



**THE CITY OF WINNIPEG**

# **REQUEST FOR PROPOSAL**

**RFP NO. 419-2005**

**PROVISION OF TRANSIT BUS ADVERTISING**

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## **PART B - BIDDING PROCEDURES**

### **B1. PROJECT TITLE**

B1.1 PROVISION OF TRANSIT BUS ADVERTISING

### **B2. SUBMISSION DEADLINE**

B2.1 The Submission Deadline is 4:00 p.m. Winnipeg time, September 9, 2005.

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

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

### **B3. ENQUIRIES**

B3.1 All enquiries shall be directed to the Contract Administrator identified in D5.1.

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

B3.3 Responses to enquiries which, in the sole judgment of the Contract Administrator, require a correction to or a clarification of the Request for Proposal 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 Request for Proposal 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.

B4.2 The Bidder shall not make any statement of fact or opinion regarding any aspect of the Request for Proposals 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 Request for Proposal, 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.

- B5.2.1 Addenda will be available on the Bid Opportunities page at The City of Winnipeg, Corporate Finance, Materials Management Branch internet site at <http://www.winnipeg.ca/matmgt>.
- B5.2.2 The Bidder is responsible for ensuring that he has received all addenda and is advised to check the Materials Management Branch internet site for addenda shortly before submitting his Proposal.
- B5.3 The Bidder shall acknowledge receipt of each addendum in Paragraph 11 of Form A: Proposal. Failure to acknowledge receipt of an addendum may render a Proposal non-responsive.
- B6. SUBSTITUTES**
- B6.1 The Work is based on the Plant, Materials and methods specified in the Request for Proposal.
- 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 Substantial Performance and 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 Substantial Performance and 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, only to the Bidder who requested approval of the substitute.
- B6.6.1 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.
- 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 shall 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. PROPOSAL SUBMISSION**

- B7.1 The Proposal Submission consists of the following components:
- (a) Form A: Proposal;
  - (b) Form B: Revenue;
  - (c) Form C: Qualification;
  - (d) Form G1: Bid Bond and Agreement to Bond, or Form G2: Irrevocable Standby Letter of Credit and Undertaking, or a certified cheque or draft;
  - (e) Business Plan.
- B7.2 All components of the Proposal Submission shall be fully completed or provided, and submitted by the Bidder no later than the Submission Deadline, with all required entries made clearly and completely in ink, to constitute a responsive Proposal.
- B7.3 The Proposal Submission shall be submitted enclosed and sealed in an envelope clearly marked with the RFP number and the Bidder's name and address.
- B7.3.1 Samples or other components of the Proposal Submission which cannot reasonably be enclosed in the envelope may be packaged separately, but shall be clearly marked with the RFP number, the Bidder's name and address, and an indication that the contents are part of the Bidder's Proposal Submission.
- B7.4 Proposal Submissions submitted by facsimile transmission (fax) or internet electronic mail (e-mail) will not be accepted.
- B7.5 Proposal Submissions shall be submitted to:
- The City of Winnipeg  
Corporate Finance Department  
Materials Management Branch  
185 King Street, Main Floor  
Winnipeg MB R3B 1J1

## **B8. PROPOSAL**

- B8.1 The Bidder shall complete Form A: Proposal, making all required entries.
- B8.2 Paragraph 2 of Form A: Proposal 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 Proposal 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: Proposal, the Bidder shall identify a contact person who is authorized to represent the Bidder for purposes of the Proposal.

B8.4 Paragraph 13 of Form A: Proposal 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 and the corporate seal, if the corporation has one, should be affixed;
- (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: Proposal shall be printed below such signatures.

B8.4.2 All signatures shall be original and shall be witnessed except where a corporate seal has been affixed.

B8.5 If a Proposal 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 Proposal Submission 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: Revenue.

B9.1.1 Notwithstanding GC.9.01(1), prices on Form B: Revenue shall not include the Goods and Services Tax (GST), which shall be extra where applicable.

B9.2 The quantities listed on Form B: Revenue are to be considered approximate only. The City will use said quantities for the purpose of comparing Proposals.

B9.3 The quantities for which payment will be made to the City are to be determined by the Work actually performed and completed by the Contractor, to be measured as specified in the applicable Specifications.

## **B10. QUALIFICATION**

B10.1 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;

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

B10.2 The Bidder shall complete Form C: Qualification giving a list of previously completed work, similar in nature, scope and value to the Work, in sufficient detail to demonstrate the Bidder's qualification to undertake the Work.

B10.3 The Bidder shall provide, in his Proposal Submission the industry experience of his key personnel.

B10.4 The Bidder shall be prepared to submit, within three (3) Business Days of a request by the Contract Administrator, proof satisfactory to the Contract Administrator of the qualifications of the Bidder and of any proposed Subcontractor.

B10.5 The Bidder shall provide, on the request of the Contract Administrator, full access to any of the Bidder's equipment and facilities to confirm, to the Contract Administrator's satisfaction, that the Bidder's equipment and facilities are adequate to perform the Work.

## **B11. BUSINESS PLAN**

B11.1 The Bidder shall provide a business plan with their Proposal submission which includes the following:

- (a) Management plan including but not limited to a consideration of the following matters where applicable:
  - (i) Management and organization structure of the Bidder including the roles and responsibilities of the staff who will have management and supervisory positions with regard to the Contract, and
  - (ii) Personnel data on key executives including relevant business experience, advertising experience and any other information that indicates the necessary skills.
- (b) Financial Plan;
- (c) Operating Plan;
- (d) Proposed Implementation Plan; and
- (e) Marketing Plan.

## **B12. BID SECURITY**

B12.1 The Bidder shall provide bid security in the form of:

- (a) a bid bond, in the amount of Forty Thousand Dollars (\$40,000.00), and agreement to bond of a company registered to conduct the business of a surety in Manitoba, in the form included in the Proposal Submission (Form G1: Bid Bond and Agreement to Bond); or
- (b) an irrevocable standby letter of credit, in the amount of Forty Thousand Dollars (\$40,000.00), and undertaking issued by a bank or other financial institution registered to conduct business in Manitoba and drawn on a branch located in Winnipeg, in the form included in the Proposal Submission (Form G2: Irrevocable Standby Letter of Credit and Undertaking); or
- (c) a certified cheque or draft payable to "The City of Winnipeg", in the amount of Four Hundred Thousand Dollars (\$400,000.00), drawn on a bank or other financial institution registered to conduct business in Manitoba.

