



SUBMISSION DEADLINE: 4:00 P.M. WINNIPEG TIME FEBRUARY 3, 2004

If your company name and address are not correctly shown below, please enter or correct it before submitting your Bid.

Company Name _____

**BUYER: KEN M. STELMACK, C.P.P., C.I.M. /sm
TELEPHONE NO. (204) 986-2293**

Address _____

SUPPLY AND DELIVERY OF SEALANT, JOINT (APPLIED HOT)

— Please quote prices on the attached Form B: Prices. —

State product offered: _____

THE BID SUBMISSION MUST INCLUDE THIS PAGE (COMPLETED AND SIGNED)

TERMS AND CONDITIONS ATTACHED APPLY EXCEPT AS SUPERSEDED ABOVE OR BY SPECIFICATIONS (IF ANY) ATTACHED.

Contact Person: (print) _____

Telephone Number: _____

Facsimile Number: _____

Early payment discount: _____ % _____ days
(See 1.5 of the Terms and Conditions attached.)

The Bidder hereby offers to perform the Work in accordance with the Contract for the price(s), in Canadian funds, set out in this Bid.

RETURN TO:

The Bidder agrees that the Request for Quotation in its entirety shall be deemed to be incorporated in and to form a part of this offer notwithstanding that not all parts thereof are necessarily attached to or accompany this Bid.

**THE CITY OF WINNIPEG 643-2003
CORPORATE FINANCE DEPARTMENT
MATERIALS MANAGEMENT DIVISION
185 KING ST MAIN FLOOR
WINNIPEG MB R3B 1J1**

The Bidder certifies that the following addenda have been received and agrees that they shall be deemed to form a part of the Contract.

No. 1 No. 2 No. 3 No. 4

This offer shall be open for acceptance, binding and irrevocable for a period of thirty (30) days following the Submission Deadline.

Signature: _____

TERMS AND CONDITIONS – GOODS

1. BIDDING PROCEDURES

- 1.1 The Bid must be submitted on the forms provided, with all required entries made clearly in ink.
- 1.2 If the Bidder finds discrepancies or omissions in the Request for Quotation or any part thereof, or is unsure of the meaning or intent thereof, he shall notify the Buyer. The Buyer will, if he deems it necessary, issue addenda to all Bidders. The Bidder is advised to direct all enquiries or comments to the Buyer at least five (5) business days prior to the Submission Deadline to allow time for the preparation and distribution of necessary addenda.
- 1.3 The Bidder is responsible for investigating the nature of the Work to be done and all conditions that might affect his Bid or his performance of the Work, and shall assume all risk for conditions existing or arising in the course of the Work which have been or could have been determined through such investigation.
- 1.4 The Contract is based on the design, methods and materials specified and any proposed substitutes must be clearly identified in the Bid. Where the phrases "or equal" or "or alternative" occur in the Request for Quotation, the Bidder is advised to submit descriptive matter in sufficient detail to permit a judgment as to the merits of any "equal" or "alternative" offered.
- 1.5 The Bidder may, but is not required to, offer a prompt payment discount. If prompt payment discounts are offered, they will be considered in determining the lowest evaluated responsive Bid.
- 1.6 The Bid must be submitted enclosed and sealed in an envelope clearly marked with the RFQ Number and the Bidder's name and address. Each envelope must contain only the Bid for one Request for Quotation.
- 1.7 The Bid must be submitted to the Materials Management Division at the address specified no later than the Submission Deadline specified. Bids received after the Submission Deadline will not be considered.
- 1.8 The Bid may be withdrawn without penalty at any time prior to the Submission Deadline.
- 1.9 The Bid shall be open for acceptance, binding and irrevocable for the period of time specified on the cover page. A Bidder who withdraws his Bid after the Submission Deadline but before his Bid has been released or has lapsed shall be liable for such damages as are imposed upon the Bidder by law and subject to such sanctions as the City considers appropriate in the circumstances.
- 1.10 The City 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 City may reject all or any part of any Bid or waive technical requirements if the interests of the City so require. The City may reject any Bid submitted by a Bidder who does not demonstrate, in his Bid or in other information required to be submitted, that he is responsible and qualified. A responsible and qualified Bidder is one that meets the qualifications specified and is not suspended, debarred or in default under any contract with the City.
- 1.11 Where the Contract is proposed in separate sections or with alternatives, the City shall have the right to award any section separately or to choose any alternative which is in its best interests.
- 1.12 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. 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.
- 1.13 The Buyer will give notice of the award of the Contract by issuing a Purchase Order to the successful Bidder, or will give notice that no award will be made.
- 1.14 The Request for Quotation, including but not limited to the specifications, drawings and addenda, and the Contractor's Bid 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.
- 1.15 The name of the successful Bidder and the Contract amount will be made available, upon request, to Bidders only after award of Contract.

