



# City of San Diego Request for Qualifications and Non-Binding Statement of Interest for Leasehold Acquisition, Operation, and Potential Development of Miramar Landfill



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July 8, 2010

## PROPOSAL INFORMATION

The City of San Diego, California is requesting Statements of Qualifications and Non-binding Statements of Interest ("SOQ/SOI") for the leasehold acquisition, operation, and potential development of the Miramar Landfill and potential development of the City's closed and/or inactive landfill sites. Copies of this Request for Qualifications/Non-binding Statements of Interest ("RFQ/SOI") may be obtained in person or by written request from:

Greenberg Traurig LLP  
3161 Michelson Drive, Suite 1000  
Irvine, CA 92612  
**Attn: John J. Giovannone**  
Ph# (949) 732-6500  
Fax: (949) 732-6501  
Email: GiovannoneJ@gtlaw.com

All questions regarding the RFQ/SOI must be submitted by facsimile or e-mail to:

**Mr. Hildred Pepper, Jr.**  
Director of Purchasing and Contracting  
1200 Third Avenue, Suite 200  
San Diego, CA 92101  
Fax: (619) 533-3218  
Email: HPepper@sandiego.gov

with a copy to: John J. Giovannone, Greenberg Traurig LLP, at the facsimile number or e-mail address first set forth above. All such questions and requests shall include a return e-mail address so that their receipt can be acknowledged.

**Prospective proposers shall not contact other members of the City of San Diego management or staff in connection with this RFQ/SOI or any SOQ/SOI prepared in response thereto or submit questions orally. Unauthorized contact may result in disqualification.**

### Pre-Proposal Meeting

All prospective proposers should attend a mandatory pre-proposal meeting on July 16, 2010 at 10:00 a.m. at: City Concourse, Copper Room 227-8, 202 C Street, San Diego, CA 92101. Proposers should R.S.V.P. by fax or e-mail to John J. Giovannone, by July 15, 2010, if attending the pre-proposal meeting. Attendees at the meeting will be provided the login information necessary to access the electronic data room website at which they can access the attachments listed at the end of this RFQ/SOI. The City may, but is not obligated to, reject SOQ/SOIs received from proposers that do not attend the mandatory pre-proposal meeting.

## **SOQ/SOI Submittal**

All SOQ/SOIs must be received by 5:00 p.m. on August 13, 2010. SOQ/SOIs received after this time and date may be rejected. Postmarks will not be accepted as proof of receipt. Proposers should mail, courier or hand deliver SOQ/SOI packages to:

Greenberg Traurig LLP  
3161 Michelson Drive, Suite 1000  
Irvine, CA 92612

**Attn: John J. Giovannone**

**SOQ/SOI's should be no more than 30 pages in length, excluding financial statements (which must be submitted by July 30, 2010).**

## **Register to Receive Future Correspondence and Announcements**

If you are interested in receiving future correspondence or announcements related to this City of San Diego RFQ/SOI process, please contact John J. Giovannone at Greenberg Traurig LLP (at the fax number and e-mail address above) and request that your name be placed on the list of interested parties. If you do not register as an interested party by July 15, 2010, any future correspondence or announcements related to this RFQ/SOI will not be transmitted to you.

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### ATTACHMENTS

- A. Secretary’s Certificate
- B. Anti-Collusion Affidavit and Affidavit Conflict of Interest

The following documents are available online at <https://eroom.gtlaw.com/eroom>. Attendees at the mandatory pre-proposal meeting will be provided the login information necessary to access this electronic data room website.

- 1) Miramar Landfill Ground Lease and Amendments
- 2) Site map of Miramar Landfill
- 3) Site maps for closed landfills
- 4) Refuse and C&D tonnage forecast – FY 2009 through FY 2015
- 5) Refuse, Construction and Demolition (“C&D”), and greenery tonnage – FY 2007 and FY 2008 (includes vehicle counts)
- 6) Greenery tonnage – FY 2009
- 7) Five year historical and projected capital cost of Miramar and closed landfills
- 8) Operating costs of Miramar Landfill and closed landfills – FY 2010 budget (adjusted)
- 9) Operating costs of closed landfills and burn sites – FY 2010 budget
- 10) Listing of personnel (all landfill and greenery operations)
- 11) Listing of fixed assets (all landfill and greenery operations)
- 12) Historical Gate Rates
- 13) Trip count (traffic) by vehicle type for Miramar Landfill
- 14) Miramar Solid Waste Facility Permit
- 15) LEA reports on Miramar Landfill for past 12 months
- 16) Existing Compliance Orders, Current Notices of Violation, and Violations of Compliance Orders
- 17) Closure plans by facility

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- 18)** As built drawings by facility
- 19)** Fill sequencing plans
- 20)** Inactive Site Maintenance Plans
- 21)** Miramar Liner – Construction Drawings and Specifications
- 22)** Miramar conceptual expansion plans
- 23)** Load check program for Miramar Landfill
- 24)** Leachate Management Plan for Miramar and closed landfills
- 25)** Employee labor agreements
- 26)** Miramar Landfill General Development Plan
- 27)** Programmatic EIR/Master EIS for Miramar Landfill GDP/FIRP/NSPF
- 28)** Recycling Center Operating Agreement with Allan Company
- 29)** Household Hazardous Waste Contract with Clean Harbors Environmental Services, Inc.
- 30)** Fortistar Contracts related to Methane Gas Collection, Extraction, Conversion to Energy, and Sales
- 31)** Curbside Recycling Contract with IMS Recycling Services and Allan Company
- 32)** Sycamore Landfill Facility Franchise Agreement
- 33)** Copies of Permits such as WDR, APCD Permit, etc.
- 34)** Proposition H adopted by voters in 1986 which added Solid Waste Incineration Standards to City of San Diego Progress Guide and General Plan.

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## SECTION 1: INTRODUCTION

The City of San Diego, California (the "City") operates the Miramar Landfill (the "Landfill") under a 50-year Ground Lease (the "Lease") with the United States of America acting by and through the Department of the Navy (the "Department of the Navy"). The term of the Lease extends to August 16, 2045. The Landfill leasehold property currently includes approximately 1,400 acres of land together with improvements thereon (the "Leasehold"). The City is considering divesting itself entirely of its Miramar Landfill rights, operations, obligations, and liabilities and transferring those rights, operations, obligations, and liabilities to a private entity to continue to operate the Miramar Landfill under the Lease and to potentially undertake further development on the Landfill Leasehold to increase solid waste disposal capacity, to provide solid waste transfer and processing operations at the Landfill, and to provide energy generation projects at the Landfill. To that end, the City is interested in assigning the Lease or in subleasing all or substantially all of the Leasehold property to a private entity for a term that is proposed to commence January 1, 2011, and continue through August 16, 2045, when the Lease expires. All greenery equipment at the Landfill would be transferred to the successful proposer as well.

The City also owns and operates the Biosolids Center on a portion of the Leasehold. The City's rights, title, interests, obligations and liabilities related to the Biosolids Center and its operations are expressly excluded from this RFQ/SOI. The City intends to continue to operate the Biosolids Center which is currently located outside the gates to the Landfill on the Leasehold site, and intends to reserve all rights of ingress and egress to the Biosolids Center as well as the continued use of that site.

Among other things, the above-described transaction (the "Transaction") will require the grant of one or more facility franchises in accordance with San Diego Charter sections 103 and 105 and San Diego Municipal Code sections 66.0132 and 66.0133.