B12.2 The bid security of the successful Bidder and the next two lowest evaluated responsive and responsible Bidders will be released by the City when a Contract for the Work has been duly executed by the successful Bidder and the performance security furnished as provided herein. The bid securities of all other Bidders will be released when a Contract is awarded.

B12.2.1 Where the bid security provided by the successful Bidder is in the form of a certified cheque or draft pursuant to B12.1(c), it will be deposited and retained by the City as the performance security and no further submission is required.

B12.2.2 The City will not pay any interest on certified cheques or drafts furnished as bid security or subsequently retained as performance security.

B12.3 The bid securities of all Bidders will be released by the City as soon as practicable following notification by the Contract Administrator to the Bidders that no award of Contract will be made pursuant to the Request for Proposal.

### **B13. OPENING OF PROPOSALS AND RELEASE OF INFORMATION**

B13.1 Proposal Submissions will not be opened publicly.

B13.2 After award of Contract, the name(s) of the successful Bidder(s) and the Contract Amount(s) will be available on the Closed Bid Opportunities (or Public/Posted Opening & Award Results) page at The City of Winnipeg, Corporate Finance, Materials Management Branch internet site at <http://www.winnipeg.ca/matmgt>.

B13.3 To the extent permitted, the City shall treat all Proposal Submissions as confidential, however the Bidder is advised that any information contained in any Proposal Submission may be released if required by City policy or procedures, by The Freedom of Information and Protection of Privacy Act (Manitoba), by other authorities having jurisdiction, or by law.

### **B14. IRREVOCABLE OFFER**

B14.1 The Proposal(s) submitted by the Bidder shall be irrevocable for the time period specified in Paragraph 12 of Form A: Proposal.

B14.2 The acceptance by the City of any Proposal shall not release the Proposals of the other responsive Bidders and these Bidders shall be bound by their offers on such Work until a Contract for the Work has been duly executed and the performance security furnished as herein provided, but any offer shall be deemed to have lapsed unless accepted within the time period specified in Paragraph 12 of Form A: Proposal.

## **B15. WITHDRAWAL OF OFFERS**

- B15.1 A Bidder may withdraw his Proposal without penalty by giving written notice to the Manager of Materials at any time prior to the Submission Deadline.
- B15.1.1 Notwithstanding GC.7.06(2), the time and date of receipt of any notice withdrawing a Proposal 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: Proposal or the Bidder's authorized representatives named in Paragraph 13 of Form A: Proposal, 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 shall:
- (a) retain the Proposal Submission until after the Submission Deadline has elapsed;
  - (b) open the Proposal Submission to identify the contact person named in Paragraph 3 of Form A: Proposal and the Bidder's authorized representatives named in Paragraph 13 of Form A: Proposal; and
  - (c) if the notice has been given by any one of the persons specified in B15.1.3(b), declare the Proposal withdrawn.
- B15.2 A Bidder who withdraws his Proposal after the Submission Deadline but before his offer 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, including the right to retain the Bidder's bid security.

## **B16. INTERVIEWS**

- B16.1 The Contract Administrator may, in his sole discretion, interview Bidders during the evaluation process.

## **B17. NEGOTIATIONS**

- B17.1 The City reserves the right to negotiate details of the Contract with Bidders.
- B17.2 Negotiations, if any, are intended to address administrative and technical details of the Contract. The Bidder is advised to present his best offer, not a starting position for negotiations, in his Proposal Submission; the City will not necessarily pursue negotiations with any Bidder.
- B17.3 If, in the course of negotiations pursuant to B17.2 or otherwise, the Bidder amends or modifies a Proposal after the Submission Deadline, the City may consider any amended Proposal as an alternative to the Proposal as originally submitted without releasing the Bidder from the Proposal as originally submitted.

## **B18. EVALUATION OF PROPOSALS**

- B18.1 Award of the Contract shall be based on the following evaluation criteria:
- (a) compliance by the Bidder with the requirements of the Request for Proposal:
    - (i) mandatory requirements (pass/fail);
  - (b) qualifications of the Bidder and the Subcontractors, if any, pursuant to B10:
    - (i) mandatory qualifications (pass/fail);
  - (c) industry experience of key personnel 5%;

- (d) business plan 5%;
- (e) other factors which may present advantages to the City of Winnipeg 15%;
- (f) Net Present Value of Form B: Revenue 75%;
- (g) economic analysis of any approved alternative pursuant to B6.

- B18.2 Further to B18.1(a), the Award Authority may reject a Proposal as being non-responsive if the Proposal Submission is incomplete, obscure or conditional, or contains additions, deletions, alterations or other irregularities. The Award Authority may reject all or any part of any Proposal, or waive technical requirements if the interests of the City so require.
- B18.3 Further to B18.1(b), the Award Authority shall reject any Proposal submitted by a Bidder who does not demonstrate, in his Proposal Submission or in other information required to be submitted, that he is responsible and qualified.
- B18.4 Further to B18.1(c), industry experience of key personnel will be evaluated considering the Bidder's Proposal or in other information required to be submitted.
- B18.5 Further to B18.1(d), business plan will be evaluated considering the Bidder's Proposal or in other information required to be submitted. The business plan will be evaluated for completeness and reasonableness of the plan.
- B18.6 Further to B18.1(e), other factors which may present advantages to the City will be evaluated considering the Bidder's Proposal or in other information required to be submitted.
- B18.7 Further to B18.1(f), the net present value of the Form B: Revenue will be evaluated considering:
- (i) The guaranteed revenue to be received by the City; and
  - (ii) Net present value will be determined using a discount rate of three and half (3.5%) percent per year. The highest return to the City will receive the most points with all other Proposals being pro-rated accordingly.
- B18.8 This Contract will be awarded as a whole.

