



THE CITY OF WINNIPEG

TENDER

TENDER NO. 517-2020

SUPPLY AND DELIVERY OF INDUCTIVE LOOP BICYCLE COUNTERS

Attention Bidders:

Bids for this Tender are being accepted by mail, facsimile transmission or by email (See B7.4). No personal delivery or courier.

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PART B - BIDDING PROCEDURES

B1. CONTRACT TITLE

B1.1 SUPPLY AND DELIVERY OF INDUCTIVE LOOP BICYCLE COUNTERS

B2. SUBMISSION DEADLINE

B2.1 The Submission Deadline is 4:00 p.m. Winnipeg time, October 14, 2020.

B3. ENQUIRIES

B3.1 All enquiries shall be directed to the Contract Administrator identified in D4.1.

B3.2 If the Bidder finds errors, discrepancies or omissions in the Tender, or is unsure of the meaning or intent of any provision therein, the Bidder shall promptly notify the Contract Administrator of the error, discrepancy or omission at least five (5) Business Days prior to the Submission Deadline.

B3.3 Responses to enquiries which, in the sole judgment of the Contract Administrator, require a correction to or a clarification of the Tender will be provided by the Contract Administrator to all Bidders by issuing an addendum.

B3.4 Responses to enquiries which, in the sole judgment of the Contract Administrator, do not require a correction to or a clarification of the Tender will be provided by the Contract Administrator only to the Bidder who made the enquiry.

B3.5 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. CONFIDENTIALITY

B4.1 Information provided to a Bidder by the City or acquired by a Bidder by way of further enquiries or through investigation is confidential. Such information shall not be used or disclosed in any way without the prior written authorization of the Contract Administrator. The use and disclosure of the confidential information shall not apply to information which:

- (a) was known to the Bidder before receipt hereof; or
- (b) becomes publicly known other than through the Bidder; or
- (c) is disclosed pursuant to the requirements of a governmental authority or judicial order.

B4.2 The Bidder shall not make any statement of fact or opinion regarding any aspect of the Tender to the media or any member of the public without the prior written authorization of the Contract Administrator.

B5. ADDENDA

B5.1 The Contract Administrator may, at any time prior to the Submission Deadline, issue addenda correcting errors, discrepancies or omissions in the Tender, or clarifying the meaning or intent of any provision therein.

B5.2 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.

B5.3 Addenda will be available on the Bid Opportunities page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt/bidopp.asp>

- B5.4 The Bidder is responsible for ensuring that he/she has received all addenda and is advised to check the Materials Management Division website for addenda regularly and shortly before the Submission Deadline, as may be amended by addendum.
- B5.5 The Bidder shall acknowledge receipt of each addendum in Paragraph 9 of Form A: Bid. Failure to acknowledge receipt of an addendum may render a Bid non-responsive.
- B5.6 Notwithstanding B3, enquiries related to an Addendum may be directed to the Contract Administrator indicated in D4.

B6. SUBSTITUTES

- B6.1 The Work is based on the Plant, Materials and methods specified in the Tender.
- B6.2 Substitutions shall not be allowed unless application has been made to and prior approval has been granted by the Contract Administrator in writing.
- B6.3 Requests for approval of a substitute will not be considered unless received in writing by the Contract Administrator at least five (5) Business Days prior to the Submission Deadline.
- B6.4 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 Plant, Material or method 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 proposed work schedule and the dates specified in the Supplemental Conditions for Total Performance;
 - (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 proposed work schedule and the dates specified in the Supplemental Conditions for Total Performance.
- B6.5 The Contract Administrator, after assessing the request for approval of a substitute, may in 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.
- B6.6 The Contract Administrator will provide a response in writing, at least two (2) Business Days prior to the Submission Deadline, to the Bidder who requested approval of the substitute.
- B6.6.1 The Contract Administrator will issue an Addendum, disclosing the approved materials, equipment, methods and products to all potential Bidders. The Bidder requesting and obtaining the approval of a substitute shall be responsible for disseminating information regarding the approval to any person or persons he/she wishes to inform.
- B6.7 If the Contract Administrator approves a substitute as an "approved equal", any Bidder may use the approved equal in place of the specified item.
- B6.8 If the Contract Administrator approves a substitute as an "approved alternative", any Bidder bidding that approved alternative may base his Total Bid Price upon the specified item but may

also indicate an alternative price based upon the approved alternative. Such alternatives will be evaluated in accordance with B16.

- B6.9 No later claim by the Contractor for an addition to the Total Bid Price because of any other changes in the Work necessitated by the use of an approved equal or an approved alternative will be considered.

B7. BID SUBMISSION

- B7.1 The Bid shall consist of the following components:

- (a) Form A: Bid; and
- (b) Form B: Prices.

- B7.2 Further to B7.1, the Bidder should include the written correspondence from the Contract Administrator approving a substitute in accordance with B6.

- B7.3 All components of the Bid 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.