The Miramar Landfill is a Class III Landfill. The City currently anticipates receiving approximately 988,000 tons of municipal solid waste for disposal at the Landfill in the current fiscal year and approximately 348,000 tons of greenery for processing during the same period. The current permitted capacity at current disposal rates results in a projected closure date of 2022. The Miramar Landfill property, which is located in the City, has potential for expansion into the West portion of the Landfill (tonnage to be determined) and vertically (approximately four to five million tons for a 20-foot vertical increase). The central location of the Miramar Landfill also makes it desirable as a materials transfer and/or processing facility.

As part of the Transaction, the City also is considering divesting itself of its closed and/or inactive landfill sites located other than at the Miramar site, along with associated liabilities and obligations for those sites, for potential development of waste-to-energy, wind or solar projects on those sites.

### 1.1 Purpose of RFQ/SOI

The City, through issuance of this Request for Qualifications/Non-binding Statement of Interest ("RFQ/SOI"), is seeking Statements of Qualifications and Non-binding Statements of Interest which include summaries of specific but non-binding economic proposals ("SOQ/SOIs"), from private entities for:

- The leasehold acquisition or sublease, expansion, operation, regulatory compliance, and closure/post-closure maintenance and monitoring of the Miramar Landfill, including all closed and inactive portions;

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- Greenery processing at the Miramar Landfill and marketing and sales of greenery products;
- Recyclables buy-back center operations at the Miramar Landfill, subject to the existing contract between the City and Allan Company;
- The development of a materials transfer and processing facility at the Miramar Landfill site;
- The development of the Miramar Landfill site for other solid waste management processes including, but not limited to: construction and demolition debris ("C&D") processing, other recyclables processing, waste-to-energy conversion technology operations, and other sustainable purposes such as the generation of wind or solar energy;
- Household Hazardous Waste Transfer Station operations, subject to the existing contract between the City and Clean Harbors Environmental Services, Inc.;
- Management, installation, testing, monitoring, and corrective actions related to the Landfill gas collection system as needed to comply with regulatory requirements and contractual requirements;
- Management, installation, testing, monitoring, and corrective actions related to the Landfill leachate collection system as needed to comply with regulatory requirements;
- Collection, accounting, and remittance to the City of fees and taxes imposed on waste or other materials delivered to the Miramar Landfill and revenues from transfer or processing activities conducted on the Miramar Landfill Leasehold property;
- Acceptance of City-collected solid waste (whether collected by City forces or by City contractors) and solid waste generated by City government activities;
- Acceptance of waste generated by the Department of Navy installations and facilities located within or near the boundaries of the City of San Diego in accordance with the Lease;
- Reclamation of closed/inactive landfills on the Miramar Landfill Leasehold property; and
- Acceptance of assignment of rights and delegation of duties under the commercial landfill gas lease agreement for the operation of cogeneration facilities serving the City and other customers.

SOQ/SOIs may also address acquisition, leasing or subleasing and post closure maintenance and development of waste-to-energy, wind or solar projects on the City's eight closed burn dumps and six closed landfills which are located at other sites throughout the City. The City may, but need not, consider proposals regarding such closed burn dumps and landfills in evaluating SOQ/SOIs for the Miramar Landfill.



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## 1.2 City Goals

The goals of the City in this divestment process are to:

- Eliminate a non-core function;
- Transfer closure and post-closure liabilities and obligations related to the Miramar Landfill to a private entity;
- Satisfy all legal, regulatory and contractual requirements;
- Secure, protect and indemnify the City from post-Transaction liability for compliance with Lease terms and regulatory requirements for activities on Landfill Leasehold property;
- Achieve the best value to the City from the Transaction;
- Balance initial payments, ongoing periodic payments, exemptions or discounts from disposal, transfer and/or processing fees for City-collected waste and City government generated waste, and the release of "surplus" closure and corrective action funds from the City's reserves;
- Secure a commitment to accept (for disposal purposes) all City-collected and City-government generated solid waste;
- Secure an agreement to accept all waste generated by the Department of Navy installations and facilities located within or near the boundaries of the City of San Diego in accordance with the Lease;
- Secure long-term disposal/transfer/processing capacity for City-collected and City-government generated materials at an advantageous price;
- Ensure on-going compliance with all Lease terms and regulatory requirements for all activities on Landfill Leasehold property;
- Provide as many as possible of the incumbent City employees involved in landfill operations with a reasonable opportunity to obtain employment with the successor to the Landfill operations;
- Provide for a seamless transition with the least disruption possible to the Miramar Landfill operations, its customers, employees, and suppliers, and the City's remaining solid waste system; and
- Obtain a satisfactory binding best and final offer by October 1, 2010.

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### 1.3 Opportunity

This RFQ/SOI provides an opportunity for a private entity to secure both a Disposal Facility Franchise Agreement ("DFFA") for landfill disposal operations and one or more Non-Disposal Facility Franchise Agreements ("NDFFA") for diversion operations, each of which could be conditioned upon, among other things, the following:

- Assignment of Lease or long-term sublease (for a minimum term of the current permitted life of landfill) of the Miramar Landfill, subject to approval of the Department of the Navy.
- Transfer of all applicable Miramar Landfill permits, subject to approval of the permitting agencies.

A Development Agreement is also contemplated for Landfill expansion and facility development (e.g., transfer station, material recovery facility and conversion technology facility).

### 1.4 Summary of Conditions and Limitations

It is anticipated that the City will enter into several agreements with the successful proposer. These may include, but are not limited to:

- The assignment of the Lease with the Department of the Navy for the Miramar Landfill or execution of a sublease;
- A Disposal Facility Franchise Agreement;
- A Non-Disposal Facility Franchise Agreement;
- A development agreement; and
- A payment and performance guarantee.

It is anticipated that these agreements will contain certain conditions and limitations. The City's preliminary approaches to the most significant of these are described below.

#### A. Lease/Sublease of Miramar Landfill

The successful proposer, at its sole cost and expense, will be required to assist the City in obtaining all consents, approvals, and authorizations from the Department of the Navy for the assignment of the Lease for the Miramar Landfill or for a sublease of the Lease, in accordance with the provisions of the Lease, including, but not limited to, Section 12 of the Lease (a copy of which is available online at <https://eroom.gtlaw.com/eroomincluded>), expansion of the Landfill, and for the Department of the Navy's approval for all development at the Landfill. The Lease expires on August 16, 2045, and among other things requires that the lessee make ongoing royalty payments to the Department of the Navy for the sale of energy generated from methane gas extracted from the landfills on the leased property, and permits "all Department of the Navy installations and facilities located within or near the boundaries of the City of San Diego to dispose of wastes" at no cost to the Government. The Department of the Navy disposed of 51,122 tons of waste at the Miramar Landfill in the fiscal year ended June 30, 2009 and an

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estimated 53,198 tons in the fiscal year ended on June 30, 2010. Proposers should refer to the Lease itself for specific Lease terms.

To the extent permitted by applicable law, the City shall use commercially reasonable efforts to obtain such consents, approvals, and authorizations and shall cooperate with the successful proposer in executing such assignments/sublease and other documents as reasonably may be required; provided that any out-of-pocket expenses incurred by the City in doing so shall be borne by the successful proposer; and provided further that the City shall under no circumstances be obligated as a permitting authority to issue any required consent, approval or authorization, and the City shall not waive any provision of law respecting such consent, approval or authorization.

### **B. Transfer of Permits**

The successful proposer, at its sole cost and expense, will be responsible for obtaining all authorizations, consents, licenses, permits, variances, certificates, and approvals of local, state, and federal government authorities (collectively, "Approvals") required by applicable law in connection with the transfer of the assets and liabilities included in the Transaction and the successful proposer's operation of the landfills.