## **B19. AWARD OF CONTRACT**

- B19.1 The City will give notice of the award of the Contract by way of a letter of intent, or will give notice that no award will be made.
- B19.2 The City will have no obligation to award a Contract to a Bidder, even though one or all of the Bidders are determined to be responsible and qualified, and the Proposals are determined to be responsive.
- B19.2.1 Without limiting the generality of B19.2, 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 Proposal 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.
- B19.3 Where an award of Contract is made by the City, the award shall be made to the responsible and qualified Bidder submitting the most advantageous offer.

## **PART C - GENERAL CONDITIONS**

### **C1. GENERAL CONDITIONS**

C1.1 The *General Conditions for Provision of Services* (Revision 1996 02 05) are applicable to the Work of the Contract.

C1.1.1 The *General Conditions for Provision of Services* are available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Branch internet site at <http://www.winnipeg.ca/matmgt>.

## **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 “Request for Proposal”.
- D1.5 The General Conditions are amended by striking out “Tender Submission” wherever it appears in the General Conditions and substituting “Proposal Submission”.
- D1.6 The General Conditions are amended by striking out “Bidding Instructions” wherever it appears in the General Conditions and substituting “Bidding Procedures”.
- D1.7 In addition to the *General Conditions*, these Supplemental Conditions are applicable to the Work of the Contract.

#### **D2. BACKGROUND INFORMATION**

- D2.1 The City can provide the following background information:
- (a) The City owns and operates a Public Transportation System called Winnipeg transit;
  - (b) In 2001, the CMA population of the City of Winnipeg was approximately 671,000;
  - (c) In 2004, Winnipeg Transit carried approximately 38.6 million revenue passengers;
  - (d) In 2004, Winnipeg Transit had approximately 54.7 million boardings;
  - (e) In 2004, Winnipeg Transit buses operated 1.3 million hours;
  - (f) In 2004, Winnipeg transit buses operated 26.4 million kilometres;
  - (g) Current transit advertising contracts include:
    - (i) Transit Vehicle Advertising – Viacom Outdoor Canada;
    - (ii) Shelter Advertising (Posters) – Viacom Outdoor Canada;
    - (iii) Shelter Advertising (Facia) – Shelter Top Advertising Inc.; and
    - (iv) Bench Advertising – Benchmark Advertising Ltd.
  - (h) Fleet Size and Advertising Space:
    - (i) 534 buses;
    - (ii) Approximately 982 King Ad Racks;
    - (iii) Approximately 620 70s Ad Racks;
    - (iv) Approximately 8,650 Interiors (singles).
- D2.2 The following table shows the current Transit Bus inventory:

Bus Series	Make	Model	Active Buses	Number Kings/Bus	Number 70s/Bus	Total Kings	Total 70s
101-107	Flyer	D901-10240	4	2	1	8	4
108-181	Flyer	D901-10240	29	2	1	58	29
201-230	New Flyer	D40LF	30	2	1	60	30
231-260	New Flyer	D40LF	30	2	1	60	30
301-334	MCI	TC40102N	34	2	1	68	34
340-366**	New Flyer	D40	12	2	1	24	12
370-399*	New Flyer	D40	29	2	1	58	29
401-443*	New Flyer	D40-LF	43	2	1	86	43
444-504*	New Flyer	D40-LF	60	2	1	120	60
510-561***	New Flyer	D40-LF	52	2	1	104	52
570-599*	New Flyer	D40-LF	30	2	1	60	30
601-630	Flyer	D901-10240	22	2	1	44	22
631-660	New Flyer	D40-87	5	2	1	10	5
671-699*	New Flyer	D40	29	2	1	58	29
701-710***	New Flyer	INVERO	10	1	2	10	20
801-828	New Flyer	D40	25	2	1	50	25
831-860	New Flyer	D40	27	2	1	54	27
861-890	New Flyer	D40	25	2	1	50	25
911-925*	New Flyer	D30-LF	15	0	3	0	45
930-949*	New Flyer	D30-LF	20	0	3	0	60
991-993*	New Flyer	D30-LF	3	0	3	0	9
Totals			<b>534</b>			<b>982</b>	<b>620</b>

### D3. SCOPE OF WORK

D3.1 The Work to be done under the Contract shall consist of the sale and placement of Transit Bus Advertising for the period of January 1, 2006 to December 31, 2010.

D3.2 The major components of the Work are as follows:

- (a) Exclusive right and privilege of soliciting and placing non-electronic advertising in or on a maximum of 500 transit vehicles;
- (b) The City shall retain ownership of all advertising racks and advertising frames upon termination of this Contract.

D3.3 Specifically excluded from this Contract are:

- (a) Handi-Transit vehicles;
- (b) Downtown Spirit Shuttle buses;
- (c) Any vehicles used for self promotion purposes;
- (d) Any service and staff vehicles;
- (e) Modesty panel poster located behind the driver; and any other size or format of advertising not specified in E2.2, E2.3 and E2.5.

- D3.4 The City reserves the right to display advertising materials on up to ten (10%) percent of the advertising signs (Transit Use Signs) for promotion of the Transit System.
- D3.5 The Work shall be done on an "as required" basis during the term of the Contract.
- D3.6 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, 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.

