



THE CITY OF WINNIPEG

REQUEST FOR PROPOSAL

RFP NO. 771-2009

PROVISION OF HANDI - TRANSIT SERVICES

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PART B - BIDDING PROCEDURES

B1. CONTRACT TITLE

B1.1 PROVISION OF HANDI - TRANSIT SERVICES

B2. SUBMISSION DEADLINE

B2.1 The Submission Deadline is 4:00 p.m. Winnipeg time, January 19, 2010.

B2.2 Proposals 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. BACKGROUND

B3.1 Handi - Transit is a service within the Transit Department and is responsible for the operation of a parallel to regular transit service for persons unable to regularly use the regular transit system because of a physical disability that significantly restricts their mobility.

B3.2 Handi - Transit provides approximately six hundred thousand (600,000) trips annually for persons with physical disabilities.

B3.3 Handi - Transit's customer rider ship is approximately seventy-two percent (72%) ambulatory and twenty-eight percent (28%) wheelchair users.

B3.4 The quantity of Work offered herein constitutes approximately fifteen percent (15%) of all Handi - Transit brokerage contracts.

B4. BIDDERS' CONFERENCE

B4.1 The Contract Administrator will hold a Bidders' conference at 414 Osborne Street from 11:00 a.m. to 12:00 noon on January 7, 2010.

B4.2 The Bidder shall not be entitled to rely on any information or interpretation received at the Bidders' conference unless that information or interpretation is provided by the Contract Administrator in writing.

B5. ENQUIRIES

B5.1 All enquiries shall be directed to the Contract Administrator identified in D4.1.

B5.2 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 promptly notify the Contract Administrator of the error, discrepancy or omission at least five (5) Business Days prior to the Submission Deadline.

B5.3 If the Bidder is unsure of the meaning or intent of any provision therein, the Bidder should request clarification as to the meaning or intent prior to the Submission Deadline.

B5.4 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.

B5.5 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.

B5.6 The Bidder shall not be entitled to rely on any response or interpretation received pursuant to B5 unless that response or interpretation is provided by the Contract Administrator in writing.

B6. CONFIDENTIALITY

B6.1 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.

B6.2 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.

B7. ADDENDA

B7.1 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.

B7.2 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.

B7.2.1 Addenda will be available on the Bid Opportunities page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgmt/bidopp.asp>

B7.2.2 The Bidder is responsible for ensuring that he has received all addenda and is advised to check the Materials Management Division website for addenda regularly and shortly before the Submission Deadline, as may be amended by addendum.

B7.3 The Bidder shall acknowledge receipt of each addendum in Paragraph 9 of Form A: Proposal. Failure to acknowledge receipt of an addendum may render a Proposal non-responsive.

B8. SUBSTITUTES

B8.1 The Work is based on the Plant, Materials and methods specified in the Request for Proposal.

B8.2 Substitutions shall not be allowed unless application has been made to and prior approval has been granted by the Contract Administrator in writing.

B8.3 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.

B8.4 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 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.

- B8.5 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.
- B8.6 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.
- B8.6.1 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.
- B8.7 If the Contract Administrator approves a substitute as an “approved equal”, any Bidder may use the approved equal in place of the specified item.
- B8.8 If the Contract Administrator approves a substitute as an “approved alternative”, any Bidder bidding that approved alternative may base his Total Bid Price upon the specified item but may also indicate an alternative price based upon the approved alternative. Such alternatives will be evaluated in accordance with B17.1.
- B8.9 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.
- B8.10 Notwithstanding B8.2 to B8.9 and in accordance with B9.6, deviations inconsistent with the Request for Proposal document shall be evaluated in accordance with B18.1(a).

B9. PROPOSAL SUBMISSION

- B9.1 The Proposal shall consist of the following components:
- (a) Form A: Proposal;
 - (b) Form B: Prices;
 - (c) Business plan; which outlines “start up” plans if appropriate, operational plans, financial plans, and accurately represents the Work for which the Bidder is submitting;
 - (d) 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.
 - (iii) Financial Plan;
 - (iv) Operating Plan;
 - (v) Proposed Implementation Plan.
 - (e) Industry experience; of key personnel.
 - (f) References; which will include the following, three (3) references from current/past clients including:
 - (i) length of contract;
 - (ii) contract value;
 - (iii) contract name;
 - (iv) telephone number.