To the extent permitted by applicable law, the City shall use commercially reasonable efforts to assist the successful proposer's efforts to obtain the requisite Approvals from government authorities and other documents as reasonably may be required; provided that any out-of-pocket expenses incurred by the City in doing so shall be borne by the successful proposer; and provided further that the City shall not under any circumstances be obligated as a permitting authority to issue any required Approval, and the City shall not waive any provision of law respecting any such Approval.

### **C. Scope of Transaction/Services**

- The Leasehold acquisition or sublease, expansion, operation, regulatory compliance, and closure post-closure maintenance and monitoring of the Miramar Landfill;
- Greenery processing at the Miramar Landfill and marketing and sales of greenery products;
- Operation of the recyclables buy-back center at the Miramar Landfill, subject to the existing contract between the City and Allan Company;
- The development of the Miramar Landfill site as a materials transfer and processing facility;
- The development of the Miramar Landfill site for other solid waste management processes, including, but not limited to: C&D processing, other recyclables processing, waste-to-energy conversion technology operations, and other sustainable purposes such as the generation of wind or solar energy;
- Household Hazardous Waste Transfer Station operations, subject to existing contract between the City and Clean Harbors Environmental Services, Inc.;

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- Management, installation, testing, monitoring and corrective actions related to the Landfill gas collection system as needed to comply with regulatory requirements and contractual requirements;
- Management, installation, testing, monitoring and corrective actions related to the Landfill leachate collection system as needed to comply with regulatory requirements;
- Collection, accounting, and remittance to City of fees and taxes imposed on waste or other materials delivered to the Miramar Landfill and revenues from transfer or processing activities conducted on the Miramar Landfill Leasehold property;
- Guaranteed acceptance of City-collected solid waste (whether collected by City forces or by City contractors) and solid waste generated by City government activities;
- Guaranteed acceptance of waste generated by the Department of Navy installations and facilities located within or near the boundaries of the City of San Diego in accordance with the Lease;
- Acceptance of assignment of rights and delegation of duties under the commercial landfill gas lease agreement for the operation of cogeneration facilities serving the City and other customers;
- Reclamation of closed/inactive landfills on the Miramar Landfill Leasehold property; and
- **Optional:** acquisition, leasing or subleasing and post closure maintenance/-monitoring and development of waste-to-energy, wind or solar projects on the City's eight closed burn dumps and six closed landfills, which are located elsewhere throughout the City.

The City also owns and operates the Biosolids Center on a portion of the Leasehold. The City's rights, title, interests, obligations and liabilities related to the Biosolids Center and its operations are expressly excluded from this RFQ/SOI. The City intends to continue to operate the Biosolids Center which is currently located outside the gates to the Landfill on the Leasehold site, and intends to reserve all rights of ingress and egress to the Biosolids Center as well as the continued use of that site.

**Proposals should be submitted for the entire scope of the Transaction/Services described above aside from that portion marked "Optional," and partial proposals may be rejected without consideration. However, it is the intention of the City to allow flexibility in the proposals. Proposers may propose alternatives, including off-site facilities or other alternate means of addressing some of the operational requirements listed above.**

#### **D. Term of Agreements**

The City's intent is that the term of any sublease be coextensive with the existing Lease term and that the franchise agreements run for the same term, i.e., through 2045, unless and until the term of the Lease with the Department of the Navy is extended, or the successful proposer defaults under one or

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more of its agreements with the City. Closure and post-closure obligations under the Lease and/or sublease from the City will extend beyond termination of the Lease and any sublease from the City.

### **E. Payments to City**

Payments by the successful proposer to the City may consist of any or all of the following:

- A.** One-time payment: The successful proposer shall pay to the City a lump-sum price identified in its SOQ/SOI upon execution of the agreements and closing of the Transaction. (Proposers shall specify the proposed amount of this one-time payment in their SOQ/SOI.)
- B.** Periodic payments: The successful proposer shall pay the City periodic franchise fees for each grant of a franchise related to the Miramar Landfill site. (Proposers shall specify the amount to be paid annually to the City, the basis for proposer's determination of such payments, and the methods by which such payments will be adjusted over time in their SOQ/SOI.)

In lieu of, or in addition to, the above periodic payments, proposer may propose to: (1) provide disposal at Miramar Landfill and greenery processing for all City-collected solid waste (whether collected by City forces or by City contractors) and all solid waste generated by City government activities at reduced or no charge; and (2) once disposal capacity at Miramar Landfill is exhausted, to provide transfer and processing for all City-collected solid waste (whether collected by City forces or by City contractors) and all solid waste generated by City government activities, all at reduced or no charge to the City; provided that, should the People's Ordinance, codified at San Diego Municipal Code section 66.0127, no longer preclude the City from charging for refuse collection, transportation and disposal services (whether by final court order, repeal/amendment of the People's Ordinance by the City's electorate or otherwise), the value of the above disposal and transfer/processing services will be converted into a franchise fee which the successful proposer will pay to the City on a periodic basis (the "In Lieu Option").

- C.** Contingent payments to City: The successful proposer shall pay the City an initial one-time payment and/or periodic payments related to the expansion of the Landfill and development of the Landfill site. (Proposers shall identify in their SOQ/SOI any one time and periodic amounts to be paid to the City related to the expansion of the Landfill and development of the Landfill site. The amount of the initial one-time payment, the amount and timing of periodic payments, as well as the methods by which these payments will be adjusted over time shall be described in proposer's SOQ/SOI.)
- D.** Payments for Additional Development: The successful proposer shall pay the City an initial one-time payment and/or periodic payments related to development of waste-to-energy, wind or solar projects on the Miramar Landfill Leasehold and to acquisition, leasing or subleasing and post closure maintenance/monitoring and development of waste-to-energy, wind or solar projects on the City's eight closed burn dumps and six closed landfills located elsewhere throughout the City.

### **F. Payments to the Successful Proposer**

City payments to the successful proposer may be comprised of the following:

- A.** Disposal rates: The City shall pay the successful proposer an amount per-ton for the disposal at the Miramar Landfill of City-collected solid waste (whether collected by City forces or by City

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contractors) and for the disposal of solid waste generated by City government activities. (Each proposer shall specify in its SOQ/SOI the per-ton amount the City shall pay for the disposal of municipal solid waste collected by City forces, City contractors and generated by City government activities. The initial amount of such payment as well as the proposed methods by which this per-ton payment will be adjusted over time shall be identified in its SOQ/SOI). (Please include a price per ton even if the In Lieu Option of Section 1.4.E.B. above were to apply.)

- B.** Greenery processing rates: The City shall pay the successful proposer an amount per-ton for the processing of City-collected greenery (whether collected by City forces or City contractors) and for the processing of greenery generated by City government activities. (Each proposer shall specify in its SOQ/SOI the per-ton amount the City shall pay for the processing of greenery collected by City forces or City contractors or generated by City government activities. The initial amount of such payment as well as the proposed methods by which such payments will be adjusted over time shall be identified in its SOQ/SOI.) (Please include a price per ton even if the In Lieu Option of Section 1.4.E.B. above were to apply.)
- C.** Transfer and processing rates: The City shall pay the successful proposer an amount per-ton for the transfer and processing of City-collected solid waste (including but not limited to food waste or mixed organics and whether collected by City forces or City contractors or generated by City government activities). (Each proposer shall describe in its SOQ/SOI its approach to determining transfer and processing rates the City shall pay for transfer and/or processing (including, but not limited to, food waste or mixed organics processing), should such facilities be developed at the Miramar Landfill. The initial amount of such payment as well as the proposed methods by which such payments will be adjusted over time shall be identified in its SOQ/SOI). (Please include a price per ton even if the In Lieu Option of Section 1.4.E.B. above were to apply.)