2. SCOPE OF WORK

- 2.1 The Work to be done under this Contract shall consist of the supply and delivery of goods and the provision of ancillary services in accordance with applicable specifications, drawings and addenda.
- 2.2 The Contractor shall provide and pay for all materials, labour, equipment, tools, utilities, licenses and fees necessary to complete the Work.

3. GOODS

- 3.1 All goods supplied under the Contract shall be new and unused.
- 3.2 Materials and workmanship shall be fit for the purpose intended and shall equal or exceed the quality specified.
- 3.3 The Contractor shall be responsible for the storage, transportation and handling of goods until delivered to and accepted by the City.
- 3.4 Goods will be inspected at the time of delivery only for general description, quantity and obvious defects or damage. Notwithstanding any waiver or release which may be included on shipping bills, receipts or other such forms signed at the time of delivery, the Contractor shall not be relieved of any responsibility for goods which are defective or damaged or are not in accordance with the specifications.
- 3.5 Goods which, in the sole opinion of the City, fail to meet the requirements of the specifications shall be returned to the Contractor at his expense. The Contractor shall not be entitled to payment for goods so returned. In the event payment has been made to the Contractor, the City shall be entitled to recover same and to take whatever remedies that it may have at law.

4. ASSIGNMENT

- 4.1 The Contractor shall not assign the Contract or any payment thereunder without the prior written approval of the City.

5. SUBCONTRACTING

- 5.1 If the Contractor subcontracts any portion of the Work, he shall:
 - a) 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;
 - b) enter into contracts or written agreements with his Subcontractors to require them to perform their work in complete conformance with and subject to the terms and conditions of the Contract; and
 - c) be as fully responsible to the City for acts and omissions of his Subcontractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by him.

6. INDEMNITY

- 6.1 The Contractor shall save harmless and indemnify the City for twice the contract price plus two million dollars, unless specifically sated otherwise in the contract documents, against all costs, damages or expenses arising from actions, claims, demands and proceedings, by whomsoever brought, made or taken as a result of acts or omissions of the Contractor, his subcontractors, employees or agents in the performance or purported performance of the Work, and more particularly from:
 - a) accidental injury to or death of any person whether retained by or in the employ of the Contractor or not, arising directly or indirectly by reason of the performance of the Work, or by reason of any trespass on or damage to property;
 - b) damage to any property owned in whole or in part by the City, or which the City by duty or custom is obliged, directly or indirectly, in any way or to any degree, to construct, repair or maintain;
 - c) damage to, or trespass or encroachment upon, property owned by persons other than the City;
 - d) failure to pay and obtain a discharge of a notice of claim for lien served upon the City in accordance with the requirements of The Builders' Liens Act;
 - e) failure to pay a workers compensation assessment, or federal or provincial taxes;
 - f) unauthorized use of any design, device, material or process covered by letters patent, copyright, trademark or trade name in connection with the Work;
 - g) inaccuracies in any information provided to the City by the Contractor.
- 6.2 The City has the right, acting reasonably and upon notice to the Contractor, to settle any such action, proceeding, claim or demand and charge the Contractor with the amount so paid or to be paid in effecting a settlement.
- 6.3 The Contractor shall pay to the City the value of all legal fees and disbursements required to settle any such claim or to defend the City against any such claim, action, proceeding, claim or demand notwithstanding that the settlement or defence of the said action, proceeding, claim or demand was undertaken on behalf of the City by a salaried employee of the City.
- 6.4 If the Contractor fails to make any payment required to be made to the City hereunder, the City shall be entitled to deduct the amount of such payment from any payment required to be made by the City to the Contractor under the Contract or take whatever other remedies against the Contractor that the City may have at law.