- B9.2 Information shall include organizations representing persons with disabilities, Handi - Transit Policy Advisory Committee, companies or individuals known to have done business with the Bidder.
- B9.3 Further to B9.1, the Bidder should include the written correspondence from the Contract Administrator approving a substitute in accordance with B8.
- B9.4 All components of the Bid shall be fully completed or provided, and submitted by the Bidder no later than the Submission Deadline, with all required entries made clearly and completely, to constitute a responsive Bid.
- B9.5 Bidders are advised not to include any information/literature except as requested in accordance with B9.1.
- B9.6 Bidders are advised that inclusion of terms and conditions inconsistent with the Bid Opportunity document, including the General Conditions, will be evaluated in accordance with B18.1(a).
- B9.7 The Bid may be submitted by mail, courier or personal delivery, or by facsimile transmission.
- B9.8 If the Bid is submitted by mail, courier or personal delivery, it shall be enclosed and sealed in an envelope clearly marked with the Bid Opportunity number and the Bidder's name and address, and shall be submitted to:
The City of Winnipeg
Corporate Finance Department
Materials Management Division
185 King Street, Main Floor
Winnipeg MB R3B 1J1
- B9.8.1 Samples or other components of the Bid which cannot reasonably be enclosed in the envelope may be packaged separately, but shall be clearly marked with the Bid Opportunity number, the Bidder's name and address, and an indication that the contents are part of the Bidder's Bid Submission.
- B9.9 If the Bid is submitted by facsimile transmission, it shall be submitted to (204) 949-1178
- B9.9.1 The Bidder is advised that the City cannot take responsibility for the availability of the facsimile machine at any time.
- B9.10 Bids submitted by internet electronic mail (e-mail) will not be accepted.
- B10. PROPOSAL**
- B10.1 The Bidder shall complete Form A: Proposal, making all required entries.
- B10.2 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.
- B10.2.1 If a Proposal is submitted jointly by two or more persons, each and all such persons shall identify themselves in accordance with B10.2.
- B10.3 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.

- B10.4 Paragraph 11 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.
- B10.4.1 The name and official capacity of all individuals signing Form A: Proposal should be printed below such signatures.

B10.5 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 and the Contract, when awarded, shall be both joint and several.

B11. PRICES

- B11.1 The Bidder shall state a price in Canadian funds for each item of the Work identified on Form B: Prices.
- B11.1.1 Notwithstanding C11.1.1, prices on Form B: Prices shall not include the Goods and Services Tax (GST) or Manitoba Retail Sales Tax (MRST, also known as PST), which shall be extra where applicable.
- B11.2 The quantities listed on Form B: Prices are to be considered approximate only. The City will use said quantities for the purpose of comparing Proposals.
- B11.3 The quantities for which payment will be made to the Contractor are to be determined by the Work actually performed and completed by the Contractor, to be measured as specified in the applicable Specifications.
- B11.4 Prices from Non-Resident Bidders are subject to a Non-Resident Withholding Tax pursuant to the Income Tax Act (Canada).

B12. QUALIFICATION

- B12.1 The Bidder shall:
- (a) undertake to be in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba, or if the Bidder does not carry on business in Manitoba, in the jurisdiction where the Bidder does carry on business; and
 - (b) be financially capable of carrying out the terms of the Contract; and
 - (c) have all the necessary experience, capital, organization, and equipment to perform the Work in strict accordance with the terms and provisions of the Contract.
- B12.2 The Bidder and any proposed Subcontractor (for the portion of the Work proposed to be subcontracted to them) shall:
- (a) be responsible and not be suspended, debarred or in default of any obligations to the City. A list of suspended or debarred individuals and companies is available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt/debar.stm>