**G. Employment of City Staff**

The City recognizes that there are incumbent City employees presently involved in the City's landfill operations who have valuable knowledge and experience with respect to the operations, management, engineering, work schedules, practices, patrons or clients, vendors or suppliers, health and safety matters, regulatory requirements, etc., that are particular to the Miramar Landfill. It is the desire of the City to provide as many as possible of the incumbent City employees involved in landfill operations with a reasonable opportunity to obtain employment with the successor to the landfill operations. It is the additional desire of the City to avoid or to minimize the disruption in service which may be caused by a change in the entity providing landfill operations. The City therefore requests that any company responding to this RFQ provide information on how it will give incumbent City employees preferential opportunities to obtain employment with the Landfill after the Transaction is completed, and how many incumbent City employees the proposer expects to hire.

**H. Development Agreement**

The City will appoint a coordinator to assist in the processing of any permit applications related to the expansion or development of the Miramar Landfill site and shall otherwise use its best efforts to expedite the processing, review and consideration of applications for such permits. The City cannot and does not waive any provisions of applicable law relating to the processing, review or consideration of such applications and shall not be pre-committed to any particular outcome with respect to any such applications.

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**I. Closure/Post-Closure Arrangements**

The City intends to assign all closure and post-closure obligations related to the Miramar Landfill to the successful proposer. The successful proposer shall be responsible for operating, maintaining, and monitoring the site during the entire closure and post-closure period; planning, permitting, design, and construction activities needed for all closure and post-closure activities; and funding all such activities and obligations. Each proposer shall describe in its SOQ/SOI its approach to the closure and post-closure obligations, including provision of financial assurance, as well as closure/ post-closure operations.

**J. Performance Standards**

In addition to its obligations under the agreement(s) with the City, the successful proposer shall at all times operate in compliance with Lease terms and conditions, all regulations governing its operations, and shall perform its activities in accordance with industry standards commonly used in California related to its operations.

**K. Third Party Contractors**

The successful proposer may enter into agreements with third party contractors to provide services requested in the RFQ/SOI subject to the prior written consent of the City and the Department of the Navy. Any such arrangements which are currently anticipated should be disclosed in the SOQ/SOI.

## SECTION 2: RFQ/SOI CONDITIONS AND SUBMITTAL PROCESS

### 2.1 Rights Reserved by the City

The City reserves the right, in its sole and absolute discretion, to pursue any or all of the following actions in regard to this RFQ/SOI process without incurring any liability for the expenses incurred by any company responding to this RFQ/SOI or participating in this RFQ/SOI process:

- Issue addenda and amend the RFQ/SOI
- Request additional information, clarifications, and/or best and final offers from proposers;
- Extend the deadline for submitting SOQ/SOIs;
- Allow for the timely correction of errors and waive minor deviations;
- Cancel or withdraw this RFQ/SOI;
- Reject any or all SOQ/SOIs because they do not fully comply with the requirements detailed in this RFQ/SOI, its attachments, addenda, amendments or clarifications, or otherwise;
- Reject incomplete SOQ/SOIs; SOQ/SOIs containing errors, inconsistencies, false, inaccurate or misleading information; SOQ/SOIs submitted after the deadline; and/or, SOQ/SOIs with other process or content errors or deficiencies;
- Reject a SOQ/SOI that is given the highest quantitative scoring in the evaluation process if it is deemed by the City not to be in the best interest of the City and its residents and businesses;
- Reject any or all proposals or portions of proposals;
- Select a proposer based on a combination of its qualitative and quantitative attributes;
- Select a proposer without further discussion or negotiation;
- Select one or more proposers and/or request additional information or conduct negotiations with one or more proposers prior to selection;
- Negotiate changes in the services proposed and/or described in the SOQ/SOI or to incorporate programs proposed by others; and negotiate changes to agreements necessary to effect the Transaction;
- Negotiate with the successful proposer for a later commencement date;



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- Issue subsequent RFQ/SOI(s) for the same, similar, or related services at a later date;
- Amend its General Plan Policies;
- Amend its Charter, Municipal Code, Planning and Zoning Code, and Design Standards and Guidelines; and
- Take any other actions the City deems is in the best interest of the City, its residents, and businesses.

Neither this RFQ/SOI nor any response thereto shall be construed by any party as an agreement of any kind between the City, proposer(s), and other parties.

This RFQ/SOI does not obligate the City to accept any proposal, negotiate with any proposer, award one or more agreement(s), proceed with the Transaction, or proceed with the development of any project or service described in response to this RFQ/SOI. The City has no obligation to, and shall not, compensate any proposer for its expenses incurred in preparing its SOQ/SOI, conducting any activity in connection with this RFQ/SOI process, or participating in the process described in this RFQ.

The City shall have the right (but not the obligation) to investigate and review any one, or each, proposer's ability to consummate the Transaction in all respects within the City's timeframe and to perform the Scope of Transaction/Services required. Each proposer must agree to cooperate with such investigation and review. Such cooperation by proposer shall apply, but not be limited, to the verification of the proposer's capability and experience in the provision of the Scope of the Transaction/Services, the proposer's financial wherewithal, and any other component of work that may be required under this RFQ.

The City, or its consultants, will be conducting reference checks on proposers that will involve contacting municipalities currently or previously served by the proposer, as well as contacting regulatory agencies involved in oversight of proposer's facilities and/or operations. In addition, the City or its consultants may research proposers' past performance by reviewing litigation history, regulatory actions, highway driving records, and recycling history and other information as they deem appropriate. A proposer's submission of a SOQ/SOI shall constitute permission for and an agreement to cooperate with the City's investigation and review.

## **2.2 SOQ/SOI Submittal Process**

Proposers shall follow the procedures described in this Section 2.2 and the procedures included in subsequent clarifications, amendments or addenda to this RFQ/SOI, which are issued by the City or its consultant and which will be made available online at <https://eroom.gtlaw.com/eroom>. Attendees at the mandatory pre-proposal meeting will be provided the login information necessary to access this electronic data room website. Any information submitted with a SOQ/SOI is a public record subject to disclosure unless a specific exemption applies. If a proposer submits information clearly marked confidential or proprietary, it will be protected and treated with confidentiality to the extent permitted by law. However, it will be the proposer's obligation and expense to defend any legal challenges seeking to obtain that information. At the latest, all statements of qualifications, statements of interest, best and final offers, and other submissions by the selected proposer will be made public by the date on which the best and final offer is docketed for consideration by the City Council.

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No submission of an SOQ/SOI or other document in connection with this RFQ process will be returned to any proposer. The City shall have no responsibility and shall not reimburse proposers for the costs associated with preparing, submitting or negotiating SOQ/SOI's or final contracts for the Transaction.

**Step One – Register for Correspondence, RFQ/SOI, and Announcements**

Each proposer must request in writing that it be placed on the list of interested parties in order to receive the future correspondence and announcements related to this RFQ/SOI. The deadline for submitting a written request to be included in this RFQ/SOI process is 5:00 p.m. PDT on July 15, 2010. Requests must be received by that time and date, not merely post-marked. Each proposer must also attend the pre-proposal meeting described in Step Three below. Proposers that fail to register by the specified deadline shall be excluded from this RFQ/SOI process. Proposers must post, fax, or email said request to:

Greenberg Traurig LLP  
3161 Michelson Drive, Suite 1000  
Irvine, CA 92612  
**ATTN: John J. Giovannone**  
Phone: 949-732-6500  
Fax: 949-732-6501  
Email: giovannonej@gtlaw.com

Requests should include a return e-mail address. All requests will be acknowledged by e-mail on the evening of July 15, 2010.