- B7.4 The Bid Submission may be submitted by mail, facsimile transmission, or by email.**

- B7.5 If the Bid Submission is submitted by mail, it shall be enclosed and sealed in an envelope clearly marked with the Tender number and the Bidder's name and address, and shall be mailed to:

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

- B7.5.1 Samples or other components of the Bid which cannot reasonably be enclosed in the envelope may be packaged separately, but shall be clearly marked with the Tender number, the Bidder's name and address, and an indication that the contents are part of the Bidder's Bid Submission.

- B7.6 If the Bid is submitted by facsimile transmission, it shall be submitted to 204 949-1178.

- B7.6.1 The Bidder is advised that the City cannot take responsibility for the availability of the facsimile machine at any time or guarantee the successful receipt of a faxed Bid Submission.

- B7.7 If the Bid Submission is submitted by email, it shall be submitted to purchasing@winnipeg.ca.

- B7.8 Bidders are advised not to include any information/literature except as requested in accordance with B7.1.

- B7.9 Bidders are advised that inclusion of terms and conditions inconsistent with the Tender document, including the General Conditions, will be evaluated in accordance with B16.1(a).

B8. BID

- B8.1 The Bidder shall complete Form A: Bid, making all required entries.

- B8.2 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.

B8.2.1 If a Bid is submitted jointly by two or more persons, each and all such persons shall identify themselves in accordance with B8.2.

B8.3 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.

B8.4 Paragraph 12 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.

B8.4.1 The name and official capacity of all individuals signing Form A: Bid should be printed below such signatures.

B8.5 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 and the Contract, when awarded, shall be both joint and several.

B9. PRICES

B9.1 The Bidder shall state a price in Canadian funds for each item of the Work identified on Form B: Prices.

B9.1.1 Notwithstanding C12.2.3, prices on Form B: Prices shall not include the Goods and Services Tax (GST) or Manitoba Retail Sales Tax (MRST, also known as PST), which shall be extra where applicable.

B9.2 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.

B9.3 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.

B9.4 Payments to Non-Resident Contractors are subject to Non-Resident Withholding Tax pursuant to the Income Tax Act (Canada).

B10. DISCLOSURE

B10.1 Various Persons provided information or services with respect to this Work. In the City's opinion, this relationship or association does not create a conflict of interest because of this full disclosure. Where applicable, additional material available as a result of contact with these Persons is listed below.

B10.2 The Persons are:

- (a) Eco-Counter provided a budget estimate and technical specifications.

B11. CONFLICT OF INTEREST AND GOOD FAITH

- B11.1** Further to C3.2, Bidders, by responding to this Tender, declare that no Conflict of Interest currently exists, or is reasonably expected to exist in the future.
- B11.2** Conflict of Interest means any situation or circumstance where a Bidder or employee of the Bidder proposed for the Work has:
- (a) other commitments;
 - (b) relationships;
 - (c) financial interests; or
 - (d) involvement in ongoing litigation;
- that could or would be seen to:
- (i) exercise an improper influence over the objective, unbiased and impartial exercise of the independent judgment of the City with respect to the evaluation of Bids or award of the Contract; or
 - (ii) compromise, impair or be incompatible with the effective performance of a Bidder's obligations under the Contract;
 - (e) has contractual or other obligations to the City that could or would be seen to have been compromised or impaired as a result of its participation in the Tender process or the Work; or
 - (f) has knowledge of confidential information (other than confidential information disclosed by the City in the normal course of the Tender process) of strategic and/or material relevance to the Tender process or to the Work that is not available to other bidders and that could or would be seen to give that Bidder an unfair competitive advantage.
- B11.3** In connection with its Bid, each entity identified in B11.2 shall:
- (a) avoid any perceived, potential or actual Conflict of Interest in relation to the procurement process and the Work;
 - (b) upon discovering any perceived, potential or actual Conflict of Interest at any time during the Tender process, promptly disclose a detailed description of the Conflict of Interest to the City in a written statement to the Contract Administrator; and
 - (c) provide the City with the proposed means to avoid or mitigate, to the greatest extent practicable, any perceived, potential or actual Conflict of Interest and shall submit any additional information to the City that the City considers necessary to properly assess the perceived, potential or actual Conflict of Interest.
- B11.4** Without limiting B11.3, the City may, in its sole discretion, waive any and all perceived, potential or actual Conflicts of Interest. The City's waiver may be based upon such terms and conditions as the City, in its sole discretion, requires to satisfy itself that the Conflict of Interest has been appropriately avoided or mitigated, including requiring the Bidder to put into place such policies, procedures, measures and other safeguards as may be required by and be acceptable to the City, in its sole discretion, to avoid or mitigate the impact of such Conflict of Interest.
- B11.5** Without limiting B11.3, and in addition to all contractual or other rights or rights at law or in equity or legislation that may be available to the City, the City may, in its sole discretion:
- (a) disqualify a Bidder that fails to disclose a perceived, potential or actual Conflict of Interest of the Bidder or any of its employees proposed for the Work;
 - (b) require the removal or replacement of any employees proposed for the Work that has a perceived, actual or potential Conflict of Interest that the City, in its sole discretion, determines cannot be avoided or mitigated;
 - (c) disqualify a Bidder or employees proposed for the Work that fails to comply with any requirements prescribed by the City pursuant to B11.4 to avoid or mitigate a Conflict of Interest; and

- (d) disqualify a Bidder if the Bidder, or one of its employees proposed for the Work, has a perceived, potential or actual Conflict of Interest that, in the City's sole discretion, cannot be avoided or mitigated, or otherwise resolved.

