



THE CITY OF WINNIPEG

BID OPPORTUNITY

BID OPPORTUNITY NO. 240-2006

SUPPLY & DELIVERY OF INDUSTRIAL TRACTOR LOADERS AND BACKHOES

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PART B

BIDDING PROCEDURES

PART B - BIDDING PROCEDURES

B1. PROJECT TITLE

B1.1 SUPPLY AND DELIVERY OF INDUSTRIAL TRACTOR LOADERS AND BACKHOES

B2. SUBMISSION DEADLINE

B2.1 The Submission Deadline is 4:00 p.m. Winnipeg time, May 31, 2006.

B2.2 Bid Submissions determined by the Manager of Materials to have been received later than the Submission Deadline will not be accepted and will be returned unopened.

B2.3 The Contract Administrator or the Manager of Materials may extend the Submission Deadline by issuing an addendum at any time prior to the time and date specified in B2.1.

B3. ENQUIRIES

B3.1 General enquiries shall be directed to the Contact identified in D4.1.

B3.2 Specific enquiries shall be directed to the Contract Administrator in D4.2

B3.3 If the Bidder finds errors, discrepancies or omissions in the Bid Opportunity, or is unsure of the meaning or intent of any provision therein, the Bidder shall notify the Contract Administrator of the error, discrepancy or omission, or request a clarification as to the meaning or intent of the provision at least five (5) Business Days prior to the Submission Deadline.

B3.4 Responses to enquiries which, in the sole judgment of the Contract Administrator, require a correction to or a clarification of the Bid Opportunity will be provided by the Contract Administrator to all Bidders by issuing an addendum.

B3.5 Responses to enquiries which, in the sole judgment of the Contract Administrator, do not require a correction to or a clarification of the Bid Opportunity will be provided by the Contract Administrator only to the Bidder who made the enquiry.

B3.6 The Bidder shall not be entitled to rely on any response or interpretation received pursuant to B3 unless that response or interpretation is provided by the Contract Administrator in writing.

B4. ADDENDA

B4.1 The Contract Administrator may, at any time prior to the Submission deadline, issue addenda correcting errors, discrepancies or omissions in the Bid Opportunity, or clarifying the meaning or intent of any provision therein.

B4.2 The Contract Administrator will issue each addendum at least two (2) Business Days prior to the Submission Deadline, or provide at least two (2) Business Days by extending the Submission Deadline.

B4.2.1 Addenda will be available in Adobe Acrobat (pdf) format on the Bid Opportunities page at The City of Winnipeg, Corporate Finance, Materials Management Division Internet site at <http://www.winnipeg.ca/matmgt>

B4.2.2 The Bidder is responsible for ensuring that he has received all addenda and is advised to check the Materials Management Division internet site for addenda shortly before submitting his Bid.

B4.3 The Bidder shall acknowledge receipt of each addendum in Paragraph 8 of Form A: Bid. Failure to acknowledge receipt of an addendum may render a Bid non—responsive.

B5. SUBSTITUTES

B5.1 The Work is based on the materials, equipment, methods and products specified in the Bid Opportunity.

B5.2 Substitutions shall not be allowed unless application has been made to and prior approval has been granted by the Contract Administrator in writing.

B5.3 Requests for approval of a substitute will not be considered unless received in writing by the Contract Administrator at least seven (7) Business Days prior to the Submission Deadline.

B5.4 The Bidder shall ensure that any and all requests for approval of a substitute:

- (a) provide sufficient information and details to enable the Contract Administrator to determine the acceptability of the material, equipment, method or product as either an approved equal or alternative;
- (b) identify any and all changes required in the applicable Work, and all changes to any other Work, which would become necessary to accommodate the substitute;
- (c) identify any anticipated cost or time savings that may be associated with the substitute;
- (d) certify that, in the case of a request for approval as an approved equal, the substitute will fully perform the functions called for by the general design, be of equal or superior substance to that specified, is suited to the same use and capable of performing the same function as that specified and can be incorporated into the Work, strictly in accordance with the Contract;
- (e) certify that, in the case of a request for approval as an approved alternative, the substitute will adequately perform the functions called for by the general design, be similar in substance to that specified, is suited to the same use and capable of performing the same function as that specified and can be incorporated into the Work, strictly in accordance with the Contract.