- B12.3 The Bidder and/or any proposed Subcontractor (for the portion of the Work proposed to be subcontracted to them) shall:
- (a) have successfully carried out work similar in nature, scope and value to the Work; and
 - (b) be fully capable of performing the Work required to be in strict accordance with the terms and provisions of the Contract; and
 - (c) have a written workplace safety and health program, if required, pursuant to The Workplace Safety and Health Act (Manitoba).
- B12.4 The Bidder shall provide, in his Proposal:
- B12.5 The Bidder shall submit, within three (3) Business Days of a request by the Contract Administrator, proof satisfactory to the Contract Administrator of the qualifications of the Bidder and of any proposed Subcontractor.
- (a) length of contract;
 - (b) contract value;
 - (c) contract name;
 - (d) telephone number;
 - (e) three (3) references that have knowledge of the organization and/or the organization's key personnel industry experience in providing Handi -Transit services.
- B12.6 Further to B12.3(c), the Bidder shall, within five (5) Business Days of a request by the Contract Administrator, provide proof satisfactory to the Contract Administrator that the Bidder/Subcontractor has a workplace safety and health program meeting the requirements of The Workplace Safety and Health Act (Manitoba), by providing:
- (a) a valid COR certification number under the Certificate of Recognition (COR) Program administered by the Manitoba Construction Safety Association or by the Manitoba Heavy Construction Association's Safety, Health and Environment Program; or
 - (b) a report or letter to that effect from an independent reviewer acceptable to the City. (A list of acceptable reviewers and the review template are available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt>)
- B12.7 The Bidder shall submit, within three (3) Business Days of a request by the Contract Administrator, proof satisfactory to the Contract Administrator of the qualifications of the Bidder and of any proposed Subcontractor.
- B12.8 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.
- B13. OPENING OF PROPOSALS AND RELEASE OF INFORMATION**
- B13.1 Proposals 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 Division website 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 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.
- B13.4 Following the award of Contract, a Bidder will be provided with information related to the evaluation of his submission upon written request to the Contract Administrator.

B14. IRREVOCABLE OFFER

- B14.1 The Proposal(s) submitted by the Bidder shall be irrevocable for the time period specified in Paragraph 10 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 10 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 C22.5, 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 11 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 will:
- (a) retain the Proposal until after the Submission Deadline has elapsed;
 - (b) open the Proposal to identify the contact person named in Paragraph 3 of Form A: Proposal and the Bidder's authorized representatives named in Paragraph 11 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.

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 any Bidder. Bidders are advised to present their best offer, not a starting point for negotiations in their Proposal Submission.
- B17.2 The City may negotiate with the Bidders submitting, in the City's opinion, the most advantageous Proposals. The City may enter into negotiations with one or more Bidders without being obligated to offer the same opportunity to any other Bidders. Negotiations may be concurrent and will involve each Bidder individually. The City shall incur no liability to any Bidder as a result of such negotiations.
- 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 the amended Proposal as an alternative to the Proposal already 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 or acceptable deviation therefrom:
 - (i) mandatory requirements (pass/fail);
- (b) qualifications of the Bidder and the Subcontractors, if any, pursuant to B12:
 - (i) Mandatory qualifications (pass/fail);
 - (ii) Industry experience of key personnel (15%);
 - (iii) Business Plan (10%);
 - (iv) References (10%);
 - (v) Net Present Value of the Total Bid Price (65%);
- (c) economic analysis of any approved alternative pursuant to B8;

B18.2 Further to B18.1(a), the Award Authority may reject a Proposal as being non-responsive if the Proposal 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 or minor informalities or irregularities 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 or in other information required to be submitted, that he is responsible and qualified.

B18.4 Further to B18.1(b)(ii), industry experience of key personal.

B18.5 Further to B18.1(b)(iii) the business plan will be evaluated based upon completeness and reasonableness of the plan.

B18.6 Further to B18.1(b)(iv), references will be evaluated based upon a standard format of questions that will be asked of all references. Reference checks will not be restricted to only those submitted by the Bidder, and may include organizations representing persons with disabilities, the Handi-Transit Policy Advisory Committee, companies or individuals known to have done business with the Bidder. Points will be allocated for the following general criteria: positive recommendation based on experience with the Bidder in the type of work described herein, cleanliness of vehicles, driver behaviour and schedule adherence. Points will be deducted for issues such as complaints, unsafe vehicle operation and poor vehicle condition, etc.