B11.6 The final determination of whether a perceived, potential or actual Conflict of Interest exists shall be made by the City, in its sole discretion.

B12. QUALIFICATION

B12.1 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, or if the Bidder does not carry on business in Manitoba, in the jurisdiction where the Bidder does carry on business; and
- (b) be financially capable of carrying out the terms of the Contract; and
- (c) have all the necessary experience, capital, organization, and equipment to perform the Work in strict accordance with the terms and provisions of the Contract.

B12.2 The Bidder and any proposed Subcontractor (for the portion of the Work proposed to be subcontracted to them) shall:

- (a) be responsible and not be suspended, debarred or in default of any obligations to the City. A list of suspended or debarred individuals and companies is available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <https://www.winnipeg.ca/matmgt/Templates/files/debar.pdf>

B12.3 The Bidder and/or any proposed Subcontractor (for the portion of the Work proposed to be subcontracted to them) shall:

- (a) have successfully carried out work similar in nature, scope and value to the Work; and
- (b) be fully capable of performing the Work required to be in strict accordance with the terms and provisions of the Contract;
- (c) have a written workplace safety and health program, if required, pursuant to The Workplace Safety and Health Act (Manitoba); and
- (d) meet the City's requirements for the confidentiality and security of information; including compliance with and ISO/IEC standards 27001, 27002, 27017, and 27018 (or equivalent).

B12.4 The Bidder shall 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.

B12.5 The proposed Solution shall be compliant with ISO/IEC standards 27001, 27002, 27017, and 27018 (or equivalent). The Bidder shall provide:

- (a) a certificate of compliance with ISO/IEC 27001 (or a functionally equivalent standard, as determined by the City, such as the AICPA SOC auditing framework or NIST SP 800-53) from an accredited certification body; or
- (b) a written description of how the proposed Solution complies with ISO/IEC 27001, 27002, 27017, and 27018 (or functionally equivalent standards, as determined by the City, such as the AICPA SOC auditing framework or NIST SP 800-53).

B12.6 The City reserves the right to assess any proposed functional equivalents to the ISO/IEC standards, and may in its sole and absolute discretion determine whether such proposed functional equivalents provide a satisfactorily equivalent level of protection.

B12.7 The City further reserves the right to assess any written descriptions of compliance with the ISO/IEC standards (or equivalents) to determine whether such written descriptions provide evidence of compliance that is satisfactory to the City), in its sole and absolute discretion.

B13. OPENING OF BIDS AND RELEASE OF INFORMATION

B13.1 Bids will not be opened publicly.

B13.2 Following the Submission Deadline, the names of the Bidders and their bid prices (unevaluated, and pending review and verification of conformance with requirements) will be available on the Closed Bid Opportunities (or Public/Posted Opening & Award Results) page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt/>

B13.3 After award of Contract, the name(s) of the successful Bidder(s), their address(es) and the Contract amount(s) will be available on the Closed Bid Opportunities (or Public/Posted Opening & Award Results) page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt/>

B13.4 The Bidder is advised that any information contained in any Bid may be released if required by The Freedom of Information and Protection of Privacy Act (Manitoba), by other authorities having jurisdiction, or by law or by City policy or procedures (which may include access by members of City Council).

B13.4.1 To the extent permitted, the City shall treat as confidential information, those aspects of a Bid Submission identified by the Bidder as such in accordance with and by reference to Part 2, Section 17 or Section 18 or Section 26 of The Freedom of Information and Protection of Privacy Act (Manitoba), as amended.

B14. IRREVOCABLE BID

B14.1 The Bid(s) submitted by the Bidder shall be irrevocable for the time period specified in Paragraph 10 of Form A: Bid.

B14.2 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 until a Contract for the Work has been duly executed and the contract security have been furnished as herein provided, but any Bid shall be deemed to have lapsed unless accepted within the time period specified in Paragraph 10 of Form A: Bid.

B15. WITHDRAWAL OF BIDS

B15.1 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.

B15.1.1 Notwithstanding C22.5, 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.

B15.1.2 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 12 of Form A: Bid, and only such person, has authority to give notice of withdrawal.

B15.1.3 If a Bidder gives notice of withdrawal prior to the Submission Deadline, the Manager of Materials will:

(a) retain the Bid until after the Submission Deadline has elapsed;

(b) open the Bid to identify the contact person named in Paragraph 3 of Form A: Bid and the Bidder's authorized representatives named in Paragraph 12 of Form A: Bid; and

(c) if the notice has been given by any one of the persons specified in B15.1.3(b), declare the Bid withdrawn.

B15.2 A Bidder who withdraws his Bid after the Submission Deadline but before his Bid has been released or has lapsed as provided for in B14.2 shall be liable for such damages as are imposed upon the Bidder by law and subject to such sanctions as the Chief Administrative Officer considers appropriate in the circumstances. The City, in such event, shall be entitled to all rights and remedies available to it at law.

