

PART D

SUPPLEMENTAL CONDITIONS

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GENERAL

D1. GENERAL CONDITIONS

- D1.1 In addition to the *General Conditions for the Supply and Delivery of Goods*, these Supplemental Conditions are applicable to the Work of the Contract.
- D1.2 The General Conditions are amended by striking out “The City of Winnipeg Act” wherever it appears in the General Conditions and substituting “The City of Winnipeg Charter”.
- D1.3 The General Conditions are amended by striking out “Board of Commissioners” or “Commissioner” wherever it appears in the General Conditions and substituting the “Chief Administrative Officer”.
- D1.4 The General Conditions are amended by striking out “Tender Package” wherever it appears in the General Conditions and substituting “Bid Opportunity”.
- D1.5 The General Conditions are amended by striking out “Tender Submission” wherever it appears in the General Conditions and substituting “Bid Submission”.
- D1.6 The General Conditions are amended by striking out “Bidding Instructions” wherever it appears in the General Conditions and substituting “Bidding Procedures”.

D2. BACKGROUND

- D2.1 The City of Winnipeg Parking Authority (Authority) will be assuming responsibility for management of on-street parking in 2005.
- D2.2 The Authority wishes to implement on-street pay and display stations, primarily as a customer service, and secondarily to realize greater revenues from existing rate structures.
- D2.3 The ability to utilize greater numbers of on-street stalls, as well as the ability to facilitate receipts and alternative payment types, coupons and promotions, is seen as a major advantage of such a system.

D3. SCOPE OF WORK

- D3.1 The Work to be done under the Contract shall consist of supply and installation of solar powered, wireless parking pay stations.
- D3.2 The City expects to use one of the following acquisition payment options:
- (a) Purchase;
 - (b) Lease to own;
 - (c) Lease with revenue sharing.
- D3.3 The City wishes to acquire up to 250 units over a period of three years either as a straight purchase, or as a capital lease, where ownership is retained by the Contractor and the City makes regular payments until the machines are paid for and the machines are owned by the City.
- D3.4 The City will consider a “lease to own “ arrangement for a period of approximately 5 years per machine, with the ability to pay down the outstanding lease in a shorter period of time, as funds become available through rate increases or extension to meter activity times.

D3.5 The City reserves the right to purchase additional equipment at a mutually agreed upon price for up to three (3) years from award of Contract.

D4. DEFINITIONS

D4.1 When used in this Request for Proposal:

- (a) "**Business Day**" means any Calendar Day, other than a Saturday, Sunday, or a Statutory or Civic Holiday;
- (b) "**Submission Deadline**" and "**Time and Date Set for the Final Receipt of Bids**" mean the time and date set out in the Bidding Procedures for final receipt of Proposals;

D5. CONTRACT ADMINISTRATOR

D5.1 The Contract Administrator is:

David Hill
Chief Operating Officer Parking
Planning, Property & Development

Telephone No. (204) 986-3177
Facsimile No. (204) 986-6852

D5.2 At the pre-commencement meeting, the Contract Administrator will identify additional personnel representing the Contract Administrator and their respective roles and responsibilities for the Work.

D6. CONTRACTOR'S SUPERVISOR

D6.1 At the pre-commencement meeting, the Contractor shall identify his designated supervisor and any additional personnel representing the Contractor and their respective roles and responsibilities for the Work.

D7. NOTICES

D7.1 GC.7.06 is hereby amended to delete reference to "registered mail" and to replace same with "ordinary mail".

D7.2 GC.7.06 is further amended hereby to include delivery by facsimile transmission (fax) as an acceptable means of delivering notices, consents, approvals, statements, authorizations, documents or other communications required or permitted to be given under this Contract. Deliveries by fax will be deemed to have been received on the day of delivery, if a business day, or if not a business day, on the business day next following the day of delivery.

D7.3 Further to GC.7.06, all notices, consents, approvals, statements, authorizations, documents or other communications to the City, except as expressly otherwise required in D7.4, D7.5 or elsewhere in the Contract, shall be sent to the attention of the Contract Administrator at the address or facsimile number identified in D5.1.