#### **D4. DEFINITIONS**

D4.1 When used in this Request for Proposal:

- (a) "**Business Day**" means any Calendar Day, other than a Saturday, Sunday, or a Statutory or Civic Holiday;
- (b) "**Submission Deadline**" and "**Time and Date Set for the Final Receipt of Bids**" mean the time and date set out in the Bidding Procedures for final receipt of Proposals;
- (c) "**Interior Space**" means a row of advertising frames eleven (11) inches high by thirty-five (35) inches long or eleven (11) inches high by seventy (70) inches long installed in the headline of the interior sides of each bus and above the windows thereof and in the opinion of the City, permits installation thereof;;
- (d) "**Ad Frame**" means all exterior advertising frames twenty-one (21) inches by seventy (70) inches and thirty (30) inches by one hundred and thirty-nine (139) inches on the sides and rear of all buses where such frames have already been installed and on any buses later acquired, where such installation is practicable;
- (e) "**King(s)**" means means all exterior advertising frames thirty (30) inches by one hundred and thirty-nine (139) inches on the side (or rear) of buses where such frames have already been installed and on any buses later acquired, where such installation is practicable;
- (f) "**Tail(s) or 70s**" means exterior advertising frames twenty-one (21) inches by seventy (70) inches on the side (or rear) of buses where such frames have already been installed and on any buses later acquired, where such installation is practicable;
- (g) "**Full Wrap or Super Bus**" means a self adhesive vinyl material representing a unified advertising theme applied to both sides and rear of bus. Vinyl material shall not be applied to front of bus, driver's side window, front passenger door and first passenger window immediately behind the front doors;
- (h) "**Full Mural**" means a self adhesive vinyl material representing a unified advertising theme applied to one or both sides of bus representing a unified advertising theme. Vinyl material shall not be applied to front of bus, driver's side window, front passenger door and first passenger window immediately behind the front doors;
- (i) "**Super King**" means a self adhesive vinyl material representing a unified advertising theme applied to one or both sides of bus and below windows. Vinyl material shall not be applied to front of bus, driver's side window, front passenger door and first passenger window immediately behind the front doors;
- (j) "**Non-electronic**" means advertising without electronic, digital or computer generated images or messages of any kind;
- (k) "**Vinyl Wrap**" means self-adhesive, removable vinyl installed to the exterior surface of a bus which may include the entire side(s) and rear portions thereof;
- (l) "**Transit Use Signs**" means at any time during the term of the Contract, up to ten (10) percent of the Advertising Space (includes Interiors, King's, 70's or Vinyl Wraps) shall be made available to Winnipeg Transit for the promotion of Winnipeg Transit services and

programs. Winnipeg Transit shall be responsible for the production of the promotional material. The Contractor agrees to install, remove and store the promotional material at no cost to Winnipeg Transit.

**D5. CONTRACT ADMINISTRATOR**

D5.1 The Contract Administrator is:

Morley Calahan  
Promotions and Contracts Supervisor  
Winnipeg Transit  
421 Osborne Street  
Winnipeg MB R3L 2A2

Telephone No. (204) 986-5741

Facsimile No. (204) 986-6863

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

**D6. CONTRACTOR'S SUPERVISOR**

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

**D7. NOTICES**

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

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

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

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

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

Facsimile No.: (204) 949-1174

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

The City of Winnipeg

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

## **D8. CONFIDENTIALITY AND OWNERSHIP OF INFORMATION**

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

## **SUBMISSIONS**

### **D9. AUTHORITY TO CARRY ON BUSINESS**

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

### **D10. WORKERS COMPENSATION**

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

### **D11. INSURANCE**

- D11.1 The Contractor shall provide and maintain 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.
- D11.2 Deductibles shall be borne by the Contractor.

D11.3 The Contractor shall provide the Contract Administrator with 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.

D11.4 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.

## **D12. PERFORMANCE SECURITY**

D12.1 The Contractor shall provide and maintain performance security until the expiration of the warranty period in the form of:

- (a) a performance bond of a company registered to conduct the business of a surety in Manitoba, in the form attached to these Supplemental Conditions (Form H1: Performance Bond), in the amount of Four Hundred Thousand dollars (\$400,000.00); or
- (b) an irrevocable standby letter of credit issued by a bank or other financial institution registered to conduct business in Manitoba and drawn on a branch located in Winnipeg, in the form attached to these Supplemental Conditions (Form H2: Irrevocable Standby Letter of Credit), in the amount of Four Hundred Thousand Dollars (\$400,000.00); or
- (c) a certified cheque or draft payable to "The City of Winnipeg", drawn on a bank or other financial institution registered to conduct business in Manitoba, in the amount of Four Hundred thousand Dollars (\$400,000.00).

D12.1.1 Where the performance security is in the form of a certified cheque or draft, it will be deposited by the City. The City will not pay any interest on certified cheques or drafts furnished as performance security.

D12.2 If the bid security provided in his Proposal Submission was not a certified cheque or draft pursuant to B12.1(c), the Contractor shall provide the City Solicitor with the required performance security within seven (7) Calendar Days of notification of the award of the Contract by way of letter of intent and 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.

## **CONTROL OF WORK**

### **D13. COMMENCEMENT**

D13.1 The Contractor shall not commence any Work until he is in receipt of a letter of intent from the Award Authority authorizing the commencement of the Work.

D13.2 The Contractor shall not commence any Work on the Site until:

- (a) the Contract Administrator has confirmed receipt and approval of:
  - (i) evidence that the Contractor is in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba;
  - (ii) evidence of the workers compensation coverage specified in D10;
  - (iii) evidence of the insurance specified in D11; and
  - (iv) the performance security specified in D12.
- (b) the Contractor has attended a meeting with the Contract Administrator, or the Contract Administrator has waived the requirement for a meeting.
- (c) the Contractor has attended an orientation session to ensure that Transit's safety policies and procedures are adhered to during the term of the Contract.

D13.3 The Contractor shall commence the Work on the Site within seven (7) Working Days of receipt of the letter of intent.

#### **D14. ORDERS**

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

### **MEASUREMENT AND PAYMENT**

#### **D15. PAYMENT OF REVENUES**

D15.1 The Contractor agrees to pay to the City for the rights and privileges granted to it for each and every calendar year during the Contract, the amount specified on Form B: Revenue.

D15.2 The Contractor shall pay to the City each month of the contract year the greater of: (A) the number of months expired in the contract year multiplied by one twelfth (1/12) of the minimum net annual guarantee as specified in Schedule B: Revenue, or (B) the percentage of gross annual billings multiplied by sales for the contract period up to and including the current month as specified in Form B: Revenue. Payments for a specific month shall be made within 45 days of that month end. All previous amounts paid during the contract year are to be deducted from the monthly payment.

D15.3 The consideration of D15.1 set out payable in respect of each calendar year during the currency of the agreement shall be payable without regard to the results of any other calendar year during such period and any billings made after the termination of the agreement in respect of advertising placed during its term shall be included in the last calendar year of the term of such Contract.

