

**PART D**

**SUPPLEMENTAL CONDITIONS**

## **PART D - SUPPLEMENTAL CONDITIONS**

### **GENERAL**

#### **D1. GENERAL CONDITIONS**

- D1.1 In addition to the *General Conditions for Provision of Services*, 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 provision of elevator, escalator and dumbwaiter maintenance services for The City of Winnipeg for the period indicated for each locations in accordance with applicable Specifications for the period of January 1, 2005 to December 31, 2009 .
- D2.2 The Work shall be done on an "as required" basis during the term of the Contract.
- D2.2.1 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.
- D2.2.2 Subject to GC.4.07, the City shall have no obligation under the Contract to purchase any quantity of any item in excess of its actual operational requirements.
- D2.3 Notwithstanding D3.1, the type and quantity of Work to be performed under this Contract is subject to annual approval of monies therefore in a budget by Council. Bidders are advised that monies have been approved for work up to and including December 31, 2004.
- D2.4 Notwithstanding D3.1, 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 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. DURATION OF CONTRACT**

- D3.1 Notwithstanding GC.8.01, the Contractor shall perform the Work of this Contract during the period of January 1, 2005 to December 31, 2009 .
- D3.2 Notwithstanding D3.1, in the event that operational changes result in substantial changes to the requirements for Work, the City reserves the right 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.

#### **D4. DEFINITIONS**

D4.1 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;

#### **D5. CONTRACT ADMINISTRATOR**

D5.1 The Contract Administrator is:

Stan Russell  
Supervisor of Project Services  
Building Services Division  
Public Works Department  
Main Floor, 100 Main Street  
Winnipeg, MB R3C 1A4  
  
Telephone No. (204) 986-4368  
Facsimile No. (204) 986-7311  
Cell No. (204) 794-4418

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

#### **D6. CONTRACTOR'S SUPERVISOR**

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

#### **D7. NOTICES**

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

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

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

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

The City of Winnipeg  
Chief Administrative Officer Secretariat  
Administration Building, 3rd Floor  
510 Main Street  
Winnipeg MB R3B 1B9  
Facsimile No.: (204) 949-1174

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

The City of Winnipeg  
Corporate Services Department  
Legal Services Division  
185 King Street, 3rd Floor  
Winnipeg MB R3B 1J1  
Facsimile No.: (204) 947-9155

## **SUBMISSIONS**

### **D8. AUTHORITY TO CARRY ON BUSINESS**

- D8.1 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.

### **D9. WORKERS COMPENSATION**

- D9.1 The Contractor shall be registered with the Workers Compensation Board of Manitoba, shall provide and maintain Workers Compensation coverage throughout the term of the Contract, and shall provide the Contract Administrator with evidence thereof upon request.

### **D10. INSURANCE**

- D10.1 The Contractor shall provide and maintain the following insurance coverage:
- (a) commercial general liability insurance, in the amount of at least two million dollars (\$2,000,000.00) all inclusive, with The City of Winnipeg being added as an additional insured, with a cross-liability clause, such liability policy to also contain a contractual liability, an unlicensed motor vehicle liability and a products and completed operations endorsement to remain in place at all times during the performance of the Work and throughout the warranty period;
  - (b) automobile liability insurance for owned and non-owned automobiles used for or in connection with the Work in the amount of at least two million dollars (\$2,000,000.00) at all times during the performance of the Work and until the date of Total Performance.
- D10.2 Deductibles shall be borne by the Contractor.
- D10.3 The Contractor shall provide the Contract Administrator with a certified true copy or a certificate of insurance of each policy at least two (2) Business Days prior to the commencement of any Work on the Site but in no event later than the date specified in GC.3.01 for the return of the executed Contract.

D10.4 The Contractor shall not cancel, materially alter, or cause each policy to lapse without providing at least fifteen (15) Calendar Days prior written notice to the Contract Administrator.

#### **D11. SECURITY CLEARANCE**

D11.1 Each individual proposed to perform Work under the Contract within City facilities or on private property shall be required to obtain a Criminal Record Search Certificate from the police service having jurisdiction at his/her place of residence.

D11.2 Prior to the commencement of any Work, and during the term of the Contract if additional or replacement individuals are proposed to perform Work, the Contractor shall supply the Contract Administrator with a Criminal Record Search Certificate obtained not earlier than one (1) year prior to the Submission Deadline, or a certified true copy thereof, for each individual proposed to perform Work within City facilities or on private property.

D11.3 Any individual for whom a Criminal Record Search Certificate is not provided, or for whom a Criminal Record Search Certificate indicates any convictions or pending charges related to property offences or crimes against another person, will not be permitted to perform any Work within City facilities or on private property.