7. EVENTS OF DEFAULT

- 7.1 An event of default will be deemed to have occurred if the Contractor:
 - a) abandons the Work; or
 - b) is adjudged bankrupt or files for bankruptcy, becomes insolvent, makes a general assignment for the benefit of his creditors, or has a receiver or liquidator appointed in respect of his assets; or
 - c) in the judgment of the City, is not performing or has not been performing the Work, or any part thereof, in a sound and workmanlike manner and in all respects in strict conformity with the Contract; or
 - d) in the judgment of the City, is not progressing continuously with the Work or any part thereof, and in such a manner as to ensure the completion of the Work or any part thereof, in accordance with the work schedule; or
 - e) fails to remedy any defective or deficient Work, or to remove any defective or deficient goods; or
 - f) fails to remedy defects or deficiencies during the warranty period in the manner and within the time periods specified by the City; or
 - g) fails to make prompt payment to his subcontractors, his employees or on account of the purchase or rental of equipment or material; or
 - h) fails to promptly secure a discharge of a lien or trust claim served upon the City pursuant to The Builders' Liens Act; or
 - i) fails to comply with any laws, by-laws or statutory regulations; or
 - j) fails to submit any schedules, documents or information required by the Contract; or
 - k) refuses or neglects to comply with an order given by the City;
 - l) commits any other breach of the Contract.
- 7.2 Any provision of the Contract may be waived only by express waiver in writing by the City. No express waiver of any provision shall imply the waiver of any other provision.
- 7.3 If an event of default has occurred, the City may do any one or more of the following:
 - a) withhold or retain the whole or part of any payment;
 - b) take the whole of the Work, or any part or parts thereof out of the hands of the Contractor;
 - c) demand payment for any amount owed to the City.

- 7.4 The duties and obligations imposed upon the Contractor by the Contract and the rights and remedies available to the City hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed upon the Contractor or available to the City at law.

8. PRICES AND PAYMENT

- 8.1 Prices bid shall be gross prices including all applicable duty, freight, cartage, Provincial and Federal Taxes [except Manitoba Retail Sales Tax (MRST or PST) and Goods and Services Tax (GST), which shall be extra where applicable] and all charges governmental or otherwise paid, and including profit and all compensation which shall be due to the Contractor.
- 8.2 If the Contractor charges GST, he must show his registration number and the amount of GST separately on the invoice.
- 8.3 Where The Builders' Liens Act is applicable to the Contract, payments will be subject to such holdbacks as are required to be made thereunder. Interest on holdback amounts will be credited, and holdback amounts will be released, in accordance with said Act.
- 8.4 Payment will be in Canadian funds net thirty (30) days from receipt of acceptable goods, or receipt and approval of the Contractor's invoice, whichever is later.

FORM B: PRICES
Sealant, Joint (Applied Hot)

UNIT PRICES

ITEM NO.	DESCRIPTION	SPEC. REF.	APPROX. QUANTITY	UNITS	UNIT PRICE
1.	Sealant, Joint (applied hot)	3.2	60,000	kg	_____

Name of Bidder

SPECIFICATIONS

1. GENERAL

1.1 These Specifications shall be applicable to the Work and shall take precedence over the Terms and Conditions.

2. DEFINITIONS

2.1 When used in this Request for Quotation:

- (a) "**Business Day**" means any Calendar Day, other than a Saturday, Sunday, or a Statutory or Civic Holiday;
- (b) "**Buyer**" means the person authorized to represent the City in respect of the Request for Quotation;
- (c) "**Calendar Day**" means the period from one midnight to the following midnight;
- (d) "**Contract**" means the combined documents consisting of the Request for Quotation package and any documents and drawings referred to and incorporated therein together with any submissions required to be made by the Contractor after award, and all amendments to the foregoing;
- (e) "**Contract Administrator**" means the person authorized to represent the City in respect of the Contract and is identified at the time of award of the Contract;
- (f) "**Contractor**" means the person undertaking the performance of the Work under the terms of the Contract;
- (g) "**ASTM**" means the American Society for Testing and Materials, that complies with the latest edition of standards including amendments and supplements in effect on the date of issue of this Specification shall apply to the Work;
- (h) "**AASHTO**" means the American Association of State Highways and Transportation Officials, that complies with the latest edition of standards including amendments and supplements in effect on the date of issue of this Specification shall apply to the Work;
- (i) "**User**" means a person, department or other administrative unit of the City authorized by the Contract Administrator to order Work under this Contract;
- (j) "**Work**" means the carrying out and the doing of all things, whether of a temporary or permanent nature, that are to be done by the Contractor pursuant to the Contract and, without limiting the generality of the foregoing, includes the furnishing of all equipment, facilities, material, labour and services necessary for or incidental to the fulfilment of the requirements of the Contract.