B5.5 The Contract Administrator, after assessing the request for approval of a substitute, may at his sole discretion grant approval for the use of a substitute as an “approved equal” or as an “approved alternative”, or may refuse to grant approval of the substitute.

B5.6 The Contract Administrator will provide a response in writing, at least three (3) Business Days prior to the Submission Deadline, only to the Bidder who requested approval of the substitute.

B5.6.1 The Bidder requesting and obtaining the approval of a substitute shall be entirely responsible for disseminating information regarding the approval to any person or persons he wishes to inform.

B5.7 If the Contract Administrator approves a substitute as an “approved equal”, the Bidder may use the approved equal in place of the specified item.

B5.8 If the Contract Administrator approves a substitute as an “approved alternative”, the Bidder shall base his price(s) upon the specified item but may indicate an alternative price based upon the approved alternative. Such alternatives will be evaluated in accordance with B13.

B5.9 No later claim by the Contractor for an addition to the price(s) because of any other changes in the Work necessitated by the use of an approved equal or an approved alternative will be considered.

B5.10 Notwithstanding B5.2 to B5.9, deviations in accordance with

Clause 5.1 of Detailed Specification 06 – 017, and
Clause 5.1 of Detailed Specification 06 – 018
shall be evaluated in accordance with B13.1(a)

B6. BID SUBMISSION

B6.1 The Bid Submission consists of the following components:

- (a) Form A: Bid;
- (b) Form B: Prices;
- (c) Form N: Detailed Specification # 06 — 017— Items 1 + 2
- (d) Form O: Questionnaire — Items 1+ 2
- (e) Form N: Detailed Specification # 06 — 018 — Item 3;
- (f) Form O: Questionnaire — Item 3.

B6.2 All components of the Bid Submission shall be fully completed or provided, and submitted by the Bidder no later than the Submission Deadline, with all required entries made clearly and completely in ink, to constitute a responsive Bid.

B6.3 The Bid Submission may be submitted by mail, courier or personal delivery, or by facsimile transmission.

B6.4 If the Bid Submission is submitted by mail, courier or personal delivery, it shall be enclosed and sealed in an envelope clearly marked with the Bid Opportunity number and the Bidder's name and address, and shall be submitted to:

The City of Winnipeg
Corporate Finance Department
Materials Management Division
185 King Street, Main Floor
Winnipeg MB R3B 1J1

B6.4.1 Samples or other components of the Bid Submission which cannot reasonably be enclosed in the envelope may be packaged separately, but shall be clearly marked with the Bid Opportunity number, the Bidder's name and address, and an indication that the contents are part of the Bidder's Bid Submission.

B6.5 If the Bid Submission is submitted by facsimile transmission, it shall be submitted to (204) 949—1178

B6.5.1 The Bidder is advised that the City cannot take responsibility for the availability of the facsimile machine at any time.

B6.6 Bid Submissions submitted by internet electronic mail (e—mail) will not be accepted.

B7. BID

B7.1 The Bidder shall complete Form A: Bid, making all required entries.

B7.2 Paragraph 2 of Form A: Bid shall be completed in accordance with the following requirements:

- (a) if the Bidder is a sole proprietor carrying on business in his own name, his name shall be inserted;
- (b) if the Bidder is a partnership, the full name of the partnership shall be inserted;
- (c) if the Bidder is a corporation, the full name of the corporation shall be inserted;