B18.7 Further to B18.1(b)(v), the net present value of the Total Bid Price shall be the sum of the quantities multiplied by the unit prices for each item shown on Form B: Prices, based on a per vehicle hour basis. The net present value will be determined using a discount rate of six percent (6%) per year. The lowest Bid will receive the most points with higher priced Bids being pro-rated accordingly.

B19. AWARD OF CONTRACT

B19.1 The City will give notice of the award of the Contract, 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.

B19.3.1 Following the award of contract, a Bidder will be provided with information related to the evaluation of his Proposal upon written request to the Contract Administrator.

B19.4 Notwithstanding C4 and Paragraph 6 of Form A: Proposal, the City will issue a purchase order to the successful Bidder in lieu of the execution of a Contract.

B19.5 The Contract Documents, as defined in C1.1 (n) (ii), in their entirety shall be deemed to be incorporated in and to form a part of the purchase order notwithstanding that they are not necessarily attached to or accompany said purchase order.

PART C - GENERAL CONDITIONS

C0. GENERAL CONDITIONS

C0.2 The *General Conditions for Supply of Services* (Revision 2007 04 12) are applicable to the Work of the Contract.

C0.2.1 The *General Conditions for Supply of Services* are available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at http://www.winnipeg.ca/matmgt/gen_cond.stm

C0.2.2 A reference in the Request for Proposal to a section, clause or subclause with the prefix “**C**” designates a section, clause or subclause in the *General Conditions for Supply of Services*

C0.1 These General Conditions are applicable to the Work of the Contract.

C1. DEFINITIONS

C1.1 Where used in these General Conditions and in the other documents forming part of the Contract:

- (a) “**Award Authority**” means the authority having the jurisdiction to award the Contract according to the City’s by-laws, policies or procedures;
- (b) “**Bidder**” means any person submitting a Proposal for the Work;
- (c) “**Bidding Procedures**” means the portion of the Bid Opportunity by that name which sets out the terms and conditions governing the Bid, and a reference to a section, clause or subclause with the prefix “**B**” designates a section, clause or subclause in that portion of the Bid Opportunity;
- (d) “**Business Day**” means any Calendar Day, other than a Saturday, Sunday, or a statutory or civic holiday;
- (e) “**C**” designates a section, clause or subclause in these General Conditions;
- (f) “**Calendar Day**” means the period from one midnight to the following midnight;
- (g) “**Change in Work**” means an addition, deletion or modification to the Work as described in the Contract at the time that the Contract is awarded and includes modifications in quantity or nature of Plant, Material or labour, methods, location or work schedule;
- (h) “**Chief Administrative Officer**” means the City employee holding that office or, if applicable, the successor to the authority or responsibility of such office;
- (i) “**City**” means The City of Winnipeg as continued under The City of Winnipeg Charter, Statutes of Manitoba 2002, c. 39, and any subsequent amendments thereto;
- (j) “**City Solicitor**” means the City employee holding that office or, if applicable, the successor to the authority or responsibility of such office;
- (k) “**Contract**” means the combined documents consisting of either:
 - (i) the agreement forwarded to the Contractor pursuant to C4 and all schedules thereto (consisting of the Bid Opportunity and any documents and Drawings referred to and incorporated therein) together with the Proposal and any submissions required to be made by the Contractor after award, and all amendments to the foregoing; or
 - (ii) the Purchase Order prepared and forwarded to the Contractor which shall be deemed to include the Bid Opportunity and any documents and Drawings referred to and incorporated therein, together with the Proposal and any submissions required to be made by the Contractor after award and all amendments to the foregoing.
- (l) “**Contract Administrator**” means the person designated as such in the Supplemental Conditions;