2.2 Further to 2.1(b), the Buyer is:

KEN M. STELMACK, C.P.P., C.I.M.
(204) 986-2293

3. GOODS

3.1 The Contractor shall supply and deliver joint sealant (applied hot) in accordance with the requirements hereinafter specified.

3.2 Item No. 1 – joint sealant (applied hot) shall be a **low modulus Type IV** material conforming to ASTM Standard 6690-01, Specification for Joint and Crack Sealants, Hot-Poured, for Concrete and Asphalt Pavements and with the City of Winnipeg Standard Construction Specifications, CW3250R-4 and CW3710-R4.

4. SUBSTITUTES

4.1 Further to clause 1.4 of the Terms and Conditions, the Work is based on the materials, equipment, methods and products specified in the Request For Quotation.

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

4.3 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.

4.4 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.

4.5 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.

4.6 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.

4.6.1 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.

4.7 If the Contract Administrator approves a substitute as an "approved equal", the Bidder may use the approved equal in place of the specified item.

4.8 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 clause 16.

4.9 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.

5. MATERIAL SAFETY DATA SHEETS

5.1 The Contractor shall provide the Contract Administrator with one (1) copy of Material Safety Data Sheets (MSDS's) for each product to be supplied under the Contract at least two (2) Business Days prior to the commencement of Work but in no event later than seven (7) Calendar Days from notification of the award of Contract.

5.2 Throughout the term of the Contract, the Contractor shall provide the Contract Administrator with revisions or updates of the MSDS's as soon as may be reasonably possible.

6. ORDERS

6.1 The Contractor shall provide a local Winnipeg, or toll-free, telephone and/or facsimile number at which orders may be placed.

6.2 The Contractor shall make provisions to receive orders, as identified in 6.1 above, at all times between 8:30 a.m. and 4:30 p.m. on Business Days.

7. PACKAGING

7.1 The joint sealant material shall be wrapped in polyethylene in 25 – 30 kilogram lots supplied in rigid containers.

7.2 The rigid containers shall consist of:

- (a) steel pails with lids; or

- (b) corrugated cardboard cartons, enclosed on all sides and designed and constructed to allow unsupported stacking to a height of 1.5 metres.

7.3 The polyethylene inner wrapper shall be of a composition that will not adversely affect the operation of the melting equipment of the City.

8. DELIVERY

8.1 Goods shall be delivered on an "as-required" basis during the term of the Contract, f.o.b. destination, freight prepaid to:

Public Works Department
Central Stores
1277 Pacific Ave.
Winnipeg, MB

8.1.1 Goods shall be delivered within five (5) Business Days of the placing of an order, except where otherwise agreed at the time of ordering.

8.2 Goods shall be delivered between 8:15 a.m. and 3:30 p.m. on Business Days.

8.3 The Contractor shall deliver the joint sealant on pallets by flatbed trailer or truck.

8.4 The Contract Administrator will advise the Contractor if they require delivery of a full truckload on an open flatbed trailer or truck. The load shall be not less than 11,000 kilograms, but not exceeding 25 pallets, each holding no more than 50 packages.

9. DURATION OF CONTRACT

9.1 The Contract shall be for a one (1) year period starting on April 01, 2004 ending on March 31, 2005.

9.2 Notwithstanding the foregoing, the City may terminate the Contract upon thirty (30) Calendar Days written notice by the Contract Administrator in the event that operational changes result in substantial changes to the requirement for the goods.

10. ADDENDA

10.1 The Buyer may, at any time prior to the Submission Deadline, issue addenda correcting errors, discrepancies or omissions in the Request for Quotation, or clarifying the meaning or intent of any provision therein.

10.2 The Buyer will issue each addendum to all Bidders by:

- (a) publication at the Materials Management Division's Bid Opportunities internet website at <http://www.winnipeg.ca/matmgt/bidopp.asp>.

10.3 The Bidder is responsible for ensuring that he/she has received all addenda and shall acknowledge receipt of each addendum on the Request for Quotation cover page. Failure to acknowledge receipt of an addendum may render a Bid non-responsive.

10.3.1 The Bidder is advised to check the Materials Management Division's Bid Opportunities internet website for addenda shortly before submitting his/her Bid.