- (d) if the Bidder is carrying on business under a name other than his own, the business name and the name of every partner or corporation who is the owner of such business name shall be inserted.
- B7.2.1 If a Bid is submitted jointly by two or more persons, each and all such persons shall identify themselves in accordance with B7.2.
- B7.3 In Paragraph 3 of Form A: Bid, the Bidder shall identify a contact person who is authorized to represent the Bidder for purposes of the Bid.
- B7.4 Paragraph 10 of Form A: Bid shall be signed in accordance with the following requirements:
- (a) if the Bidder is a sole proprietor carrying on business in his own name, it shall be signed by the Bidder;
 - (b) if the Bidder is a partnership, it shall be signed by the partner or partners who have authority to sign for the partnership;
 - (c) if the Bidder is a corporation, it shall be signed by its duly authorized officer or officers;
 - (d) if the Bidder is carrying on business under a name other than his own, it shall be signed by the registered owner of the business name, or by the registered owner's authorized officials if the owner is a partnership or a corporation.
- B7.4.1 The name and official capacity of all individuals signing Form A: Bid shall be printed below such signatures.
- B7.4.2 All signatures shall be original.
- B7.5 If a Bid is submitted jointly by two or more persons, the word "Bidder" shall mean each and all such persons, and the undertakings, covenants and obligations of such joint Bidders in the Bid Submission and the Contract, when awarded, shall be both joint and several.
- B8. PRICES**
- B8.1 The Bidder shall state a price in Canadian funds for each item of the Work identified on Form B: Prices.
- B8.1.1 Prices on Form B: Prices shall include:
- (a) duty;
 - (b) freight and cartage;
 - (c) tire tax, weight tax, air conditioning tax, Provincial and Federal taxes [except the Goods and Services Tax (GST) and Manitoba Retail Sales Tax (MRST, also known as PST), which shall be extra where applicable] and all charges governmental or otherwise paid;
 - (d) profit and all compensation which shall be due to the Contractor for the Work and all risks and contingencies connected therewith.
- B8.2 The quantities listed on Form B: Prices are to be considered approximate only. The City will use said quantities for the purpose of comparing Bids.
- B8.3 The quantities for which payment will be made to the Contractor are to be determined by the Work actually performed and completed by the Contractor, to be measured as specified in the applicable Specifications.

B9. QUALIFICATION

B9.1 The Bidder shall:

- (a) undertake to 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;
- (b) be responsible and not be suspended, debarred or in default of any obligation to the City;
- (c) be financially capable of carrying out the terms of the Contract;
- (d) have all the necessary experience, capital, organization, and equipment to perform the Work in strict accordance with the terms and provisions of the Contract;
- (e) have successfully carried out work, similar in nature, scope and value to the Work; and
- (f) employ only Subcontractors who have successfully carried out work similar in nature, scope and value to the portion of the Work proposed to be subcontracted to them, or who are fully capable of performing the Work required to be done in accordance with the terms of the Contract;
- (g) have a written workplace safety and health program in accordance with The Workplace Safety and Health Act (Manitoba);

B9.2 The Bidder shall be prepared to submit, within three (3) Business Days of a request by the Contract Administrator, proof satisfactory to the Contract Administrator of the qualifications of the Bidder and of any proposed Subcontractor.

B9.3 The Bidder shall provide, on the request of the Contract Administrator, full access to any of the Bidder's equipment and facilities to confirm, to the Contract Administrator's satisfaction, that the Bidder's equipment and facilities are adequate to perform the Work.

B10. OPENING OF BIDS AND RELEASE OF INFORMATION

B10.1 Bid Submissions will not be opened publicly.

B10.2 Following the Submission Deadline, the names of the Bidders and their Total Section Prices (unevaluated, and pending review and verification of conformance with requirements) will be available in Adobe Acrobat (pdf) format on the Closed Bid Opportunities page at The City of Winnipeg, Corporate Finance, Materials Management Division internet site at <http://www.winnipeg.ca/matmgt>.

B10.3 After award of Contract, the name(s) of the successful Bidder(s) and the Contract Amount(s) will be available on the Closed Bid Opportunities page at The City of Winnipeg, Corporate Finance, Materials Management Division internet site at <http://www.winnipeg.ca/matmgt>.

B10.4 The Bidder is advised that any information contained in any Bid Submission may be released if required by City policy or procedures, or by other authorities having jurisdiction.

B11. IRREVOCABLE BID

B11.1 The Bid(s) submitted by the Bidder shall be irrevocable for the time period specified in Paragraph 9 of Form A: Bid.