D15.4 Each monthly and annual payment shall be accompanied by a statement of the gross billings made by the Contractor during the period for which such payment is made, verified by the signature of a responsible officer of the Contractor, and the Contractor agrees to keep proper books of account showing such gross billings and the City shall have the right at all reasonable times to examine the books of account of the Contractor through any representative named by it, and shall be given all facilities reasonably necessary to check the correctness of such statements of gross billing.

D15.5 By March 31<sup>st</sup> of the second year of the agreement and each year thereafter, up to and including the year following the termination or assignment of this agreement, the Contractor will submit to the City a statement of the total gross billings made by it in the previous year, with an Audit Report commenting on its accuracy prepared by an independent public accountant approved by the City and will pay to the City any amount due at the time the statement is rendered.

D15.6 It is expressly agreed that the City, by accepting any statement of gross billings submitted by the Contractor (whether audited or otherwise) or any payment based thereon, shall not be deemed to have waived any of its rights hereunder, and the City shall be entitled at any time to have any records or books of account in the possession or control of the Contractor relating to its Income and Expenses specially examined or audited by an accountant either employed by the City or designated by the Commissioner and if the amount of the Gross Billings of the Contractor in any period covered by such examination or audit be found thereby to be greater by three percent (3%) or more than that shown by the statement or statements delivered by the Contractor covering such period, the expense of such special examination or audit shall be borne by the Contractor, but otherwise such expense shall be borne by the City. Forthwith, after receipt of such report by the City and in accordance therewith, the City shall repay the Contractor any overpayment which may have been made by the Contractor and the Contractor

shall on demand pay to the City any deficiency, as the case may be. The City's rights under this sub-clause are in addition to any other remedies it may have at law or in accordance with the terms of this Contract.

- D15.7 Under no circumstances shall the City be liable to the Contractor for any claim, loss, damage or injury arising out of the non-operation of any of its transit services. If for any reason the transit services of the City should be suspended for a continuous period of seventy-two (72) hours or longer, the City will, if requested, make a pro rata adjustment with the Contractor in respect to its minimum payments upon receipt of documentation from the Contractor that it has lost revenue by virtue of the suspension of the service, such adjustment to be the lesser of a pro-rated amount based on the length of the stoppage or the amount of the Contractor's loss. In the event that non-service continues for longer than 30 days, consideration will be given to further adjustments to the applicable annual minimum guarantee to acknowledge the long term business loss that would be experienced due to the period of non-service.
- D15.8 The Contractor may, from time to time, offer bonus advertising space to its clients at no cost or leave advertisements in place on the buses without having commitments or contracts with the advertiser. No revenue or value will be placed on such arrangements for the purpose of calculating the gross billing. In addition, the Contractor may, from time to time, offer reduced seasonal prices to advertisers in order to generate additional business.
- D15.9 The term "total gross billings" as used in this agreement means the gross billings made by the Contractor to its advertisers less:
- (a) Commissions deducted by or paid or payable to advertising agencies with respect to advertising placed with the Contractor through such agencies, but in no case shall any commission be deducted in respect to advertising obtained by the Contractor, or by a person or corporation in which the Contractor is in any way financially interested, direct from advertisers, except the prompt payment discount, not to exceed 2%, wherever applicable.
  - (b) Bad debts, in accordance with and subject to the following provisions, namely. The Contractor shall have the right to write off as bad debts from its gross billings any billings made to advertisers, payment whereof is then three months or more in arrears; a statement of all such billings written off shall be furnished to the City at the time of and together with payment of the installment in respect of the monthly billings, giving the names and addresses of the advertiser and the respective amounts written off; provided, however, that if collection of any or all of such unpaid billings shall be made by the Contractor at any subsequent date, the Contractor shall forthwith pay to the City an amount in accordance with the terms of this contract covering payment on account of billings.
  - (c) Net production costs for production included sales Contracts.
  - (d) Credits given to clients to reflect time the buses were out of service, if applicable, as specified in D15.7.
  - (e) Any Provincial or Federal sales tax including the Goods and Services Tax collected by the Contractor and remitted directly to any governmental authority.
  - (f) Other standard industry deductions in specific situations subject to prior written approval by the Commissioner or his designate.

## **D16. PAYMENT**

- D16.1 Further to GC.9.01 and GC.9.03, payment shall be in Canadian funds net thirty (30) Calendar Days after receipt and approval of the Contractor's invoice.

## **WARRANTY**

### **D17. WARRANTY**

- D17.1 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 two (2) months thereafter unless extended pursuant to D17.2, in which case it shall expire when provided for thereunder.
- D17.2 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.
- D17.3 Notwithstanding GC.10.01, GC.10.02 and D17.2, 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.

### **D18. LIAISON AND ADVERTISING STANDARDS**

- D18.1 It is the intent of the City and the Contractor to achieve an advertising program which is effective, aesthetically pleasing and which will inure to the benefit of both parties. Recognizing that a close and harmonious relationship is essential to these goals, the parties agree to maintain throughout the term of this Agreement a continual liaison and exchange of plans and information to assure its successful implementation.
- D18.2 In determining the acceptability of any advertisements within the provisions of this Contract, the City will be guided by the general principles embodied in the Canadian Code of Advertising standards, and updates to this Code as developed. The Canadian Code of Advertising Standards is available on the Advertising Standards Canada website [www.adstandards.com](http://www.adstandards.com).
- D18.3 The City will not accept advertising which is likely in light of prevailing community standards to be considered of questionable taste or offensive in its style, content or method of presentation. Although the City is guided by the Canadian Code of Advertising Standards, the City is the sole and final arbiter in all matters relating to Winnipeg Transit advertising acceptance. The City may refuse, or order removal of any advertising material at any time in its absolute discretion.
- D18.4 Advertisements, to be accepted, shall be limited to those that communicate information concerning goods, services, public service announcements, and public events.
- D18.5 Advertisements, otherwise acceptable under this policy, which convey information about a meeting, gathering or event, must contain, but are limited to the name of the sponsoring group, the name of the persons participating in the event, and the location, date and time of the event.
- D18.6 All advertisements must comply with the laws, statutes, regulations and by-laws enforced in the Province of Manitoba.
- D18.7 The City will not accept advertising which in its discretion is determined not to be in the best interest of public transit and/or Winnipeg Transit. The objective of Winnipeg Transit is to increase ridership, and any advertising which is deemed to be contrary to that objective will not be accepted. Any advertisements that minimize and/or detract from the image of Winnipeg Transit and/or its employees will not be accepted. Any advertising with reference to public transit and/or Winnipeg Transit must be presented by the advertiser to the Contractor for approval prior to production of advertising materials. If an advertisement is not reviewed prior to