D7.4 All notices of appeal to the Chief Administrative Officer shall be sent to the attention of the Chief Financial Officer at the following address or facsimile number:

The City of Winnipeg
Chief Administrative Officer Secretariat
Administration Building, 3rd Floor
510 Main Street
Winnipeg MB R3B 1B9

Facsimile No.: (204) 949-1174

- D7.5 All notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications required to be submitted or returned to the City Solicitor shall be sent to the following address or facsimile number:

The City of Winnipeg
Corporate Services Department
Legal Services Division
185 King Street, 3rd Floor
Winnipeg MB R3B 1J1

Facsimile No.: (204) 947-9155

D8. CONFIDENTIALITY AND OWNERSHIP OF INFORMATION

- D8.1 Information provided to the Contractor by the City or acquired by the Contractor during the course of the Work is confidential. Such information shall not be used or disclosed in any way without the prior written authorization of the Contract Administrator.
- D8.2 The Contract, all deliverables produced or developed, and information provided to or acquired by the Contractor are the property of the City. The Contractor shall not disclose or appropriate to its own use, or to the use of any third party, all or any part thereof without the prior written consent of the Contract Administrator.
- D8.3 The Contractor shall not make any statement of fact or opinion regarding any aspect of the Contract to the media or any member of the public without the prior written authorization of the Contract Administrator.

SUBMISSIONS

D9. AUTHORITY TO CARRY ON BUSINESS

- D9.1 The Contractor shall be in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba, or if the Contractor does not carry on business in Manitoba, in the jurisdiction where the Contractor does carry on business, throughout the term of the Contract, and shall provide the Contract Administrator with evidence thereof upon request.

D10. WORKERS COMPENSATION

- D10.1 The Contractor shall be registered with the Workers Compensation Board of Manitoba, shall provide and maintain Workers Compensation coverage throughout the term of the Contract, and shall provide the Contract Administrator with evidence thereof upon request.

D11. INSURANCE

- D11.1 The Contractor shall provide and maintain commercial general liability insurance, in the amount of at least two million dollars (\$2,000,000.00) all inclusive, with The City of Winnipeg being added as an additional insured, with a cross-liability clause, such liability policy to also contain contractual liability, unlicensed motor vehicle liability and a products and completed operations endorsement to remain in place at all times during the performance of the Work.
- D11.2 Deductibles shall be borne by the Contractor.

- D11.3 The Contractor shall provide the Contract Administrator with a certificate of insurance of the policy at least two (2) Business Days prior to the commencement of any Work on the Site but in no event later than the date specified in GC.3.01 for the return of the executed Contract.
- D11.4 The Contractor shall not cancel, materially alter, or cause the policy to lapse without providing at least fifteen (15) Calendar Days prior written notice to the Contract Administrator.
- D11.5 Automobile liability insurance for owned and non-owned automobiles used for or in connection with the Work in the amount of at least two million dollars (\$2,000,000.00) at all times during the full term hereof.

D12. INDEMNITY

- D12.1 Notwithstanding GC 7.04, the Contractor should save harmless and indemnify the City and all of its employees for an amount equal to all monies paid pursuant to the Contract regardless of to whom they were paid, plus the sum of two million dollars (\$2,000,000.00), unless specifically stated otherwise in the Contract documents, against costs, damages or expenses arising from actions, claims, demands and proceedings, by whomsoever brought, made or taken as a result of acts or omissions of the Contractor, its Subcontractors, employees or agents in the performance or purported performance of the Work, and more particularly from:
- (a) accidental injury to or death of any person whether retained by or in the employ of the Contractor or not, arising directly or indirectly by reason of the performance of the Work, or by reason of any trespass on or damage to property;
 - (b) damage to any property owned in whole or in part by the City, or which the City by duty or custom is obliged, directly or indirectly, in any way or to any degree, to construct, repair or maintain;
 - (c) damage to, or trespass or encroachment upon, property owned by persons other than the City;
 - (d) failure to pay a workers compensation assessment, or federal or provincial taxes;
 - (e) unauthorized use of any design, device, material or process covered by letters patent, copyright, trademark or trade name in connection with the Work; and
 - (f) inaccuracies in any information provided by the City to the Contractor.
- D12.2 The City has the right, acting reasonably and upon notice to the Contractor, to settle any such action, proceeding, claim or demand and charge the Contractor with the amount so paid or to be paid in effecting a settlement.
- D12.3 The Contractor shall pay to the City the value of all legal fees and disbursements required to settle any such claim or to defend the City against any such claim, action, proceeding, claim or demand notwithstanding that the settlement or defence of the said action, proceeding claim or demand was undertaken on behalf of the City by a salaried employee of the City.
- D12.4 If the Contractor fails to make any payment required to be made to the City hereunder, the City shall be entitled to deduct the amount of such payment from any payment required to be made by the City to the Contractor under the Contract or take whatever other remedies against the Contractor that the City may have at law.
- D12.5 If the Proposal is silent as to indemnification, the Contractor shall be deemed to have agreed to indemnify the City as provided above.