B11.2 The acceptance by the City of any Bid shall not release the Bids of the next two lowest evaluated responsive Bidders and these Bidders shall be bound by their Bids on such Work for the time period specified in Paragraph 9 of Form A: Bid.

B12. WITHDRAWAL OF BIDS

- B12.1 A Bidder may withdraw his Bid without penalty by giving written notice to the Manager of Materials at any time prior to the Submission Deadline.
- B12.1.1 Notwithstanding GC.7.05(2), the time and date of receipt of any notice withdrawing a Bid shall be the time and date of receipt as determined by the Manager of Materials.
- B12.1.2 The City will assume that any one of the contact persons named in Paragraph 3 of Form A: Bid or the Bidder's authorized representatives named in Paragraph 10 of Form A: Bid, and only such person, has authority to give notice of withdrawal.
- B12.1.3 If a Bidder gives notice of withdrawal prior to the Submission Deadline, the Manager of Materials shall:
- (a) retain the Bid Submission until after the Submission Deadline has elapsed;
 - (b) open the Bid Submission to identify the contact person named in Paragraph 3 of Form A: Bid and the Bidder's authorized representatives named in Paragraph 10 of Form A: Bid; and
 - (c) if the notice has been given by any one of the persons specified in B12.1.3(b), declare the Bid withdrawn.
- B12.2 A Bidder who withdraws his Bid after the Submission Deadline but before his Bid has been released or has lapsed as provided for in B11.2 shall be liable for such damages as are imposed upon the Bidder by law and subject to such sanctions as the Award Authority considers appropriate in the circumstances. The City, in such event, shall be entitled to all rights and remedies available to it at law.

B13. EVALUATION OF BIDS

- B13.1 Award of the Contract shall be based on the following bid evaluation criteria:
- (a) compliance by the Bidder with the requirements of the Bid Opportunity and degree of compliance with specifications or acceptable deviation therefrom;
 - (b) qualifications of the Bidder and the Subcontractors, if any, pursuant to B9;
 - (c) Total Bid Price for each **Section** on Form: B prices;
 - (d) economic analysis of any approved alternative pursuant to B5.
- B13.2 Further to B13.1(a), the Award Authority may reject a Bid as being non—responsive if the Bid Submission is incomplete, obscure or conditional, or contains additions, deletions, alterations or other irregularities. The Award Authority may reject all or any part of any Bid, or waive technical requirements if the interests of the City so require.
- B13.3 Further to B13.1(b), the Award Authority shall reject any Bid submitted by a Bidder who does not demonstrate, in his Bid Submission or in other information required to be submitted, that he is responsible and qualified.
- B13.4 Further to B13.1(c), the Total Bid Price for each section shall be the sum of the quantities multiplied by the unit prices for each item shown on Form B: Prices.
- B13.5 For the purpose of evaluating a Bid, the Bidder may be requested to supply a demonstration piece of equipment for test if the City deems it appropriate. The demonstration piece of equipment shall be available, in Winnipeg, not more than twenty (20) calendar days following a written request by the Contract Administrator.
- B13.6 This Contract may be awarded separately in sections as identified on Form B: Prices.

- (a) Notwithstanding B8.1, the Bidder may, but is not required to, bid on any one or more sections.
- (b) The City shall not be obligated to award any section to the responsible Bidder submitting the lowest evaluated responsive Bid for that section and shall have the right to choose the alternative which is in its best interests. If the Bidder has not bid on both sections, he shall have no claim against the City if his partial Bid is rejected in favour of an award of the Contract on the basis of an alternative or section upon which he has not bid.