placement in the system, the Contractor will immediately remove the advertisement. If upon later review, it is judged to not be compliant with the above guidelines, or at the discretion of the Contract Administrator, the company will remove the advertisement.

- D18.8 No advertisement will be accepted which promotes or poses a specific theology or religious ethic point of view, policy or action.
- D18.9 Political advertising is subject to any laws governing the election and the Canadian Code of Advertising Standards at all times including election advertising during election times.
- D18.10 The Contractor is charged with the responsibility of interpreting and implementing the advertising guidelines. Potential advertisers should deal directly with the Contractor handling the sale of Winnipeg Transit advertising space.
- D18.11 Where an advertiser and the Contractor are in dispute with an advertisement's compliance with the guidelines (whether before or after ad placement) the Contractor will refer the ad to Advertising Standards of Canada for immediate adjudication of the Canadian Code of Advertising Standards and to the Contract Administrator for adjudication of internal City advertising guidelines. Notwithstanding the foregoing, the City at its discretion will be the final arbiter on all matters relating to Winnipeg Transit advertising.
- D18.12 If the City receives a complaint regarding advertising in/on Transit vehicles, the Contract Administrator may send the complaint to the Contractor who will refer the ad to Advertising Standards of Canada for immediate adjudication of the Canadian Code of Advertising Standards. Notwithstanding the foregoing, the City at its discretion will be the final arbiter on all matters relating to Winnipeg Transit advertising.

**FORM H1: PERFORMANCE BOND**  
(See D12)

KNOW ALL MEN BY THESE PRESENTS THAT

\_\_\_\_\_ ,  
(hereinafter called the "Principal"), and

\_\_\_\_\_ ,  
(hereinafter called the "Surety"), are held and firmly bound unto **THE CITY OF WINNIPEG** (hereinafter called the "Obligee"), in the sum of

\_\_\_\_\_ Four Hundred Thousand \_\_\_\_\_ dollars (\$400,000.00)

of lawful money of Canada to be paid to the Obligee, or its successors or assigns, for the payment of which sum the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has entered into a written contract with the Obligee dated the

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for:

RFP NO. 419-2005

**PROVISION OF TRANSIT BUS ADVERTISING**

which is by reference made part hereof and is hereinafter referred to as the "Contract".

NOW THEREFORE the condition of the above obligation is such that if the Principal shall:

- (a) carry out and perform the Contract and every part thereof in the manner and within the times set forth in the Contract and in accordance with the terms and conditions specified in the Contract;
- (b) perform the Work in a good, proper, workmanlike manner;
- (c) make all the payments whether to the Obligee or to others as therein provided;
- (d) in every other respect comply with the conditions and perform the covenants contained in the Contract; and
- (e) indemnify and save harmless the Obligee against and from all loss, costs, damages, claims, and demands of every description as set forth in the Contract, and from all penalties, assessments, claims, actions for loss, damages or compensation whether arising under "The Workers Compensation Act", or any other Act or otherwise arising out of or in any way connected with the performance or non-performance of the Contract or any part thereof during the term of the Contract and the warranty period provided for therein;

THEN THIS OBLIGATION SHALL BE VOID, but otherwise shall remain in full force and effect. The Surety shall not, however, be liable for a greater sum than the sum specified above.

AND IT IS HEREBY DECLARED AND AGREED that the Surety shall be liable as Principal, and that nothing of any kind or matter whatsoever that will not discharge the Principal shall operate as a discharge or release of liability of the Surety, any law or usage relating to the liability of Sureties to the contrary notwithstanding.

IN WITNESS WHEREOF the Principal and Surety have signed and sealed this bond the

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

SIGNED AND SEALED  
in the presence of:

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Name of Principal)

Per: \_\_\_\_\_ (Seal)

Per: \_\_\_\_\_

\_\_\_\_\_  
(Name of Surety)

By: \_\_\_\_\_ (Seal)  
(Attorney-in-Fact)

**FORM H2: IRREVOCABLE STANDBY LETTER OF CREDIT  
(PERFORMANCE SECURITY)**  
(See D12)

\_\_\_\_\_  
(Date)

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

RE: PERFORMANCE SECURITY – RFP NO. 419-2005  
PROVISION OF TRANSIT BUS ADVERTISING

Pursuant to the request of and for the account of our customer,

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

WE HEREBY ESTABLISH in your favour our irrevocable Standby Letter of Credit for a sum not exceeding in the aggregate

\_\_\_\_\_ Four Hundred Thousand \_\_\_\_\_ Canadian dollars (\$400,000.00).

This Standby Letter of Credit may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you. It is understood that we are obligated under this Standby Letter of Credit for the payment of monies only and we hereby agree that we shall honour your demand for payment without inquiring whether you have a right as between yourself and our customer to make such demand and without recognizing any claim of our customer or objection by the customer to payment by us.

The amount of this Standby Letter of Credit may be reduced from time to time only by amounts drawn upon it by you or by formal notice in writing given to us by you if you desire such reduction or are willing that it be made.

Partial drawings are permitted.

We engage with you that all demands for payment made within the terms and currency of this Standby Letter of Credit will be duly honoured if presented to us at:

\_\_\_\_\_  
(Address)

and we confirm and hereby undertake to ensure that all demands for payment will be duly honoured by us.

All demands for payment shall specifically state that they are drawn under this Standby Letter of Credit.