11. BID SUBMISSION

11.1 The Bid Submission consists of the following components:

- (a) Request for Quotation cover page completed and signed;
- (b) Form B: Prices;

11.2 Bids may be submitted by:

- (a) mail, courier or personal delivery to the address shown on the Request for Quotation cover page; or
- (b) facsimile transmission (fax) to (204) 949-1178.

- 11.2.1 The Bidder is advised that the City cannot take responsibility for the availability of the facsimile machine at any time.
- 11.2.2 Bids submitted by internet electronic mail (e-mail) will not be accepted.

12. PRICES

- 12.1 The Bidder shall state a price in Canadian funds for each item of the Work identified on Form B: Prices.
- 12.2 Prices shall be fixed for the duration of the Contract except for changes stipulated, with amounts and effective dates, in the Bid.
- 12.3 Further to 8.1 of the Terms and Conditions, the City will not consider payment of any charges (e.g., minimum order charges, handling charges, container deposits, etc.), except those imposed after the Submission Deadline by a government or regulatory authority having jurisdiction, unless they are identified and quantified in the Bid.
- 12.4 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.
- 12.5 The quantities for which payment will be made to the Contractor shall be determined by the Work actually performed by the Contractor.

13. INVOICES

- 13.1 The Contractor shall submit invoices to the locations designated at the time of ordering.
- 13.2 Invoices must clearly indicate, as a minimum:
- (a) the City's Purchase Order (PO) or Contract number;
 - (b) shipping date(s);
 - (c) delivery address(s);
 - (d) description, quantity and unit price(s) of goods delivered;
 - (e) total amount payable with GST and PST, where applicable, shown as separate amounts; and
 - (f) where applicable, the Contractor's GST registration number.
- 13.3 The City will bear no responsibility for delays in approval of invoices that are improperly submitted.

14. RECORDS

- 14.1 The Contractor shall keep detailed records of the goods supplied under the Contract.
- 14.2 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.
- 14.3 The Contractor shall provide the Contract Administrator with a copy of the records for each year within thirty (30) Calendar Days of the end of that year.

15. WARRANTY

- 15.1 The Contractor warrants that the goods will be free of any and all defects or deficiencies for a period of one (1) year from the date of delivery to and acceptance by the City.
- 15.2 Upon notification by the User, the Contractor shall, at his/her sole cost and expense, remedy any defect or deficiency identified by the User during the warranty period and any damage that may arise or result from the defect or deficiency or as a result of the correction of same.

- 15.2.1 Goods determined to be defective within thirty (30) Calendar Days from the date of delivery of an order shall, except when otherwise authorized by the User, be replaced with new and unused goods at no cost to the City. If goods are supplied as an assembly, the entire assembly shall be replaced as a whole.
- 15.2.2 Goods determined to be defective after the first thirty (30) Calendar Days but within one (1) year from the date of delivery shall, except when otherwise authorized by the User, be repaired at no cost to the City. The Contractor may, at his/her option, replace the defective goods with new and unused goods at no cost to the City.
- 15.3 Notwithstanding 15.1 and 15.2 above, if any statute in force in the Province of Manitoba or in the jurisdiction where the goods were 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 statute or manufacturer's warranty shall apply.

16. EVALUATION CRITERIA

- 16.1 Award of this Contract will be based on the following evaluation criteria:
- | | |
|---|------------|
| (a) conformance of the Bid with the requirements of the RFQ | pass/fail; |
| (b) qualifications of the Bidder pursuant to 1.10 of the Terms and Conditions | pass/fail; |
| (c) total contract price | 100%. |
- 16.2 Further to 16.1(a), the Bidder shall, within two (2) Business Days of a request by the Buyer, provide representative samples of the goods offered.
- 16.3 Further to 16.1(b), the Bidder shall:
- (a) submit, within two (2) Business Days of a request by the Buyer, proof satisfactory to the Buyer of the qualifications of the Bidder and of any proposed subcontractor;
 - (b) provide, on the request of the Buyer, full access to any of the Bidder's equipment and facilities to confirm, to the Buyer's satisfaction, that the Bidder's equipment and facilities are adequate to perform the Work.
- 16.4 Further to 16.1(c), total contract price will be evaluated on the basis of the approximate quantities shown on Form B: Prices considering early payment discounts if offered.

17. AWARD OF CONTRACT

- 17.1 This Contract will be awarded as a whole.