B14. AWARD OF CONTRACT

- B14.1 The Award Authority will give notice of the award of the Contract or will give notice that no award will be made.
- B14.2 The City will have no obligation to award a Contract to a Bidder, even though one or all of the Bidders are determined to be responsible and qualified, and the Bids are determined to be responsive.
 - B14.2.1 Without limiting the generality of B14.2, the City will have no obligation to award a Contract where:
 - (a) the prices exceed the available City funds for the Work;
 - (b) the prices are materially in excess of the prices received for similar work in the past;
 - (c) the prices are materially in excess of the City's cost to perform the Work, or a significant portion thereof, with its own forces;
 - (d) only one Bid is received; or
 - (e) in the judgment of the Award Authority, the interests of the City would best be served by not awarding a Contract.
- B14.3 Where an award of Contract is made by the City, the award shall be made to the responsible and qualified Bidder submitting the lowest evaluated responsive Bid.
- B14.4 Notwithstanding GC.3.01 and GC.3.02, the City will issue a Purchase Order to the successful Bidder in lieu of the execution of a Contract.
- B14.5 The Contract Documents, as defined in GC.1.01(7), in their entirety shall be deemed to be incorporated in and to form a part of the Purchase Order notwithstanding that they are not necessarily attached to or accompany said Purchase Order.

PART C
GENERAL CONDITIONS

PART C - GENERAL CONDITIONS

C1. GENERAL CONDITIONS

C1.1 The *General Conditions for the Supply and Delivery of Goods* (Form 21: 88 03) are applicable to the Work of the Contract.

C1.1.1 The *General Conditions for the Supply and Delivery of Goods* are available in Adobe Acrobat (.pdf) format on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division internet site at <http://www.winnipeg.ca/matmgt>.

PART D

SUPPLEMENTAL CONDITIONS

PART D - SUPPLEMENTAL CONDITIONS

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. SCOPE OF WORK

- D2.1 The Work to be done under the Contract shall consist of the supply & delivery of industrial tractor loaders and backhoes in accordance with detailed specifications 06 – 017 and 60 – 018.
- D2.2 Any material, labour or components not specifically mentioned or included herein, but may be required to complete, perfect and place the equipment in successful operation, shall be furnished by the Contractor as though specifically mentioned in these Contract Documents. The Contractor shall supply the equipment and all components and all features that are normally considered to be standard on that equipment, unless specifically excluded in the Detailed Specifications.
- D2.3 Unless specifically stated otherwise in the Detailed Specifications, only equipment of current manufacture shall be accepted.
- (a) ITEM 1— Only new (unused) equipment shall be accepted.
- (b) ITEM 2— Only new (unused) equipment shall be accepted.
- (c) ITEM 3— Only new (unused) equipment shall be accepted.
- D2.4 Further to GC 4.05, if at any time during the 12—month period following the award of the Contract, the City requires additional quantities of the Items, the City may request the Contractor to supply, up to 100% additional quantities as Extra Work at the unit prices set out in the Contract. The Contractor may decline to supply the additional quantities without penalty.

D3. DEFINITIONS

- D3.1 When used in this Bid Opportunity:
- (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 Bids;
- (c) ” **User**” means a person, department or other administrative unit of the City authorized by the Contract Administrator to order Work under this Contract;
- (d) “**Equipment**” or “**Vehicles**” shall be used to describe industrial tractor loaders and backhoes and associated equipment in these Contract Documents.

D4. CONTACT FOR ENQUIRIES AND CONTRACT ADMINISTRATOR

D4.1 The Contact for Enquiries is:

Mr. Ken Saxton
Fleet Management Agency
770 Ross Ave., Winnipeg MB R3E 1C6
Telephone No. (204) 986 – 7934
Facsimile No. (204) 986 – 3773

D4.2 The Contract Administrator is:

Mr. Real Pelletier
Coordinator of Life Cycle Cost Management
Fleet Management Agency
770 Ross Ave., Winnipeg MB R3E 1C6
Telephone No. (204) 986 – 5328
Cell No. (204) 612 – 2130
Facsimile No. (204) 986 – 3773

