Stewardship Ontario in developing a communications strategy for publicizing the findings of the Project ***for a period of 12 months after the final report has been accepted and approved by the Director CIF.*** WDO and/or Stewardship Ontario may separately contract for communications in addition to communications activities outlined in Appendix A.

6.3 Dispute Resolution

- (a) If any dispute arises between or among any of the parties hereto as to their respective rights and obligations under this Agreement, the parties shall use the following dispute resolution procedures to resolve such dispute:
- (b) The parties shall attempt to resolve disputes in the spirit of mutual cooperation through discussion and negotiations between the designated representatives of the parties within thirty (30) days of the date upon which notice of the dispute was first given by one party to the other(s) or as otherwise agreed upon;
- (c) If the parties are unable to resolve the dispute in the manner aforesaid, each of the parties to the dispute shall have the right, on notice in writing to the other parties to the dispute, to require that such dispute be submitted to the senior executive officers of the parties to the dispute for discussion and resolution within thirty (30) days of the date of the notice requiring such dispute to be submitted to them or as otherwise agreed upon;
- (d) In the event that the senior executive officers of the parties are unable to resolve such dispute, each of the parties to the dispute shall have the right, on notice in writing to the other parties to the dispute, to require that such dispute be submitted to the chairs of the Board of Stewardship Ontario and WDO and an individual designated by the Contractor for discussion and resolution within thirty (30) days of the date of the notice requiring such dispute to be submitted to them or as otherwise agreed upon;
- (e) If the representatives of the parties are unable to resolve the dispute, the Parties shall have the right to refer the matter to binding arbitration in accordance with the provisions of the *Arbitration Act*, 1991, S.O. 1991, c.17, as amended. Each of the parties to the dispute shall bear the cost of its own counsel and witnesses but the costs of the arbitration including the fees of the arbitrator(s), the cost of the court reporters and transcripts and the cost of the arbitration facility shall be borne equally by the Parties to the dispute. The arbitration shall take place in Toronto, Ontario, Canada,

before a single arbitrator to be chosen jointly by the parties to the dispute. If the parties cannot agree on the choice of an arbitrator within thirty (30) days of the notice requiring such dispute to be submitted to arbitration, then any of the parties shall be entitled to apply to the Court for the appointment of an arbitrator; and

- (f) The Parties may determine the procedure to be followed by the arbitrator in conducting the proceedings, or may request the arbitrator to do so. The arbitrator shall issue a written award within thirty (30) days of completion of the hearing.

6.4 Notices. All notices, requests, demands or other communications (collectively “Notices”) by the terms hereof required or permitted to be given by one party to any other party, or to any other person shall be given in writing by personal delivery or registered mail (postage prepaid), by facsimile transmission, or by email to such other party as follows:

to WDO at:

Waste Diversion Ontario
45 Sheppard Ave. East, Suite 920
Toronto, Ontario,
M2N 5W9
Attention: Glenda Gies
Email: glendagies@wdo.ca
Tel: (416) 226-5113 Fax: (416) 226-1368

with a copy to:

Continuous Improvement Fund
92 Caplan Avenue, Suite 511
Barrie, Ontario
L4N 0Z7
Attention: Mr. Andy Campbell, Director CIF
Phone: 705.719.7913 Fax: 866.472.0107
Email: andycampbell@wdo.ca

to the Contractor at:

XXXXXXXXXXXX

City, Ontario, YYYYYYYY

Attention: XXXXXXXX

Email: XXXXXXXX

Phone: XXXXXXXX Fax: XXXXXXXX

to Stewardship Ontario at:

Stewardship Ontario
26 Wellington Street East, Suite 601
Toronto, Ontario
M5E 5W9

Attention: John Dixie, Technical Services
Email: jdixie@stewardshipontario.ca
Tel: 647-777-3366 Fax: 416-594-3463

or at such other address as may be given by any such person to the other Parties hereto in writing from time to time.

All such Notices shall be deemed to have been received on the day when delivered, transmitted or e-mailed, or, if mailed, 72 hours after 12:01 a.m. on the day following the day of the mailing thereof. If any Notice shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities, such Notice shall be deemed to have been received 72 hours after 12:01 a.m. on the day following the resumption of normal mail service, provided that during the period that regular mail service shall be interrupted all Notices shall be given by personal delivery, facsimile transmission or e-mail.

6.5 Additional Conditions. The Parties shall execute such further and other documents, cause such meetings to be held, resolutions passed and by-laws enacted, do and perform and cause to be done and performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part thereof.

6.6 Counterparts. This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original and such counterparts together shall be but one and the same instrument.

6.7 Time of the Essence. Time shall be of the essence of this Agreement and of every part hereof and no extension or variation of this Agreement shall operate as a waiver of this provision.

6.8 Entire Agreement. This Agreement constitutes the entire Agreement of the Parties with respect to all of the matters herein and its execution has not been induced by, nor do any of the Parties rely upon or regard as material, any representations or writings whatever not incorporated herein and made a part hereof and may not be amended or modified in any respect except by written instrument signed by the Parties hereto. Any schedules referred to herein are incorporated herein by reference and form part of the Agreement.

6.9 Enurement. This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

6.10 Assignment. None of the Parties shall assign any of its rights or obligations hereunder without the prior written consent of the other Parties.

6.11 Currency. Unless otherwise provided for herein, all monetary amounts referred to herein shall refer to the lawful money of Canada.

6.12 Headings for Convenience Only. The division of this Agreement into articles and sections is for convenience of reference only and shall not affect the interpretation or construction of this Agreement.

6.13 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and each of the Parties hereto agrees irrevocably to attorn to the non-exclusive jurisdiction of the Courts of such Province.

6.14 Gender. In this Agreement, words importing the singular number shall include the plural and vice versa, and words importing the use of any gender shall include the masculine, feminine and neuter genders and the word "person shall include an individual, a trust, a partnership, a body corporate, an association or other incorporated or unincorporated organization or entity.

6.15 Calculation of Time. When calculating the period of time within which or following which any act is to be done or step taken pursuant to this Agreement, the date which is the reference date in calculating such period shall be excluded. If the last day of such period is not a business day, i.e., a day on which banks are open for business in the Province of Ontario, then the time period in question shall end on the first business day following such non-business day.

6.16 Legislation References. Any references in this Agreement to any law, by-law, rule, regulation, order or act of any government, governmental body or other regulatory body shall be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto.

6.17 Severability. If any Article, Section or any portion of any Section of this Agreement is determined to be unenforceable or invalid for any reason whatsoever that unenforceability or invalidity shall not affect the enforceability or validity of the remaining portions of this Agreement and such unenforceable or invalid Article, Section or portion thereof shall be severed from the remainder of this Agreement.

6.18 Transmission by Facsimile or E-mail. The Parties hereto agree that this Agreement may be transmitted by facsimile, e-mail or such similar device and that the reproduction of signatures by facsimile, e-mail or such similar device will be treated as binding as if originals and each party hereto undertakes to provide each and every other party hereto with a copy of the Agreement bearing original signatures forthwith upon demand.

IN WITNESS WHEREOF the Parties have executed this Agreement effective the date first stated above.

By: _____
I have authority to bind the corporation.
Waste Diversion Ontario

By: _____
I have authority to bind the corporation.
Corporation of XXXXXXXXXXXX

By: _____
I have authority to bind the corporation.
Stewardship Ontario

Appendices

- Appendix A – Scope of Work
- Appendix B – Budget
- Appendix C – Payment Schedule

Sample