D11.4 Any Criminal Record Search Certificate obtained thereby will be deemed valid for the duration of the Contract subject to a repeated records search as hereinafter specified.

D11.5 Notwithstanding the foregoing, at any time during the term of the Contract, the City may, at its sole discretion and acting reasonably, require an updated criminal records search. Any individual who fails to provide a satisfactory Criminal Record Search Certificate as a result of a repeated criminal records search will not be permitted to continue to perform Work under the Contract within City facilities or on private property.

#### **CONTROL OF WORK**

##### **D12. COMMENCEMENT**

D12.1 The Contractor shall not commence any Work until he is in receipt of a purchase order authorizing the commencement of the Work.

D12.2 The Contractor shall not commence any Work on the Site until:

- (a) the Contract Administrator has confirmed receipt and approval of:
  - (i) evidence that the Contractor is in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba;
  - (ii) evidence of the workers compensation coverage specified in D9;
  - (iii) evidence of the insurance specified in D10; and
  - (iv) the security clearances specified in D11.
- (b) the Contractor has attended a meeting with the Contract Administrator, or the Contract Administrator has waived the requirement for a meeting.

##### **D13. ORDERS**

D13.1 The Contractor shall provide a local Winnipeg telephone number or a toll-free telephone number at which orders for service may be placed.

## **MEASUREMENT AND PAYMENT**

### **D14. INVOICES**

- D14.1 Further to D7.3, the Contractor shall submit invoices to the locations designated at the time of ordering.
- D14.2 Invoices must clearly indicate, as a minimum:
- (a) the City's order number;
  - (b) date(s) of provision of services;
  - (c) location at which service was provided;
  - (d) type and quantity of services provided;
  - (e) the amount payable with GST and PST shown as separate amounts; and
  - (f) the Contractor's GST registration number.
- D14.3 The City will bear no responsibility for delays in approval of invoices which are improperly submitted.

### **D15. PAYMENT**

- D15.1 Further to GC.9.03, 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 Notwithstanding GC.10.01 and GC.10.02, the warranty period for each item of Work supplied shall begin on the date of successful delivery and shall expire one (1) year thereafter unless extended pursuant to D16.2, in which case it shall expire when provided for thereunder.
- D16.2 Further to GC.10.01, if a defect or deficiency prevents the full and normal use or operation of the Work or any portion thereof, for purposes of calculating the warranty period, time shall be deemed to cease to elapse for the defective or deficient portion, and for any portion of the Work whose use or operation is prevented by such defect or deficiency, as of the date on which the defect or deficiency is observed or the use or operation is prevented and shall begin to run again when the defect or deficiency has been corrected or the Work may be used or operated to the satisfaction of the Contract Administrator.
- D16.3 Notwithstanding GC.10.01, GC.10.02 and D16.2, if any law of Manitoba or of the jurisdiction in which the Work was manufactured requires, or if the manufacturer provides, a longer warranty period or a warranty which is more extensive in its nature, then the provisions of such law or manufacturer's warranty shall apply.

### **D17. OWNERSHIP OF INFORMATION, ETC.**

- D17.1 All information, data, records and materials produced by the Contractor, or any officers, employees or agents of the Contractor, in the performance of this Agreement, and all copyright therein, including without limitation, log books and time in/time out books shall be the exclusive property of the City of Winnipeg and shall be delivered without cost to the City of Winnipeg upon request.

D17.2 Any equipment, materials and supplies, including all wiring diagrams and drawings provided by the City of Winnipeg to the Contractor for use in the performance of this Agreement, shall remain the property of the City of Winnipeg and shall be returned without cost to the City of Winnipeg upon request.

**D18. CONFIDENTIALITY OF INFORMATION, ETC. ACQUIRED**

D18.1 The Contractor agrees that no advertising will be permitted with respect to the Services performed pursuant to this Contract with the exception of the display of the Contractor's name on personnel uniforms or badges.

D18.2 While this Contract is in effect, and at all times thereafter the Contractor and any officers, employees or agents of the Contractor

- (a) shall treat as confidential all information, data, documents, materials and property to which access has been given in the course of, or incidental to, the performance of this contract;
- (b) shall not disclose or permit to be disclosed, to any person, corporation or organization such information, data, documents, materials or property; and
- (c) shall comply with any rules or directions made or given by the City of Winnipeg with respect to safeguarding or ensuring the confidentiality of such information, data, documents, materials or property.

**D19. MODERNIZATION**

D19.1 Upon modernization of elevator systems or components covered by this maintenance contract which would substantially change the Scope of Work, the City of Winnipeg reserves the right to give sixty (60) days written notice of its intention to terminate the elevator maintenance contract.