D5. PREVENTATIVE MAINTENANCE PROGRAM

- D5.1 Upon award of contract, the Contractor shall provide full details of the Preventative Maintenance (PM) Program specific to the equipment being offered (including any attachments). The Contractor shall provide the PM program details on an E—mail attached document provided by Winnipeg Fleet Management Agency
- D5.2 The PM program shall be submitted prior to or upon delivery of supplied equipment.
- D5.3 The PM program details shall contain:
 - (a) Service intervals of all components
 - (b) Part numbers on regular maintenance items including:
 - (i) Belts and filters
 - (ii) Oil and fluid types
 - (iii) Fluid capacities of the engine, transmission, axles etc..
 - (iv) Model and serial numbers of all components and attachments
- D5.4 All information, documents or other communications required to be submitted for the Preventative Maintenance Program shall be sent to the Contract Administrator specified in D4.2.
 - (a) If the PM Program has not been submitted electronically (e—mailed by the Contractor), to the Winnipeg Fleet Management Agency, the City will perform the work and acquire the information at its own expense.

The costs incurred per unit (up to and including \$500.00) will be deducted from the Contractor's final invoice.

D6. DELIVERY

- D6.1 The equipment shall be serviced, ready for operation and delivered F.O.B. with the freight prepaid to the City of Winnipeg, Fleet Management Agency Service Facility at 185 Tecumseh Street, Winnipeg, Manitoba.
- D6.2 The equipment shall be delivered **within ninety (90) calendar days** from the date of official notification of award of Contract.
- D6.3 The Contractor shall contact the Contract Administrator prior to delivery of the equipment.
- D6.4 The Contractor shall fax all vehicle serial numbers, hours/mileage to the Contract Administrator **two (2) calendar weeks** prior to delivery.
- D6.5 A pre—delivery inspection shall be performed by the Contractor on all equipment.

D7. LIQUIDATED DAMAGES

- D7.1 If the Contractor fails to achieve delivery of the equipment within the time specified in Section D6.2 herein, the Contractor shall pay the City **\$ 40.00 per Calendar Day per vehicle** for each and every Calendar Day until the equipment has been delivered.
- D7.2 The amount specified for liquidated damages in D7.1 is based on a genuine pre—estimate of the City's losses in the event that the Contractor does not supply the equipment by the day fixed herein for same.
- D7.3 The City may reduce any payment to the Contractor by the amount of any liquidated damages assessed.

D8. INSPECTION

- D8.1 Further to Clause GC.5.03 of the General Conditions, final inspection of the equipment shall be conducted as promptly as practicable. Thorough examination of the equipment and successful completion of a continuous eight (8)hour full—performance test by the City shall be required as part of the inspection process. At its option, the City may discontinue the process upon finding a lack of conformance to the specifications. The deficiency shall then be rectified by the Contractor and the inspection process shall then commence anew.
- D8.2 Equipment that fails to successfully complete the inspection process shall be rejected by the City and shall be removed from City property by and at the expense of the Contractor, promptly after notification by the Contract Administrator or the Equipment Inspector.
- D8.3 Notwithstanding Clause D8.1, where multiple quantities of like equipment is being supplied, the City reserves the right, to waive the requirements for a continuous eight(8) hour full—performance test as part of the inspection process for the remaining pieces of equipment following a successful completion of the test by one or more pieces of equipment.

D9. CERTIFICATE OF TOTAL PERFORMANCE

- D9.1 A Certificate of Total Performance shall be issued by the Contract Administrator, for the equipment supplied under this Contract, following successful completion of the inspection process for all pieces of equipment in accordance with Section D9. herein.
- D9.2 The Certificate of Total Performance shall indicate the date that each piece of equipment has successfully completed the inspection process.

D10. INVOICES

- D10.1 Upon initial delivery of the equipment, the Contractor shall submit an accurate invoice for the supply and delivery of each piece of equipment specified in the Contract to:

The City of Winnipeg
Fleet Management Agency
770 Ross Avenue
Winnipeg MB R3E 1C6

- D10.2 Invoices must clearly indicate, as a minimum:
- (a) the City's order (Purchase Order or Standing Purchase Order Release Authorization) number;
 - (b) date of delivery;
 - (c) delivery address;
 - (d) type and quantity of goods delivered;
 - (e) the amount payable with GST and PST shown as separate amounts; and
 - (f) the Contractor's GST registration number.
- D10.3 The City will bear no responsibility for delays in approval of invoices that are improperly submitted.