CONTROL OF WORK

D13. COMMENCEMENT

- D13.1 The Contractor shall not commence any Work until he is in receipt of a letter of intent from the Award Authority authorizing the commencement of the Work.
- D13.2 The Contractor shall not commence any Work on the Site until:
- (a) the Contract Administrator has confirmed receipt and approval of:
 - (i) evidence that the Contractor is in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba;
 - (ii) evidence of the workers compensation coverage specified in D10;
 - (iii) evidence of the insurance specified in D11; and

D14. ORDERS

- D14.1 The Contractor shall provide a local Winnipeg telephone number or a toll-free telephone number at which orders for service may be placed.

D15. RECORDS

- D15.1 The Contractor shall keep detailed records of the services supplied under the Contract.
- D15.2 The Contractor shall record, as a minimum, for each item:
- (a) User name(s) and addresses;
 - (b) order date(s);
 - (c) service date(s); and
 - (d) description and quantity of services provided.
- D15.3 The Contractor shall provide the Contract Administrator with a copy of the records for each quarter year within fifteen (15) Calendar Days of the end of that quarter.

MEASUREMENT AND PAYMENT

D16. INVOICES

- D16.1 Further to GC.9.01 and notwithstanding GC.9.03, the Contractor shall submit an invoice for the Work performed pursuant to each order.
- D16.2 Further to D7.3, the Contractor shall submit invoices to the locations designated at the time of ordering.
- D16.3 Invoices must clearly indicate, as a minimum:
- (a) the City's order number;
 - (b) date of delivery;
 - (c) delivery address;
 - (d) type and quantity of goods delivered;
 - (e) the amount payable with GST and MRST shown as separate amounts; and

(f) the Contractor's GST registration number.

D16.4 The City will bear no responsibility for delays in approval of invoices which are improperly submitted.

D17. PAYMENT

D17.1 Further to GC.9.01 and GC.9.03, payment shall be in Canadian funds net thirty (30) Calendar Days after receipt and approval of the Contractor's invoice.

WARRANTY

D18. WARRANTY

D18.1 Notwithstanding GC.10.01 and GC.10.02, the warranty period for each item of Work supplied shall begin on the date of successful delivery and shall expire one (1) year thereafter unless extended pursuant to D18.2, in which case it shall expire when provided for thereunder.

D18.2 Further to GC.10.01, if a defect or deficiency prevents the full and normal use or operation of the Work or any portion thereof, for purposes of calculating the warranty period, time shall be deemed to cease to elapse for the defective or deficient portion, and for any portion of the Work whose use or operation is prevented by such defect or deficiency, as of the date on which the defect or deficiency is observed or the use or operation is prevented and shall begin to run again when the defect or deficiency has been corrected or the Work may be used or operated to the satisfaction of the Contract Administrator.

D18.3 Notwithstanding GC.10.01, GC.10.02 and D18.2, if any law of Manitoba or of the jurisdiction in which the Work was manufactured requires, or if the manufacturer provides, a longer warranty period or a warranty which is more extensive in its nature, then the provisions of such law or manufacturer's warranty shall apply.