**Step Two – Submission of Written Questions**

The City directs proposers to submit all questions and requests for information or clarification in writing directly to:

**Mr. Hildred Pepper, Jr.**  
Director of Purchasing and Contracting  
1200 Third Avenue, Suite 200  
San Diego, CA 92101  
Fax: (619) 533-3218  
Email: HPepper@sandiego.gov

with a copy to:

Greenberg Traurig LLP  
3161 Michelson Drive, Suite 1000  
Irvine, CA 92612  
**Attn: John J. Giovannone**  
Ph# (949) 732-6500  
Fax: (949) 732-6501  
Email: giovannonej@gtlaw.com

All such questions and requests shall include a return e-mail address so that their receipt can be acknowledged.

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**Prospective proposers shall not contact other members of the City of San Diego management or staff in connection with this RFQ/SOI or any SOQ/SOI prepared in response thereto or submit questions orally. Unauthorized contact may result in disqualification.**

Written responses to questions will be provided by July 30, 2010 to all interested proposers of record (those companies that registered pursuant to Step One and attended the mandatory pre-proposal meeting) through the electronic data room at <https://eroom.gtlaw.com/eroom>. In the event of any conflicts or inconsistencies between oral responses provided at the mandatory pre-proposal meeting and written responses subsequently issued, the written responses will control and must be used for the purposes of preparing the SOQ/SOI.

**Step Three – Mandatory Pre-Proposal Meeting**

The mandatory pre-proposal meeting will be held at 10:00 a.m., on Friday, July 16, 2010 in the Conference Room 1, 2nd Floor, Civic Center Plaza, 1200 Third Avenue, San Diego, CA 92101. **Attendance at this meeting is mandatory.** Attendees at the mandatory pre-proposal meeting will be provided the login information necessary to access the electronic data room website at which they can access the attachments listed at the end of this RFQ/SOI. The City may, but is not obligated to, reject any SOQ/SOI received from proposers that do not attend the mandatory pre-proposal meeting. Proposers are encouraged to submit written questions in advance of the pre-proposal meeting (in accordance with Step Two above) or prepare and pose questions at the mandatory pre-proposal meeting. Preliminary oral responses to questions will be provided, at the discretion of City staff, at the mandatory pre-proposal meeting. Written responses to questions posed prior to or at the pre-proposal meeting will be provided by July 30, 2010, in accordance with Step 2 above.

**Step Four – SOQ/SOI Submittal**

Proposers shall submit ten (10) bound double-sided copies of the complete SOQ/SOI and a computer disk containing an electronic copy of the complete SOQ/SOI formatted for the PC version of Microsoft Office. These items shall be placed together and submitted in a sealed package. The SOQ/SOI must be printed on 8½ inch by 11 inch paper with 100% post-consumer recycled-content paper. All pages shall be consecutively numbered, although each section may start with a new page number if proceeded with the section number (e.g., Page 2-1 for the first page of Section 2). SOQ/SOI submissions shall be no longer than 30 pages, excluding financial statements.

The package shall be clearly labeled:

**“STATEMENT OF QUALIFICATIONS AND INTEREST FOR LEASEHOLD ACQUISITION, OPERATION, AND POTENTIAL DEVELOPMENT OF MIRAMAR LANDFILL”**

Name of Proposer: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail: \_\_\_\_\_

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The SOQ/SOI must be mailed or hand delivered to:

Greenberg Traurig LLP  
3161 Michelson Drive, Suite 1000  
Irvine, CA 92612  
**Attn: John J. Giovannone**  
Ph# (949) 732-6500  
Fax: (949) 732-6501  
Email: giovannonej@gtlaw.com

**All SOQ/SOIs must be received by 5:00 p.m. on Friday, August 13, 2010. SOQ/SOIs received after this time and date may be rejected. Postmarks will not be accepted as proof of receipt. Actual delivery is required.**

Each SOQ/SOI must be accompanied by surety made payable to the City of San Diego in the amount of \$100,000 and in the form of a certified check, cashier's check, or bid bond. The proposer must submit the surety with the SOQ/SOI in a separate, clearly labeled envelope. The purpose of the surety is to guarantee that the successful proposer will execute all necessary agreements with the City. If the selected proposer does not execute an agreement(s) within 30 calendar days after receiving notice of its selection, the City shall keep the surety to offset the potential cost associated with the selection of an alternate proposer and schedule delays and has the right to pursue additional and reasonable costs incurred by the City in this event. Surety payments will be returned to all proposers no later than 30 calendar days after the City has executed all necessary agreements with the successful proposer.

#### **Step Five – Clarification of SOQ/SOI Information**

Proposers may be asked to clarify information contained in their SOQ/SOIs through written communications, interviews or oral presentations or during site visits of the proposers' offices, landfills, materials transfer and processing facilities, greenery processing facilities, and other facilities as appropriate. This clarification process may involve, but is not limited to, requesting that the proposer demonstrate how operational, financial, and management information systems can provide reports required by any of the necessary agreements. The clarification process may be performed by City staff and/or City consultants.

#### **Step Six – City Ranking of Qualified Proposers**

The City will convene a selection panel that will review the SOQ/SOIs and any clarifying information submitted by proposers and will rank the SOQ/SOIs using the evaluation criteria generally described in the following paragraph. Based upon this review, the City anticipates identifying a short list of qualified proposers who will be invited to respond to a request for a best and final offer based on terms specified by the City.

The City intends to evaluate SOQ/SOIs based on the following factors: the proposer's qualifications and experience in acquiring, operating, developing, maintaining, closing and post-closure maintenance and monitoring of landfills and in performing the other functions and services described in this RFQ/SOI; the experience and qualifications of proposer's key personnel; the proposer's financial wherewithal and financing plan; the proposer's economic proposal; the proposer's historical regulatory compliance record and litigation record; the proposer's past performance record with respect to operations, development, and services similar to those contemplated in the Transaction; the proposer's ability to consummate the

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Transaction in a timely manner; the proposer's plan for offering employment opportunities to City employees currently involved in Landfill operations; the likelihood that the proposer will be acceptable to the Department of the Navy as a successor to the City; the proposer's references, in particular those from jurisdictions within which the proposer has or is conducting operations similar to those contemplated in the Transaction; and the overall ability of the proposer's proposal to meet the City's goals, purposes and objectives. In this regard, the City will be considering each proposer's corporate and key team members' experience, financial ability, and the reasonableness of their financing plan. The City will evaluate each proposer's approach to the operation, maintenance, and monitoring of the Miramar Landfill; proposed expansion of the Landfill; closure/post-closure approach and financial assurance plan; proposed development and operating plan for a material transfer and processing facility; operating plan for greenery processing, marketing and sales; proposed initial and periodic payments (or In Lieu Option) from the proposer to the City; proposed per-ton payments from the City to proposer for disposal, transfer, and processing of solid waste delivered by the City or its contractors to Miramar Landfill; treatment of City employees currently involved in Landfill operations; and any terms and conditions proposed for the relevant agreements.

### **Step Seven – Best and Final Offer (Optional)**

The City plans to send out the request for best and final offers to the short list of qualified proposers it identifies with instructions addressing the areas to be covered, the information requested, and the date/time by which the best and final offer must be submitted.

At this time, the City plans to request a best and final offer from one or more proposers. However, proposers are cautioned that the best and final offer process is optional and at the sole discretion of the City. Therefore, proposers should not assume that there will be an additional opportunity to amend their proposals after submitting their SOQ/SOI. Proposers may not request an opportunity to submit a best and final offer.

### **Step Eight – City Selection of Recommended Proposer**

The City will convene a selection panel to review the best and final offers, if any, and any clarifications thereto and, using the evaluation criteria described above, will rank the best and final offer proposals with the objective of recommending to the City Council for approval the proposal(s) which best satisfies the City's objectives.