D11. PAYMENT

- D11.1 Further to GC.9.03, payment shall be issued in Canadian funds net thirty (30) Calendar Days after successful completion of the inspection process or when the equipment has been successfully placed into operation.

D12. NOTICES

- D12.1 GC.7.05 is hereby amended to delete reference to "registered mail" and to replace same with "ordinary mail".
- D12.2 GC.7.05 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.
- D12.3 Further to GC.7.05, all notices, consents, approvals, statements, authorizations, documents or other communications to the City, except as expressly otherwise required in D12.4, D12.5 or elsewhere in the Contract, shall be sent to the attention of the Contract Administrator at the address or facsimile number identified in D4.2
- D12.4 All notices of appeal shall be sent to 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

- D12.5 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

D13. PERFORMANCE RELIABILITY — REPEATED FAILURES

- D13.1 The responsibility for the design of the complete equipment, its performance and reliability shall rest upon the Contractor.
- D13.2 The term “repeated failures” as used herein is defined to mean that the same component, subassembly, or assembly develops repeated defects, breakdowns and/or malfunctions rendering the equipment inoperative, or requiring repeated shop correction, service and/or replacement during the warranty period applicable for said component, subassembly, or assembly.
- (a) Ordinary service adjustments are not included, or considered under the scope of “repeated failures”, as well as other factors, such as operational damage due to accidents, misuse or lack of proper maintenance, service and lubrication attention by not following the manufacturer’s preventative maintenance schedule.
- D13.3 Where the equipment develops “repeated failures” in service, the Contractor shall make any necessary engineering changes, repairs, alterations or modifications in order to guarantee reliability of performance.
- D13.4 All repeated failure related costs (including, but not limited to, Contractor’s travel, mileage, deductibles, towing costs etc.) in executing any part of the warranty shall be the sole responsibility of the Contractor.
- D13.5 Repeated failures fall under the conditions set forth under the terms of Warranty in Detailed Specifications **06 – 017 and 60 – 018** and Clause D14

D14. WARRANTY – ADDITIONAL REQUIREMENTS

- D14.1 The Warranty conditions outlined under Clause D14, are in addition to those set forth under Detailed Specifications **06 – 017 and 60 – 018**
- D14.2 Notwithstanding GC.10.01, GC.10.02 and the warranties specified in the Detailed Specifications **06 – 017 and 60 – 018**, the warranty period for each piece of equipment supplied shall begin on the date of successful completion of the inspection process or when the equipment has been successfully placed into operation.
- D14.3 Notwithstanding GC.10.01 and GC.10., 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 that is more extensive in its nature, then the provisions of such law or manufacturer's warranty shall apply.

D14.4 The City reserves the right to reject any proposal for warranty work if it is deemed unacceptable by the Contract Administrator.

D14.5 If the Contractor is unable to perform warranty services, the City shall notify the Contractor and provide the service at a rate of \$68.00/hour and \$ 95.00/hour for overtime and callout, which shall be, billed to the Contractor over and above the warranty related costs.

D14.6 The apparatus is of vital importance to the City in providing essential services and, accordingly, all warranty items brought to the attention of the Contractor by the City shall be rectified expeditiously.

The City reserves the right to effect warranty repairs to the apparatus, at full cost to the Contractor, should the Contractor fail to perform in a timely manner.

D14.7 For equipment that is not available for use due one of the following (a) or (b)

(a) a defect or deficiency

(b) a warranty related issue prevents the full and normal use or operation of the equipment or any portion thereof;

The City will apply one of the following conditions outlined Clause D14.7.1 or D14.7.2.

D14.7.1 The Contractor shall rectify the defect or deficiency (warranty repairs) within two (2) business days.

(a) If the defect or deficiency (warranty failure) is not rectified within the specified period the City shall charge the Contractor an amount of \$500 per unit per business day, until the problem is rectified.

OR

D14.7.2 The Contractor shall provide a replacement industrial tractor loaders (and backhoe if required) for use by the City until the defect or deficiency (warranty repairs) are completed.