Subject to the condition hereinafter set forth, this Standby Letter of Credit will expire on

\_\_\_\_\_  
(Date)

It is a condition of this Standby Letter of Credit that it shall be deemed to be automatically extended from year to year without amendment from the present or any future expiry date, unless at least 30 days prior to the present or any future expiry date, we notify you in writing that we elect not to consider this Standby Letter of Credit to be renewable for any additional period.

This Standby Letter of Credit may not be revoked or amended without your prior written approval.

This credit is subject to the Uniform Customs and Practice for Documentary Credit (1993 Revision), International Chamber of Commerce Publication Number 500.

\_\_\_\_\_  
(Name of bank or financial institution)

Per: \_\_\_\_\_  
(Authorized Signing Officer)

Per: \_\_\_\_\_  
(Authorized Signing Officer)

## **PART E - SPECIFICATIONS**

### **GENERAL**

#### **E1. GENERAL**

E1.1 These Specifications shall apply to the Work.

#### **E2. SERVICES**

E2.1 The Contractor shall sell, supply, install, maintain and remove transit advertising on up to five hundred (500) Transit buses accordance with the requirements hereinafter specified.

E2.2 Interior Space, a row of frames eleven inches (11") high situated in the headline of the interior on both sides of each bus and above the windows thereof, and in the opinion of the City, permits the installation thereof.

E2.3 Exterior Space, all frames twenty-one (21") by seventy inches (70"); and thirty inches (30") by one hundred and thirty-nine inches (139") on the side(s) and rear of each bus, where such frames have already been installed and on any buses later acquired, where installation is practicable in the opinion of the City, or as may otherwise from time to time be agreed upon between the parties..

E2.4 Notwithstanding the foregoing, the City shall not be required to place racks on frames in or on any transit vehicles when such racks or frames cannot, in its opinion , be conveniently installed or where such racks would, in its opinion be inappropriate.

E2.5 Vinyl Wrap Buses, a maximum of fifty (50) buses will be made available for the installation of Exterior Vinyl Advertising Graphic, described as Full Bus (both sides and rear of a bus including windows, except as specified and subject to approval by WT), Full Mural (one or both sides of a bus including windows, except as specified and subject to approval by Winnipeg Transit, Semi-Mural (single side of a bus between wheel wells including windows, except as specified and subject to approval by Winnipeg Transit), Super King (single side of a bus between wheel wells and below window line, except as specified and subject to approval by Winnipeg Transit) or Full Back (entire rear of a bus, except as specified and subject to approval by Winnipeg Transit). Subject to prior approval by Winnipeg Transit, the maximum number of buses with Exterior Vinyl Advertising Graphic shall not exceed fifty (50) buses at any time.

E2.6 The Contractor is advised that the number of buses available to accept advertising is subject to reduction due to maintenance requirements, normal seasonal variations and /or service level requirements. From May 1<sup>st</sup> to September 1<sup>st</sup> up to fifty (50) buses are not placed into service due to reduced service requirements.

#### **E3. SPECIAL CONDITIONS REGARDING VINYL WRAP BUSES**

E3.1 The term Vinyl Wrap shall refer to a self adhesive vinyl material representing a unified advertising theme applied to both sides and rear of a bus. The City and Contractor recognize that technology and materials may change. Should new materials, technology, or processes be developed for the production of Vinyl Wrap advertising, the Contractor and City will review these and they shall be subject to the approval of the City.

E3.2 During the term of this agreement a maximum of fifty (50) buses will be made available as Vinyl Wraps. Any increase in the number of Wraps must be approved in writing by the Contract Administrator.

E3.3 The Contract period with an advertiser will be for a minimum of three (3) months and for a maximum of twenty four (24) months on any one vehicle. Leaving the vinyl material on a bus for longer than twenty four (24) months may result in excessive damage to the vehicle paint. The Contractor shall be liable for any damage to the bus resulting from the installation/removal of Vinyl Wrap.

E3.4 It has been the experience of Winnipeg Transit that most customer complaints related to Vinyl Wrap Advertising is due to Perforated Vinyl installed on bus windows. To minimize customer dissatisfaction, all Perforated Vinyl Product applied to bus windows shall be inspected six months after installation by the Contractor and Winnipeg Transit to ensure visibility performance is maintained. Winnipeg Transit will then monitor the condition of Perforated Vinyl on a monthly basis and advise the Contractor of any visibility problems related to installation of Perforated Vinyl. Any Perforated Vinyl that impairs visibility by bus passengers, due to normal wear or product failure, shall be replaced within 14 days by the Contractor or as directed by the Contract Administrator.

#### **E4. PRODUCTION PROCESS AND ADVERTISING APPROVALS**

E4.1 The Contractor will be responsible for coordinating all work involved in the design and preparation of Vinyl Wrap liaising as necessary with all parties including, but not limited to the advertiser, advertising agencies, designers, Winnipeg Transit, and sub-contractors.

E4.2 The Contractor, prior to finalizing any agreement for Vinyl Wrap shall submit to the City, a proposal for the City's approval including design, type of decals, method of application, contractors selected to apply the advertising and a proposed preparation schedule. Any subsequent design or production changes shall also be subject to the prior approval of the City. The Contractor shall be responsible for all costs, design, installation, maintenance and removal of vinyl wrap advertising.

E4.3 The City and the Contractor shall agree on a reasonable schedule for preparation and production. In general, upon approval of a Vinyl Wrap proposal, the City shall within five (5) working days make available a bus for exterior paint or vinyl wrap preparation. The Contractor must ensure design painting or vinyl wrapping is completed within five (5) working days of the bus becoming available from the City. If the Contractor fails to comply with this clause, the City may repaint the bus or remove the vinyl at the sole cost of the Contractor. The City may in its sole discretion extend (in writing) the five (5) day period for design of vinyl wrapping.

E4.4 The City will, at its own expense, supply a vehicle in good repair and suitable for the purposes of a Vinyl Wrap by removing exterior advertising frames (if required), filling surface holes, priming, painting, and washing the exterior surface. Any additional cleaning shall be the responsibility of the Contractor.