### **Step Nine – Negotiation of Final Agreement(s)**

The City's request for best and final offers may include a draft lease assignment or sublease, Disposal Facility Franchise Agreement, Non-Disposal Facility Franchise Agreement, guarantee and other agreements for review by the proposers. As part of the proposers' best and final offers, proposers may be required to include their redline changes to such draft agreement(s) as well as an executed copy of each agreement(s) incorporating their proposed revisions to the agreement(s). The City may accept those changes and execute the agreement(s), may reject some or all of the proposed changes to the agreement(s) or may wish to negotiate certain changes with the proposer before executing the agreement(s).

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### 2.3 Schedule

The City plans to proceed based on the following schedule.

Action Item	Date
Issuance of RFQ/SOI	July 8, 2010
Deadline for Request to be Included in RFQ/SOI	July 15, 2010
Registration Deadline for Mandatory Pre-proposal Meeting	July 15, 2010
Mandatory Pre-proposal Meeting	July 16, 2010
Deadline for Questions	July 23, 2010
Deadline for Submission of Financial Information	July 30, 2010
Answers Made Available to Questions	July 30, 2010
Deadline for Statements of Qualifications and Interest	August 13, 2010
Determination of Shortlist of Proposers	August 27, 2010
Issue Request for Best and Final Offer	September 1, 2010
Submission Of Binding Best And Final Offer	October 1, 2010
Selection of Proposer	October 15, 2010
Final Negotiations and Recommendation to Council	November 19, 2010

### 2.4 Required SOQ/SOI Information

Proposers shall prepare their SOQ/SOIs in accordance with the instructions provided in this RFQ/SOI. The SOQ/SOI shall include the following elements: (1) cover letter; (2) executive summary; (3) proposer's qualifications as specified in Section 3; and (4) statement of interest including economic offer as specified in Section 4. Proposers must follow the SOQ/SOI outline format set forth in Section 5. At a minimum, a proposer must provide the information identified in this Section as part of its SOQ/SOI (as explained in more detail in Sections 3, 4 and 5 of this RFQ/SOI). Failure to provide all the required information may be grounds for rejection of a SOQ/SOI.

## **SECTION 3: REQUIRED COMPANY DESCRIPTION**

This Section includes a description of the specific information a proposer must include as part of its SOQ/SOI describing the proposer and its qualifications.

### **3.1 Cover Letter**

The cover letter shall clearly identify the legal entity(ies) submitting the SOQ/SOI and state whether each entity is a sole proprietorship, partnership, corporation, joint venture or other form of legal entity. The cover letter shall be signed by the proposer's designated representative authorized to submit the proposal as documented on the Secretary's Certificate to be submitted in accordance with Section 3.9.

### **3.2 Executive Summary**

Proposer shall provide an executive summary to introduce its SOQ/SOI, briefly summarize its statement of qualification and statement of interest, strategy and economic offer, and highlight unique aspects of its approach to responding to the City's goals and objectives. The executive summary can be used to highlight any additional programs, enhancements, or other innovations proposed.

### **3.3 Business Structure**

In its SOQ/SOI, proposer shall:

1. Confirm that proposer is authorized to do business in California;
2. Identify the legal entity(ies) that would execute the lease assignment or sublease and the franchise agreements and any guarantee. State whether each entity is a sole proprietorship, partnership, corporation, joint venture, or other form of legal entity. Describe in detail the relationship of the proposer to the executing entity(ies). If the proposer is a joint venture, describe the circumstances under which the entities have collaborated before;
3. State the number of years the entities have been organized and doing business under this legal structure. SOQ/SOI must include all the names of proposer's owners/stockholders with greater than a 10% holding and creditors owed a debt greater than 10% of the proposer's total assets (and those of each executing entity if different than proposer's);
4. Identify other entities with common ownership and/or management; and
5. Describe all services to be performed by third party contractors, and identify each contractor by full name and principal business address. Proposer shall describe any current or past working relationship with the contractor(s) in the past five years.

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### 3.4 Proposer's Experience/Qualifications

Proposer must describe its experience acquiring, developing, operating, maintaining and monitoring solid waste management facilities in California (preferably for facilities handling tonnage volumes comparable to or larger than those handled at Miramar Landfill). Proposer's description for each comparable facility shall include:

1. Name and address of the facility and the operations performed at the facility (e.g., landfill, disposal, processing, transfer, recycling, etc.);
2. Types and tonnages of solid waste managed at the facility;
3. Permitted capacity of facility site in terms of tonnage and traffic;
4. Proposer's role in the design, permitting, construction, financing, operation, closure/post-closure maintenance, monitoring, etc.;
5. Number of years proposer has operated the facility;
6. Name, address, and telephone number of the regulatory agencies that monitor the facility's regulatory compliance; and
7. Other relevant information.

The qualifications information should cover, at a minimum, the following:

- Landfill acquisition, development, construction, management, operations, closure/post-closure experience;
- Greenery processing, marketing, and sales experience;
- Transfer station development, construction, management, and operations experience; and
- Material recovery facility development, construction, management and operations experience.

### 3.5 Key Staff and Their Qualifications

Provide an organization chart for key personnel and job descriptions indicating the qualifications and experience of key personnel the proposer would assign to: (1) the transition team; and, (2) the ongoing management of the Landfill under the future franchise agreement(s). Provide resumes, names, and phone numbers of municipal references that have worked with the key proposed management team members. At a minimum, key personnel shall include the chief executive officer (CEO), chief financial officer (CFO), president, vice-president, general manager, operations manager, customer service manager, maintenance manager, and public education specialist or other personnel with similar titles.



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### 3.6 Past Performance Record

- A.** Litigation and Regulatory Actions. Describe past and pending civil, legal, regulatory, and criminal actions (including arrests, indictments, litigation, grand jury investigations, etc.) now pending or that have occurred in the past five years against key personnel (as identified by the proposer in Section 3.5), the proposing entity, its parent company, and all subsidiaries or other affiliates of the proposing entity or its parent company.
- B.** Payment of Fines, Penalties, Settlements, or Damages. Provide a statement disclosing any and all fines, penalties (including liquidated damages or administrative fees), settlements, or damages of any kind paid by the proposing entity, its parent company, and all subsidiaries or other affiliates of the proposing entity or its parent company to public agencies in the past five years. For each payment, list the amount that was paid, the name of the jurisdiction to which any such payments were made, and the event(s) which triggered the payments. Identify what personnel and/or policy changes were made in response to such incidents (e.g., terminated or reassigned employees involved, new process protocols, etc.).
- C.** Compliance Records. Submit copies of all notices of violations, corrective action notices, enforcement actions or orders, warning notices, or other forms of permit violation/non-compliance documentation that the proposing entity, its parent company, and all subsidiaries or other affiliates of the proposing entity or its parent company received in the past five years from public agencies related to solid waste management facilities (including disposal, processing, transfer, composting, recycling, conversion facilities, closure, and post-closure monitoring) and associated vehicles and other equipment, for facilities in California, which are owned or operated by the proposing entity, its parent company, and all subsidiaries or other affiliates of the proposing entity or its parent company.
- D.** Safety Metric. Proposer must report its safety metric for its landfill operations used as references in its RFQ/SOI submittal and how such metric compares to industry standards.
- E.** Insurance Modification Rate. Proposer must report its experience modification factor, "mod rate," that is applied to its workers' compensation insurance policies.