(a) The replacement industrial tractor loaders (and backhoe if required) shall be provided within two (2) business days from request of the City.

(b) The replacement industrial tractor loaders (and backhoe if required) shall be a "2000" model year or newer, and shall be of the same make and model or larger of the industrial tractor loaders (and backhoe if required) supplied under this Contract.

(c) The Contractor shall be responsible for all costs or incidental costs in providing a replacement industrial tractor loaders (and backhoe if required).

(d) The City reserves the right to reject any replacement industrial tractor loaders (and backhoe if required) offered by the Contractor, if it is deemed unacceptable.

D14.8 The Contractor shall make available a service truck to provide "**on site**" services and maintain the following at no cost to the City:

a) Repair work — for repeated failures outlined in Clause D13. Performance Reliability.

b) Warranty work — for all items covered under the warranty clause, outlined in the detailed specifications sections under Warranty.

D14.9 The Contractor shall provide and maintain "**on—site**" warranty services throughout the duration of the warranty period specified in Form N: Specifications.

The on—site warranty services shall include the Contractor to provide warranty services anywhere within 10 km of the boundaries of the City of Winnipeg and within normal business hours.

On—site warranty services shall only be requested where minor repair work is required, when the equipment is immobile, and where slow moving vehicles require warranty work. On—site warranty work shall only be requested by the City of Winnipeg Repair Facility Supervisors or their designates.

- D14.9.1 All on “on—site” related costs (including, but not limited to, Contractor’s travel, mileage, deductibles, towing costs etc.) in executing any part of the warranty shall be the sole responsibility of the Contractor.
- D14.9.2 If the Contractor is unable to perform on—site warranty services, the City shall provide the service at a rate of \$ 103.50 per hour, which shall be, billed to the Contractor over and above the warranty related costs.
- D14.10 In the case where the Contractor proposes that warranty work be performed by a third party;
- (a) The Contractor shall provide to the Contract Administrator a written detailed proposal and estimate of the repairs prior to commencement of the work.
 - (b) The Contractor will assume all costs including all incidental costs.
 - (c) The City reserves the right to reject any proposal for warranty work by a third party, if it is deemed unacceptable by the Contract Administrator.
- D14.11 In the case where the Contractor proposes that a replacement unit be supplied by a third party;
- (a) The Contractor will assume all costs including all incidental costs.
 - (b) The City reserves the right to reject any proposal for a replacement unit by a third party, if it is deemed unacceptable by the Contract Administrator.

D15. PARTS AVAILABILITY

- D15.1 In order to assure minimum downtime of the equipment, the Contractor shall maintain a stock of all replacement parts in North America, either in his own inventory or in that of an agency that normally supplies parts to the Contractor within twelve (12) years of the date the equipment is placed into service.
- D15.1.1 If replacement parts are not available within the twelve (12) year period, and the City is required to build or acquire parts on their own means, the Contractor shall be charged back 100% of the parts replacement costs.
- D15.2 The Contractor shall provide replacement parts on a consignment basis with the Fleet Management Agency (FMA). Requested parts shall be provided and stocked in the FMA Repair Facilities at no cost to the City until the parts are required and installed.
- D15.3 Maintenance Parts (Regular Servicing)
- D15.3.1 Maintenance parts not stocked at the FMA Repair Facilities shall be made available in Winnipeg by the Contractor within twenty—four (24) hours from request by the City of Winnipeg.
- D15.3.2 For equipment that is not available for use
should the Contractor fail to supply maintenance parts within twenty—four (24) hours from the time of notification, the City shall charge the Contractor an amount of \$50 per vehicle per business day until the maintenance parts are supplied.

D15.4 Warranty Parts

D15.4.1 The Contractor shall make warranty parts available in Winnipeg within two (2) business days from request by the City of Winnipeg.

D15.4.2 For equipment that is not available for use

should the Contractor fail to supply warranty parts within two (2) business days from the time of notification, the conditions outlined in the Warranty Clause D14.7 shall apply.