B16. EVALUATION OF BIDS

B16.1 Award of the Contract shall be based on the following bid evaluation criteria:

- (a) compliance by the Bidder with the requirements of the Tender, or acceptable deviation therefrom (pass/fail);
- (b) qualifications of the Bidder and the Subcontractors, if any, pursuant to B12 (pass/fail);
- (c) Total Bid Price ; and
- (d) economic analysis of any approved alternative pursuant to B6.

B16.2 Further to B16.1(a), the Award Authority may reject a Bid as being non-responsive if the Bid 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 or minor informalities or irregularities if the interests of the City so require.

B16.3 Further to B16.1(b), the Award Authority shall reject any Bid submitted by a Bidder who does not demonstrate, in his Bid or in other information required to be submitted, that he/she is qualified.

B16.4 Further to B16.1(c), the Total Bid Price shall be the sum of the quantities multiplied by the unit prices for each item shown on Form B: Prices.

B16.4.1 Further to B16.1(a), in the event that a unit price is not provided on Form B: Prices, the City will determine the unit price by dividing the Amount (extended price) by the approximate quantity, for the purposes of evaluation and payment.

B16.5 This Contract will be awarded as a whole.

B17. AWARD OF CONTRACT

B17.1 The City will give notice of the award of the Contract, or will give notice that no award will be made.

B17.2 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 qualified, and the Bids are determined to be responsive.

B17.2.1 Without limiting the generality of B17.2, 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.

B17.3 Where an award of Contract is made by the City, the award shall be made to qualified Bidder submitting the lowest evaluated responsive Bid in accordance with B16.

B17.5 Further to Paragraph 6 of Form A: Bid and C4, the City may issue a purchase order to the successful Bidder in lieu of the execution of a Contract.

B17.5.1 The Contract Documents, as defined in C1.1(p), 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

C0. GENERAL CONDITIONS

- C0.1 The *General Conditions for the Combined Provision of Goods and Services (2020-01-31)* are applicable to the Work of the Contract.
- C0.1.1 The *General Conditions for the Combined Provision of Goods and Services* are available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at http://www.winnipeg.ca/matmgt/gen_cond.stm
- C0.2 A reference in the Tender to a section, clause or subclause with the prefix “**C**” designates a section, clause or subclause in the *General Conditions for the Combined Provision of Goods and Services*.

PART D - SUPPLEMENTAL CONDITIONS

GENERAL

D1. GENERAL CONDITIONS

D1.1 In addition to the *General Conditions for the Combined Provision of Goods and Services*, these Supplemental Conditions are applicable to the Work of the Contract.

D2. SCOPE OF WORK

D2.1 The Work to be done under the Contract shall consist supply and delivery of inductive loop bicycle counters for the period from November 3, 2020 until November 2, 2021, with the option of three (3) mutually agreed upon one (1) year extensions.

D2.1.1 The City may negotiate the extension option with the Contractor within ninety (90) Calendar Days prior to the expiry date of the Contract. The City shall incur no liability to the Contractor as a result of such negotiations.

D2.1.2 Changes resulting from such negotiations shall become effective on October 1 of the respective year. Changes to the Contract shall not be implemented by the Contractor without written approval by the Contract Administrator.

D2.1.3 Bidders are advised that, in future, the City may be participating in collaborative procurement initiatives with other levels of government. Accordingly, extensions to this contract may not be exercised.

D2.2 The major components of the Work are as follows:

D2.3 The Work shall be done on an "as required" basis during the term of the Contract.

D2.3.1 The type and quantity of Work to be performed under this Contract shall be as authorized from time to time by the Contract Administrator and/or Users.

D2.3.2 Notwithstanding C7.4, the City shall have no obligation under the Contract to purchase any quantity of any item in excess of its actual operational requirements.

D2.4 Notwithstanding D2.1, in the event that operational changes result in substantial changes to the requirements for Work, the City reserves the right to alter the type or quantity of work performed under this Contract, or to terminate the Contract, upon thirty (30) Calendar Days written notice by the Contract Administrator. In such an event, no claim may be made for damages on the ground of loss of anticipated profit on Work.

D3. COOPERATIVE PURCHASE

D3.1 The Contractor is advised that this is a cooperative purchase.

D3.2 The Contract Administrator may, from time to time during the term of the Contract, may approve other public sector organizations and utilities, including but not limited to municipalities, universities, schools and hospitals, to be participants in the cooperative purchase.

D3.3 The Contract Administrator will notify the Contractor of a potential participant and provide a list of the delivery locations and estimated quantities.

D3.4 If any location of the potential participant is more than ten (10) kilometers beyond the boundaries of the City of Winnipeg, the Contractor shall, within fifteen (15) Calendar Days of the written notice, notify the Contract Administrator of the amount of any additional delivery charge for the location.

D3.5 If any additional delivery charges are identified by the Contractor, the potential participant may accept or decline to participate in the cooperative purchase.