### 3.7 Labor Agreement and Wages

Proposer shall identify the jurisdiction(s) in which its employees are currently represented by labor organizations and the names of each labor organization. In addition, proposer shall identify its plan for arranging labor if proposer is selected to provide landfill development, operations, and other services in the City in connection with this RFQ/SOI. Specifically, proposer shall identify if and when it plans to enter into any collective bargaining agreement(s), the labor organization(s) the proposer will work with, and the nature of the collective bargaining agreement(s). If services will be provided under an extension or renewal of an existing labor agreement, provide a copy of the extension, renewal, or base agreement. If new labor agreement(s) will be negotiated prior to the commencement of the future franchise agreement, provide a memorandum of understanding between the labor organization and the proposer outlining the terms and conditions of the agreement, wage rates, employee benefits, and work rules. Identify how the proposed plans, wages, benefits, and/or work rules differ from the labor agreements in place for employees currently serving and employed by the City.

### **3.8 Company's Financial Ability**

**The following financial statements must be submitted by July 30, 2010, two weeks ahead of the deadline for submission of the SOQ/SOI:** Submit audited financial statements for the most-recently completed fiscal year for the legal entity(ies) that would execute the lease assignment or sublease, the Disposal and Non-disposal Facility Franchise Agreements, any guarantees and all other agreements related to the Transaction. All such statements are to be prepared in accordance with Generally Accepted Accounting Principles applied on a consistent basis and shall be audited in accordance with Generally Accepted Auditing Standards by an Accountant certified in the State of California and shall include a statement by the chief financial officer (CFO) of the entity(ies) that there has been no material adverse change in such condition or operations as reflected in the submitted balance sheet and income statements since the date on which they were prepared.

### **3.9 Secretary's Certificate**

Each proposer shall complete and submit the Secretary's Certificate, Attachment A, documenting the designated representative authorized to bind the proposer.

### **3.10 Anti-Collusion Affidavit**

Each proposer shall complete and submit the Anti-Collusion Affidavit, Attachment B. The Anti-Collusion Affidavit shall be signed by the designated representative authorized to bind the proposer as documented on the Secretary's Certificate.

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## SECTION 4: REQUIRED EXPRESSION OF INTEREST

This Section includes a description of the specific information a proposer must include as part of its SOQ/SOI describing the proposer's interest in the Transaction and the proposed services, its proposed conditions, and economic offer.

### 4.1 Expression of Interest

Proposals must include each of the following items:

- a. Landfill Leasehold acquisition, operation, and maintenance (for remaining capacity only). (All landfill operations and maintenance referred to herein include but are not limited to management, installation, testing, monitoring, and corrective actions related to the Landfill gas collection system and the Landfill leachate collection system as needed to comply with regulatory requirements and contractual requirements.);
- b. Landfill operations and maintenance including West Miramar expansion (excluding vertical expansion);
- c. Landfill operations and maintenance including vertical expansion (excluding West Miramar expansion);
- d. Landfill operations and maintenance including West Miramar expansion and vertical expansion;
- e. Acceptance of delegation of duties and assignment of rights under existing lease of landfill gas rights for operation of approximately 13.9 MW of commercial cogeneration facilities serving City and other customers;
- f. Landfill closure/post-closure maintenance and monitoring;
- g. Greenery processing, marketing, and sales at the Miramar Landfill;
- h. Recyclables buy-back center at the Miramar Landfill (subject to existing contract with Allan Company);
- i. Material transfer development and operations;
- j. Material recovery and diversion facility development and operations;
- k. Household Hazardous Waste Transfer Station operations, subject to the existing contract between the City and Clean Harbors Environmental Services, Inc.;
- l. Collection, accounting, and remittance to the City of fees and taxes imposed on waste or other materials delivered to the Miramar Landfill and revenues from transfer or processing activities conducted on the Miramar Landfill leasehold property;
- m. Guaranteed acceptance of City-collected solid waste (whether collected by City forces or by City contractors) and solid waste generated by City government activities;

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- n. Guaranteed acceptance of waste generated by the Department of Navy installations and facilities located within or near the boundaries of the City of San Diego in accordance with the Lease;
- o. Reclamation of closed/inactive landfills on the Miramar Landfill Leasehold property; and
- p. Development of the Miramar Landfill site for other waste management processes including, but not limited to: C&D processing, other recyclables processing, waste-to-energy conversion technology operation, and for other sustainable purposes such as generation of wind or solar energy.

**Proposals should be submitted for the entire scope of the Transaction and services described above. Partial proposals may be rejected without consideration. However, it is the intention of the City to allow flexibility in the proposals. Proposers may propose alternatives, including off-site facilities or other alternate means of addressing some of the operational requirements listed above.** Proposals may also, but need not, include acquisition, leasing or subleasing and post closure maintenance and development of waste-to-energy, wind or solar projects on the City's eight closed burn dumps and six closed landfills which are located elsewhere throughout the City.

## 4.2 Technical Approach and Regulatory Issues

For each service the proposer identifies in its Expression of Interest in Section 4.1, proposer shall provide a detailed description of its proposed services which shall include its technical approach to operations and maintenance; design, permitting, and construction; compliance with permit requirements, etc. Proposers should discuss how they propose to handle transfer of environmental risks, indemnity of the City against those risks, and the liability policies and/or bonds they will seek for risk management for operations, development and closure.

## 4.3 Summary of Key Terms/Modifications

In Section 1.4, the City has identified certain preferred high-level conditions and limitations to guide proposers on the development of their proposals. Because the City wishes to obtain the greatest value from the Transaction, proposers should provide non-binding economic proposals based on these City-proposed terms. In its SOQ/SOI, the proposer shall describe which of the conditions and limitations it accepts and which it does not. In the event proposer objects to one or more conditions, proposer shall propose alternative conditions for the City's consideration.

As described in Section 2.2, as a second step in this proposer selection process, the City anticipates that it will request a "best and final offer" based on modifications to those terms that maximize the economic value to the City. However, proposers are cautioned that the best and final offer process is optional and at the sole discretion of the City. Therefore, proposers should not assume that there will be an additional opportunity to amend their proposals after submitting their SOQ/SOI. Proposers may not request an opportunity to submit a best and final offer.

## 4.4 Preliminary Non-binding Economic Offer

For comparison purposes, the City would like to receive proposers' non-binding economic offers using the following table. All payment information (including per ton payments and assumed numbers of tons)

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shall be presented in 2010 dollars and shall be valid for a period of one year from the submission date of the SOQ/SOI. The conditions described by proposers shall include a description of how the 2010 dollar amounts would be adjusted for the first year of the contract(s) term and thereafter.

**Table 1: Proposers’ Non-Binding Economic Offer**

	One-Time Payments	Annual Payment 1 <sup>st</sup> Year	Contingent Payments
Permitted Landfill Capacity			
Permitted Landfill Capacity with West Miramar Expansion			
Permitted Landfill Capacity plus Vertical Expansion			
Permitted Landfill Capacity plus West Miramar Expansion plus Vertical Expansion			
Transfer Station			
Material Recovery Facility			
Other (Describe)			
Other (Describe)			
Other (Describe)			

**4.5 Conditions or Limitations on Offer**

Provide a narrative description of the basis for the non-binding proposed offers (both based on the City’s terms and the proposer’s modification to those terms). As part of the narrative description, the proposer shall include key assumptions made in developing the proposed payments such as, but not limited to, assumptions related to: term of agreement(s), proposer’s obligations and liabilities, City obligations and liabilities, wages and benefits, depreciation and interest methods and periods, volumes of materials received for disposal and processing, equipment costs, and facility and construction costs.