E4.5 Once the Vinyl Wrap has been installed, the vehicle will be returned to Winnipeg Transit for application of standard Winnipeg Transit identification including, but not limited to route and destination signs, run numbers, vehicle number signs, and decals related to the operation and funding of transit service. The Contractor acknowledges that the City may change its standard vehicle identification requirements from time to time.

#### **E5. DESIGN APPROVAL**

E5.1 The Contractor will ensure that all SuperBus advertising complies with all laws, statutes, regulations and by-laws in force relating to the operation of public transit vehicles, including, without limitation, all motor vehicle safety laws and regulations.

E5.2 The proposed Superbus design shall not cover the front of the bus or the first passenger window/doors on the right side. The Contractor shall design to allow as much clear space as

possible to the remaining windows. From time to time, the City may impose or lift restrictions for safety reasons, and the Contractor shall comply with these restrictions.

- E5.3 The City may reject, accept, or modify any proposed design, materials, or sub-contractors in its sole discretion. The City is the sole and final arbiter of all matters relating to advertising acceptability. The City may refuse or order the removal of any advertising material at any time in its sole and absolute discretion.
- E5.4 In the event that the City demands removal of any Vinyl Wrap advertising, the City will be responsible for the pro-rata cost of repainting/re-decating the bus to Winnipeg Transit identity, based on the unexpired portion of the advertising contract. In no event will the City be liable or responsible for any other costs or damages arising of or in any way incidental to its demands for removal of advertising in accordance with this section.

## **E6. PAINTING AND REPAINTING**

- E6.1 If installation or removal of Vinyl Wrap results in damage to bus paint or substrate the Contractor shall be responsible for the cost of painting or repainting the bus. The cost for this Work shall be based on twenty-five dollars (\$25.00) per square foot (minimum of 40 square feet). The cost of repainting an entire vehicle will be seven thousand five hundred dollars (\$7,500.00). Cost of painting/repainting shall be subject to review by Winnipeg Transit, acting reasonably.
- E6.2 Within ten days of the expiry of the term of any Vinyl Wrap contract between the Contractor and an Advertiser, the expiry or early termination of this agreement, whichever shall occur first, the Contractor shall remove any vinyl materials and/or restore the bus to the original condition when received. The bus will then be returned to Winnipeg Transit who will undertake any restoration/repainting work required. Notwithstanding the foregoing, if the vehicle is to be used immediately again as a Vinyl Wrap, such restoration/repainting may not necessarily be undertaken.
- E6.3 In the event of an Advertiser's bankruptcy, receivership, or cessation of business during the term of the Vinyl Wrap Contract with the Contractor, the Contractor shall notify the city immediately, and the Contractor shall remove any design work and return the bus to Winnipeg Transit for restoration to its original identity.

## **E7. LOSS OR DAMAGE**

- E7.1 Vinyl Wrap of buses may take place at Contractor's or a Sub-contractor's facilities within the City. The Contractor is responsible for the costs of transporting a bus to and from the facility by a City of Winnipeg Transit employee and returning that employee to the appropriate facility.
- E7.2 The Contractor hereby assumes and shall bear the entire risk of loss or damage to the bus used for Vinyl Wrap advertising from any and every cause whatsoever while the bus is in the care, custody or control of the Contractor, its Agents or sub-contractors and until the return of the bus to Winnipeg Transit. The Contractor shall also be deemed to have care, custody, or control of the buses when taken by any third party with the express or implied consent of the Contractor in accordance with the Contractor's obligations under this agreement or the Contractor's agreements with its advertisers.
- E7.3 The Contractor and the City agree that while buses used for Vinyl Wrap advertising are under the control of the Contractor, its Agents, or Sub-contractors, the value of each bus is calculated at three hundred and ninety thousand dollars (\$390,000). The parties acknowledge that the cost of a replacement bus may vary from time to time and the cost of replacing the bus shall be the cost usually incurred by the city for replacing buses.

- E7.4 The Contractor shall indemnify and save harmless the City from and against any and all claims, suits, judgements, costs, expenses and demands whatsoever arising out of damages and injuries to persons (including death) or property while the vehicle used for Vinyl Bus advertising is in the care, custody or control of the Contractor or its Agents or Sub-contractors.
- E7.5 During the period when buses are in the possession of the Contractor, its Agents or Sub-contractors, the Contractor will ensure that all persons working on the design, painting, or vinyl wrapping are aware and abide by all safety policies, rules and regulations, and have in their possession and use Material Safety Data Sheets pursuant to hazardous waste materials information system legislation for all products in the painting or vinyl wrapping of the buses. If the City deems an area of a bus covered by vinyl or paint a safety hazard before or after installation, the Contractor shall take whatever measures necessary to correct the problem at its expense.

## **E8. MAINTENANCE AND DAMAGES**

- E8.1 Maintenance of the visual design paint or vinyl wrap required because of normal wear and usage is the Contractor's responsibility and at its sole cost. The City does not provide any guarantee against fading, wear, or lifting of the vinyl material or paint due to normal transit operating conditions and procedures. Accidental damage to visual design painting or vinyl shall be the City's responsibility, provided it is not caused by an error, act, omission or negligence of the Contractor or the Advertiser, their employees, Agents or Sub-contractors.
- E8.2 The Contractor acknowledges that the City will be performing routine mechanical maintenance work on buses during the term of the Contract which will render each bus unavailable for service approximately twenty five (25) days annually. The City will notify the Contractor without undue delay if a bus will be unavailable for service for more than 5 consecutive days.
- E8.3 Notwithstanding anything in this agreement, if the city is unable to operate any bus for longer than fourteen (14) consecutive days during the term of an Advertiser's agreement with the Contractor, by reason of accident, mishap or mechanical breakdown howsoever caused, excepting where caused by an error, act, omission or negligence by the Contractor or the Advertiser, their employees, Agents or Sub-contractors, the Contractor will negotiate with the Advertiser, and notify the City in writing of their decision by:
- (a) Extending the term for the commensurate period of time following repair of the bus or
  - (b) Crediting the Advertiser for that period that the bus is out of service.