- D3.6 The Contractor shall enter into a contract with each participant under the same terms and conditions as this Contract except:
- (a) supply under the contract shall not commence until the expiry or lawful termination of any other contract(s) binding the participant for the same goods and/or services;
 - (b) a participant may specify a duration of Contract shorter than the duration of this Contract;
 - (c) a participant may specify that only some items under this Contract and/or less than its total requirement for an item are to be supplied under its contract; and
 - (d) any additional delivery charge identified and accepted in accordance with clause D3.4 and D3.5 will apply.
- D3.7 Each participant will be responsible for the administration of its contract and the fulfilment of its obligations under its contract. The City shall not incur any liability arising from any such contract.
- D3.8 No participant shall have the right or authority to effect a change in the Contract, or of any other participant in this Contract.

D4. CONTRACT ADMINISTRATOR

- D4.1 The Contract Administrator is:
- Tyler George
Transportation Planning Engineer
Public Works Department
Telephone No. 204 986-2567
Email Address. tgeorge@winnipeg.ca

D5. INFORMATION MANAGEMENT

- D5.1 The Contractor acknowledges that The Freedom of Information and Protection of Privacy Act ("FIPPA", the "Act") imposes obligations on the City to collect, store, use, disclose, and destroy "personal information", as that term is defined in FIPPA, ("Personal Information") in the strictest of confidence and in accordance with that Act.
- D5.2 For the purposes of D7, any reference to "Representatives" shall mean the directors, officers, shareholders, employees, parents, subsidiaries, subcontractors, partners, volunteers, affiliates, insurers, reinsurers, agents, delegates, and other representatives of the Contractor.
- D5.3 While this Contract is in effect, and at all times thereafter, the Contractor and its Representatives shall treat as confidential any and all information and materials (regardless of form or medium) acquired by it in the performance of this Contract, or to which it is given access during the course of the performance of the Contract, and any copies thereof (the "Confidential Information"). For the purposes of this Contract, Personal Information shall be considered to be Confidential Information.
- D5.4 With respect to Confidential Information provided by the City to the Contract, the Contractor shall be deemed an "information manager", as that term is defined by section 44.1 of FIPPA, and any collection, storage, use, disclosure, or destruction of, or access to (collectively, "Use"), Personal Information by the Contractor or its Representatives shall be done pursuant to the Act.
- D5.5 All Confidential Information is and shall remain the property of the City. Neither the Contractor nor its Representatives shall not disclose or appropriate to their own use, or to the use of any third party, all or any part of the Confidential Information without the prior written consent of the City. The Contractor and its Representatives shall not at any time make any public announcement, or press release, nor make any statement of fact or opinion regarding the Contract, the Project, the Services or the Confidential Information without the prior written authorization of the City.

- D5.6 While this Contract is in effect and at all times thereafter the Contractor shall:
- (a) only Use the Confidential Information for the purposes expressly permitted by the City, and only to the extent necessary to perform its obligations under this Contract;
 - (b) ensure that access to the Confidential Information is only provided or permitted on a “need to know” basis, and that access, when given, shall be the minimum amount necessary to accomplish the task;
 - (c) not disclose or permit the disclosure of the Confidential Information or any copies thereof, whether in whole or in part and in any form or medium, to any third party, including Subcontractors or agents, without the prior written consent of the Contract Administrator;
 - (d) not reproduce any Confidential Information, in whole or in part, in any form or medium, without the express prior written consent of the City; and
 - (e) inform its Representatives of the obligations imposed upon it under this Contract and FIPPA, and shall take whatever steps are necessary to ensure that all of its Representatives comply with those obligations, including (but not limited to) binding said Representatives to terms no less strict than those herein through written confidentiality agreements, if requested.
- D5.7 Upon request, or upon expiration or termination of this Contract for any reason, the Contractor shall rapidly repatriate to the City a complete, accurate copy of the Confidential Information (in a form satisfactory to the City), and shall thereafter destroy the Confidential Information (including all copies in any form) in a manner which adequately protects the confidentiality of the Confidential Information within two (2) weeks, unless otherwise directed by the City in writing.
- D5.8 The Contractor shall put into place reasonable security arrangements, including administrative, technical, and physical safeguards that ensure the confidentiality and security of the Confidential Information. The standard of such security arrangements shall be the greater of:
- (a) the standards the Contractor has in place to protect its own confidential information; or
 - (b) the standards imposed on the Contractor by the City.
- D5.9 Upon becoming aware of any unauthorized Use of the Confidential Information (a “Confidentiality Breach”), the Contractor shall immediately notify the City in writing, take all reasonable steps to prevent the recurrence of any such Confidentiality Breach, and notify the City of said steps in writing.
- D5.10 Upon receiving a subpoena or other validly issued administrative or judicial order seeking Confidential Information, the Contractor shall provide the City with prompt notice thereof, deliver a copy of its proposed response to the City, and thereafter be entitled to comply with the demand to the extent permitted or required by law (unless the demand has been time-limited, quashed, or extended). The Contractor shall cooperate with the City in the defense of the demand, if so requested by the City.
- D5.11 The Contractor and its Representatives shall comply with all directives issued by the City with respect to safeguarding or otherwise ensuring the confidentiality of the Confidential Information, and shall cooperate with the City so that the City can verify that the Contractor has complied, and is complying, with its obligations hereunder.
- D5.12 If the Contractor is a reseller or distributor, or is otherwise supplying a third party’s product as its proposed System, then the Contractor shall ensure that any such third party product supplied by the Contractor under this Contract and any such third party supplier are compliant with the requirements of this D5. Failure to do so may, at the City’s sole and absolute discretion, be deemed an event of default pursuant to C17.
- D5.13 The Contractor should have a security information and event management (SIEM) service that logs and monitors all logical access to customer data.
- D5.14 The Contractor should enforce separation of duties to ensure that audit logs are protected against unauthorized modification and deletion.