**4.6 Compensation to Proposer**

Each proposer shall specify the per-ton amount the City would pay the proposer for acceptance and handling of solid waste, recyclables, greenery, C&D, and other materials collected by the City or City contractors and City government generated waste which is delivered to the Miramar Landfill for processing, disposal, or transfer. The initial amount of such payment as well as the proposed methods by which this per-ton payment will be adjusted over time should be identified. All costs shall be presented in 2010 dollars and shall be valid for a period of one year from the submission date of the SOQ/SOI. The conditions described by proposers shall include a description of how the 2010 dollar amounts would be adjusted for the first year of the contract(s) term and annually thereafter. The proposer must specifically address in its SOQ/SOI the amount, if any, it expects to be transferred from

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the City to the proposer related to the closure and post-closure obligations the proposer will assume and for corrective actions.

	Per-Ton Cost (2010 Dollars)			
	Fixed	Variable	Fuel	Total Cost
Solid Waste for Disposal				
Solid Waste for Transfer				
Recyclables for Processing				
Greenery for Processing				
C&D Materials for Processing				
Other (specify) _____				
Other (specify) _____				
Other (specify) _____				
Other (specify) _____				

**4.7 Description of Financing Plan**

Describe the plan for financing the Transaction in a "Sources and Uses of Funds" format, which describes the sources of required capital (e.g., banks, leasing companies, cash reserves, etc.) and uses (e.g., permitting, design, facility improvements, stationary and rolling stock acquisitions, landfill expansion, processing equipment design, acquisition, and installation, material transfer and processing facility design, permitting, and construction, and reserves). (If necessary to clearly describe the financing plan, provide a "Sources and Uses" presentation for each asset.) Attach supporting documents (e.g., letters from banks or leasing companies) that demonstrate proposer’s ability to implement the financing plan. (Please see the Lease for restrictions and limitations on liens and encumbrances on Leasehold property.)

## **SECTION 5: SOQ/SOI OUTLINE**

To ease the review and comparison of SOQ/SOIs, proposers are requested to organize their Statement of Qualifications and Non-Binding Statement of Interest in the following manner:

- 1.** Required Company Description
  - a.** Cover Letter
  - b.** Executive Summary
  - c.** Table of Contents
  - d.** Business Structure
  - e.** Company Experience
    - i.** Landfill development, management, operations, closure/post-closure
    - ii.** Transfer station development, management and operations
    - iii.** Material recovery facility development, management and operations
  - f.** Key Staff and Their Qualifications
  - g.** Past Performance Record
  - h.** Labor Agreement and Wages
  - i.** Company's Financial Ability
- 2.** Required Statement of Interest
  - a.** Statement of Interest
  - b.** Technical Approach
  - c.** Summary of Key Terms/Modifications
  - d.** Preliminary Non-Binding Economic Offer
  - e.** Conditions or Limitations on Offer
  - f.** Compensation to Proposer
  - g.** Description of Financing Plan
- 3.** Other

- 4.** Attachments
  - a.** Secretary's Certificate
  - b.** Anti-Collusion Affidavit and Affidavit Conflict of Interest

The following documents are available online at <https://erom.gtlaw.com/erom>. Attendees at the mandatory pre-proposal meeting will be provided the login information necessary to access the electronic data room website.

- 1)** Miramar Landfill Ground Lease and Amendments
- 2)** Site map of Miramar Landfill
- 3)** Site maps for closed landfills
- 4)** Refuse and C&D tonnage forecast – FY 2009 through FY 2015
- 5)** Refuse, C&D, and greenery tonnage – FY 2007 and FY 2008 (includes vehicle counts)
- 6)** Greenery tonnage – FY 2009
- 7)** Five year historical and projected capital cost of Miramar and closed landfills
- 8)** Operating costs of Miramar Landfill and closed landfills – FY 2010 budget (adjusted)
- 9)** Operating costs of closed landfills and burn sites – FY 2010 budget
- 10)** Listing of personnel (all landfill and greenery operations)
- 11)** Listing of fixed assets (all landfill and greenery operations)
- 12)** Historical Gate Rates
- 13)** Trip count (traffic) by vehicle type for Miramar Landfill
- 14)** Miramar Solid Waste Facility Permit
- 15)** LEA reports on Miramar Landfill for past 12 months
- 16)** Existing Compliance Orders, Current Notices of Violation, and Violations of Compliance Orders
- 17)** Closure plans by facility
- 18)** As built drawings by facility
- 19)** Fill sequencing plans
- 20)** Inactive Site Maintenance Plans
- 21)** Miramar Liner – Construction Drawings and Specifications
- 22)** Miramar conceptual expansion plans
- 23)** Load check program for Miramar Landfill
- 24)** Leachate Management Plan for Miramar and closed landfills
- 25)** Employee labor agreements
- 26)** Miramar Landfill General Development Plan
- 27)** Programmatic EIR/Master EIS for Miramar Landfill GDP/FIRP/NSPF
- 28)** Recycling Center Operating Agreement with Allan Company



- 29)** Household Hazardous Waste Contract with Clean Harbors Environmental Services, Inc.
- 30)** Fortistar Contracts related to Methane Gas Collection, Extraction, Conversion to Energy, and Sales
- 31)** Curbside Recycling Contract with IMS Recycling Services and Allan Company
- 32)** Sycamore Landfill Facility Franchise Agreement
- 33)** Copies of Permits such as WDR, APCD Permit, etc.
- 34)** Proposition H adopted by voters in 1986 which added Solid Waste Incineration Standards to City of San Diego Progress Guide and General Plan

**ATTACHMENT A**  
**SECRETARY'S CERTIFICATE**

The undersigned, being the Secretary of \_\_\_\_\_, [*Company Name*] a \_\_\_\_\_ corporation (the "Company"), does hereby certify that the following resolution was adopted by the Board of Directors of the Company and that such resolution has not been amended, modified or rescinded and is in full force and effect as of the date hereof:

RESOLVED, that \_\_\_\_\_ [*Name of Designated Representative*] be, and hereby is, authorized to sign the Company's Statement of Qualifications and Non-binding Statement of Interest ("SOQ/SOI") and execute by and on behalf of the Company any and all agreements, instruments, documents or papers as he or she may deem appropriate or necessary pertaining to or relating to the July 2010 Request for Qualifications/Non-binding Statements of Interest ("RFQ/SOI") from the City of San Diego, California, and that any such action taken to date is hereby ratified and approved.

Dated: \_\_\_\_\_, 2010

\_\_\_\_\_  
Signature

\_\_\_\_\_  
[Printed Name]

Title: \_\_\_\_\_

**ATTACHMENT B**  
**ANTI-COLLUSION AFFIDAVIT AND AFFIDAVIT CONFLICT OF INTEREST**

**PURCHASING & CONTRACTING DEPARTMENT  
OFFICE OF EQUAL OPPORTUNITY CONTRACTING PROGRAM  
1200 Third Avenue, Suite 200  
San Diego, CA 92101  
619-236-6000**

**AFFIDAVIT CONFLICT OF INTEREST**

I, the undersigned, being first duly sworn, depose and say that I have read the STANDARDS RELATED TO CONFLICTS OF INTEREST INVOLVING COUNCIL MEMBERS OR EMPLOYEES OF THE CITY OF SAN DIEGO, understand them and that neither I, nor the owner/officers of the firm, nor any member of it, is involved, directly or indirectly, in a business relationship with any member or employee of the City of San Diego, and that, to the best of my knowledge, a conflict of interest situation, within the meaning of the STANDARDS RELATED TO CONFLICTS OF INTEREST INVOLVING COUNCIL MEMBERS OR EMPLOYEES OF THE CITY OF SAN DIEGO does not exist.

**Name:** \_\_\_\_\_  
(type or print)

**Signature:** \_\_\_\_\_  
(Must be signed by President or Vice President)

Social Security Number or Federal ID Number: \_\_\_\_\_

**Position:** \_\_\_\_\_

**Firm:** \_\_\_\_\_