- D5.15 The Contractor should undertake appropriate pre-employment vetting for all staff that have access to customer data.
- D5.16 The Contractor should perform on-going checks of integrity and conduct of employees during the period of employment.
- D5.17 When collecting personal information from an individual, there must be a privacy statement/notification included on the collection form worded as follows:
- (a) Your personal information is being collected in accordance with s.36(1)(b) of The Freedom of Information and Protection of Privacy Act. This information will be used for the purposes of administering and executing the related project, and will not be used or disclosed for any other purposes, except as authorized by law. If you have any questions about the collection of this information, contact the Corporate Access and Privacy Officer by mail to City Clerk's Department, Administration Building, 510 Main Street, Winnipeg MB, R3B 1B9, or by telephone at 311.

D6. NOTICES

- D6.1 Notwithstanding C22.4, all notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications to the Contractor shall be sent to the address or facsimile number identified by the Contractor in Paragraph 2 of Form A: Bid.
- D6.2 All notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications to the City, except as expressly otherwise required in, D6.3 or elsewhere in the Contract, shall be sent to the attention of the Contract Administrator identified in D4.
- D6.3 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 facsimile number:

The City of Winnipeg
Legal Services Department
Attn: Director of Legal Services
Facsimile No.: 204 947-9155.

SUBMISSIONS

D7. AUTHORITY TO CARRY ON BUSINESS

- D7.1 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.

SCHEDULE OF WORK

D8. COMMENCEMENT

- D8.1 The Contractor shall not commence any Work until he/she is in receipt of a notice of award from the City authorizing the commencement of the Work.

D9. DELIVERY

- D9.1 Goods shall be delivered on an "as required" basis during the term of the Contract, f.o.b. destination, freight prepaid, to various locations within the City.

- D9.1.1 Goods shall be delivered within ten(10) Business Days of the placing of an order.
- D9.2 The Contractor shall confirm each delivery with the Contract Administrator or his/her designate, at least two (2) Business Days before delivery.
- D9.3 Goods shall be delivered between 8:30 a.m. and 4:30 p.m. on Business Days.
- D9.4 The Contractor shall off-load goods as directed at the delivery location.

D10. COVID-19 SCHEDULE DELAYS

- D10.1 The City acknowledges that the schedule for this Contract may be impacted by the COVID-19 pandemic. Commencement and progress of the Work shall be performed by the Contractor with due consideration to the health and safety of workers and the public, directives from health authorities and various levels of government and in close consultation with the Contract Administrator.
- D10.2 If the Contractor is delayed in the performance of the Work by reason of the COVID-19 pandemic, the Work schedule may be adjusted by a period of time equal to the time lost due to such delay and costs related to such delay will be determined as identified herein.
- D10.3 A minimum of seven (7) Calendar Days prior to the commencement of Work, the Contractor shall declare whether COVID-19 will affect the start date. The Contractor shall provide sufficient evidence that the delay is directly related to COVID-19, including but not limited to evidence related to availability of staff, availability of Material or work by others.
- D10.4 For any delay related to COVID-19 and identified after Work has commenced, the Contractor shall within seven (7) Calendar Days of becoming aware of the anticipated delay declare the additional delay and shall provide sufficient evidence as indicated in D10.3. Failure to provide this notice will result in no additional time delays being considered by the City.
- D10.5 The Work schedule, including the durations identified in D9 where applicable, will be adjusted to reflect delays accepted by the Contract Administrator.
- D10.6 Any time or cost implications as a result of COVID-19 and in accordance with the above, as confirmed by the Contract Administrator, shall be documented in accordance with C7.

CONTROL OF WORK

D11. ORDERS

- D11.1 The Contractor shall provide a local Winnipeg telephone number or a toll-free telephone number at which orders for delivery may be placed.

D12. RECORDS

- D12.1 The Contractor shall keep detailed records of the goods supplied under the Contract.
- D12.2 The Contractor shall record, as a minimum, for each item listed on Form B: Prices:
- (a) user name(s) and addresses;
 - (b) order date(s);
 - (c) delivery date(s); and
 - (d) description and quantity of goods supplied.
- D12.3 The Contractor shall provide the Contract Administrator with a copy of the records for each quarter year within fifteen (15) Calendar Days of a request of the Contract Administrator.

MEASUREMENT AND PAYMENT

D13. INVOICES

D13.1 Further to C12, the Contractor shall submit an invoice for each portion of work performed to:

The City of Winnipeg
Corporate Finance - Accounts Payable
4th Floor, Administration Building, 510 Main Street
Winnipeg MB R3B 1B9

Facsimile No.: 204 949-0864

Send Invoices to CityWpgAP-INVOICES@winnipeg.ca

Send Invoice Inquiries to CityWpgAP-INQUIRIES@winnipeg.ca

D13.2 Invoices must clearly indicate, as a minimum:

- (a) the City's purchase order number;
- (b) date of delivery;
- (c) delivery address;
- (d) type and quantity of work performed;
- (e) the amount payable with GST and MRST shown as separate amounts; and
- (f) the Contractor's GST registration number.

D13.3 The City will bear no responsibility for delays in approval of invoices which are improperly submitted.

D13.4 **Bid Submissions must not be submitted to the above facsimile number. Bids must be submitted in accordance with B7.**

D14. PAYMENT

D14.1 Further to C12, the City may at its option pay the Contractor by direct deposit to the Contractor's banking institution.

D15. PAYMENT SCHEDULE

D15.1 Further to C12, payment shall be in Canadian funds net thirty (30) Calendar Days after receipt and approval of the Contractor's invoice.

WARRANTY

D16. WARRANTY

D16.1 Warranty is as stated in C13.

PART E - SPECIFICATIONS

GENERAL

E1. APPLICABLE SPECIFICATIONS

E1.1 These Specifications shall apply to the Work.

E1.2 Bidders are reminded that requests for approval of substitutes as an approved equal or an approved alternative shall be made in accordance with B6. In every instance where a brand name or design specification is used, the City will also consider approved equals and/or approved alternatives in accordance with B6.

E2. SERVICES

E2.1 The Contractor shall supply and deliver inductive loop bicycle counting systems and a data processing system in accordance with the requirements hereinafter specified.

E2.2 Item No. 1 – Inductive loop bicycle counting system

E2.2.1 Components

- (a) The inductive loop bicycle counting system shall consist of:
- (i) a counter/data logger, specifications for the counter, supplementary parts, and any installation components;
 - (ii) a power supply (see E2.2.8);
 - (iii) loop wire and accessories used to create inductive loops to detect electromagnetic signatures of bicycle wheel rims;
 - (iv) a housing unit to enclose the counter and power supply, which can be installed adjacent to the desired counting location;
 - (v) components required to secure the housing unit in place, if applicable;
 - (vi) cords, cables, and/or other items required for downloading data from the counter in the field to a personal computer (i.e. a mobile device or laptop computer);
 - (vii) cords, cables, and/or other items required for uploading data from a personal computer (i.e. a mobile device or laptop computer) to the data processing system, if applicable;
 - (viii) manuals for operating, maintaining, and installing the inductive loop bicycle counting system; and
 - (ix) any other components required to create a functioning system that meets the specifications stated in E2.2.

E2.2.2 Facilities

- (a) The inductive loop bicycle counting systems shall be designed for installation on multi-use pathways or dedicated bicycle facilities that are:
- (i) bi-directional; and
 - (ii) paved with asphalt or concrete pavement.
- (b) Two (2) of the inductive loop bicycle counting systems shall be designed for bicycle facilities that are approximately 3.5 m (11.5') wide and two (2) shall be designed for bicycle facilities that are approximately 5.0 m (16.5') wide.

E2.2.3 Measured Quantities

- (a) The inductive loop bicycle counting system shall:
- (i) collect data continuously, 24 hours per day, 365 days per year;
 - (ii) provide the count and direction of travel for each bicycle detected; and

- (iii) store count records in time bins of 15 minutes or less, or store individual records per cyclist.

- (b) Interval data shall contain, but is not limited to, the following:

- (i) sensor ID;
- (ii) timestamp of the beginning or end of the interval (yyyy-mm-dd_hh:mm:ss);
- (iii) volume of cyclists per direction; and
- (iv) total volumes.

E2.2.4 Performance and Testing

- (a) All inductive loop bicycle counting systems shall have a minimum volume accuracy of 90% (i.e. maximum error of +/- 10%) per direction of travel per 60-minute interval, based on a minimum of 10 cyclists per direction per interval.
- (b) The City of Winnipeg will conduct a commissioning test for each inductive loop bicycle counting system after installation. For the commissioning test, the City of Winnipeg will:
 - (i) collect twenty-four (24) hours of video footage from the installation site;
 - (ii) conduct a manual count of cyclists from the video footage, with the number of cyclists binned by direction for each 60-minute interval; and
 - (iii) compare the manually-counted values against the inductive loop counting system values for each bin.
- (c) An inductive loop bicycle counting system will be deemed to have failed the commissioning test if there is a greater than 10% discrepancy between the manually counted values and the inductive loop counting system values for:
 - (i) the 24 hour total; or
 - (ii) more than 25% of the bins with 10 or more cyclists.
- (d) Inductive loop bicycle counting systems that fail the commissioning test will be retested once. Upon retesting, if an inductive loop bicycle counting system still does not pass, then:
 - (i) it will be considered defective;
 - (ii) it will be returned to the vendor at the vendors expense; and
 - (iii) a replacement inductive loop bicycle counting system will be shipped to the City of Winnipeg at the vendor's expense.
- (e) The vendor may provide remote support prior to commissioning testing and/or retesting to help ensure that each system has been installed properly.
- (f) Notwithstanding (d), in the event that 50% or more of the inductive loop bicycle counting systems fail the commissioning test upon retesting, then:
 - (i) the vendor shall be deemed in violation of this contract;
 - (ii) this contract shall be terminated and all items obtained through this contract shall be returned to the vendor at the vendor's expense; and
 - (iii) the City of Winnipeg will be reimbursed the value of this contract by the vendor.

E2.2.5 Data Storage, Transmission, and Formatting

- (a) The inductive loop bicycle counting system shall:
 - (i) be capable of storing a minimum eight months of cyclist records internally before requiring a data transfer to an external device, assuming an average daily cyclist volume of 500 cyclists per day;
 - (ii) allow for manual data transmission from the counting device to a mobile device or laptop computer via:
 - ◆ a short-range, wireless connection (e.g. Bluetooth, etc.);
 - ◆ USB; or
 - ◆ an approved alternative.

- (iii) be capable of exporting and saving data in Microsoft Excel or CSV format, or an approved alternative.

E2.2.6 Data Ownership

- (a) All data collected by the inductive loops bicycle counting system shall belong to the City of Winnipeg and may not be viewed, used, modified, duplicated, nor distributed by non-City employees without the expressed written consent of the City of Winnipeg.

E2.2.7 Operating Conditions

- (a) The inductive loop bicycle counting system shall be capable of:
 - (i) meeting the performance requirements stated in E2.2.4 in all weather conditions, including rain, freezing rain, snow, wind, dust, fog, and changes in temperature and light; and
 - (ii) operating in an ambient temperature range of -40°C to 50°C (-40°F to 120°F) and over a relative humidity range of 5% to 95% (non-condensing).
- (b) Notwithstanding (a), the inductive loop bicycle counting system is not required to meet the specified performance criteria stated in E2.2.4 during periods which the inductive loops are covered by more than 2.5cm (1") of snow.

E2.2.8 Power Supply

- (a) The inductive loop bicycle counting system shall be battery powered.
- (b) Batteries shall have a minimum operating life of one (1) year under the operating conditions specified in E2.2.7.

E2.2.9 Durability

- (a) The inductive loop bicycle counting system shall be:
 - (i) rated IP68 or better if the counter and power supply are housed at or below ground level;
 - (ii) rated IP65 or better if the counter and power supply are housed above ground level; and
 - (iii) theft and vandalism resistant.

E2.3 Item No. 2 – Data processing system

E2.3.1 Components

- (a) The data processing system shall consist of:
 - (i) all software required to process raw input data from the inductive loop counting systems into cyclist counts in accordance with E2.2.3 and E2.2.5;
 - (ii) a data storage solution;
 - (iii) a one (1) year license and/or subscription to all components of the data processing system for at least three (3) users and at least three (3) devices, as applicable;
 - (iv) manuals for operating, maintaining, and installing the data processing system; and
 - (v) any other components required to create a functioning system that meets the specifications stated in E2.3.

E2.3.2 Processing software

- (a) The processing software shall:
 - (i) convert raw input data from the inductive loop counting systems into cyclist counts in accordance with E2.2.3 and E2.2.5; and
 - (ii) interface with the data storage solution, such that users can use the software to export all or portions of the stored data into Microsoft Excel or CSV format, or an approved alternative.

E2.3.3 Data storage solution

- (a) The data storage solution may be either cloud-based or on premise;
- (b) The data storage solution shall:
 - (i) store data from all of the City of Winnipeg's inductive loop counting systems procured through this contract, in accordance with E2.2.3;
 - (ii) be capable of storing at least five (5) years of data, assuming an average daily cyclist volume of 500 cyclists per day per inductive loop counting system; and
 - (iii) be capable of exporting all or portions of the stored data into Microsoft Excel or CSV format, or an approved alternative; and
 - (iv) require custom usernames and passwords to gain access the stored data.
- (c) To satisfy City of Winnipeg recordkeeping requirements, the system/Contractor must:
 - (i) allow the City to assign records management actions to users based on roles (e.g. create, read, modify, delete, etc.);
 - (ii) manage and maintain records and their associated metadata within the system until they can be exported out;
 - (iii) allow users with appropriate role-based access to permanently delete records that have been authorized for legal destruction, and if possible, produce a certificate, report, or log of deletion;
 - (iv) provide the functionality of exporting project records and associated metadata into human-readable formats for manual recordkeeping and management in external locations; and
 - (v) produce a report detailing success or failure during the export process (including identification of those records which generated errors or were not successfully exported).

E2.3.4 Data access

- (a) All data collected by the inductive loop counting systems procured through this contract and stored in the data processing system shall remain accessible to the City of Winnipeg indefinitely. This includes periods of time after data processing system subscriptions and/or licenses have expired, if applicable.