- (m) “**Contract Price**” means the price agreed upon for the Work and any adjustments thereto which may be required or agreed to pursuant to the Contract;
- (n) “**Contractor**” means the person undertaking the performance of the Work under the terms of the Contract;
- (o) “**Contractor’s Facility**” means the lands and other places, including structures, provided by the Contractor for the performance of the Work;
- (p) “**Council**” means the Council of The City of Winnipeg;
- (q) “**Drawings**” means drawings which show the nature and scope of the Work to be performed and which have been prepared or approved by the Contract Administrator and are referred to in the Contract;
- (r) “**Manager of Materials**” means the City employee holding that office or, if applicable, the successor to the authority or responsibility of such office;
- (s) “**Material**” means any things, including goods, parts and equipment, which are to form part of the permanent Work;
- (t) “**may**” indicates an allowable action or feature which will not be evaluated;
- (u) “**must**” or “**shall**” indicates a mandatory requirement which will be evaluated on a pass/fail basis;
- (v) “**Person**” means an individual, firm, partnership, association or corporation, or any combination thereof, and includes heirs, administrators, executors or legal representatives of a person;
- (w) “**Plant**” means any things brought to or constructed upon the Site by the Contractor for the performance of the Work, including goods, tools, equipment, consumable supplies, fuel, power and utility connections therefor, but does not include Material;
- (x) “**Proposal**” means the offer contained in the Proposal Submission;
- (y) “**Proposal Submission**” means that portion of the Request for Proposal which must be completed or provided and submitted by the Submission Deadline in order to constitute a responsive Proposal;
- (z) “**Request for Proposal**” means the Proposal Submission, the Bidding Procedures, these General Conditions, the Supplemental Conditions, the Specifications, the Drawings and all addenda;
- (aa) “**Shop Drawings**” means all drawings, diagrams, illustrations, schedules, performance charts, brochures and other data which are prepared by the Contractor, Subcontractor, manufacturer, supplier or distributor and which illustrate some portion of the Work;
- (bb) “**should**” indicates a desirable action or feature which will be evaluated on a relative scale;
- (cc) “**Site**” means the lands and other places, including structures, on, under, in or through which the Work is to be performed but does not include a Contractor’s Facility;
- (dd) “**Specifications**” means the portion of the Bid Opportunity by that name which sets out the written description of the physical or functional characteristics of the Work, or any part thereof, including without limitation any requirement for testing or inspection, and a reference to a section, clause or subclause with the prefix “**E**” designates a section, clause or subclause in that portion of the Bid Opportunity;
- (ee) “**Subcontractor**” means a person contracting with the Contractor for the performance of a part or parts of the Work or for the furnishing of Plant or Material and includes a Subcontractor’s subcontractor;
- (ff) “**Submission Deadline**” means the time and date set out in the Bidding Procedures for final receipt of Bids;
- (gg) “**Supplemental Conditions**” means the portion of the Bid Opportunity by that name which sets out terms and conditions specific to the Contract, and supplements or modifies the General Conditions, and a reference to a section, clause or subclause with the prefix “**D**” designates a section, clause or subclause in that portion of the Bid Opportunity;

- (hh) **"Total Performance"** means that the entire Work, except those items arising from the provisions of C12, have been performed in accordance with the Contract;
- (ii) **"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 Plant, Material, labour and services necessary for or incidental to the fulfilment of the requirements of the Contract, including all Changes in Work which may be ordered as herein provided.
- (jj) **"Working Day"** means any Calendar Day, other than a Saturday, Sunday, or a statutory or civic holiday, on which the Contract Administrator determines atmospheric and Site conditions are such that the Contractor is able to work at least seven (7) hours during the period between 7:00 a.m. Winnipeg time or the time the Contractor's operations normally commence, whichever is the earlier, and 7:00 p.m. Winnipeg time.

C2. INTERPRETATION

- C2.1 Where the Contractor consists of more than one person, the obligations of the Contractor shall be joint and several.
- C2.2 Wherever the singular or masculine is used, it shall be construed to mean the plural or the feminine or the neuter as the context may reasonably require.
- C2.3 Headings, titles and margin notes in the Contract are inserted for convenience only and shall not be considered in any construction or interpretation of the Contract.
- C2.4 In the event of conflicts between portions of the Contract, the following shall apply:
 - (a) the executed agreement between the City and Contractor shall govern over all schedules or other documents forming part of the Contract;
 - (b) the Supplemental Conditions shall govern over the General Conditions;
 - (c) the General Conditions shall govern over Specifications;
 - (d) Specifications of a later date shall govern over Specifications of an earlier date;
 - (e) Specifications shall govern over Drawings;
 - (f) Drawings of a later date shall govern over Drawings of an earlier date;
 - (g) Drawings of larger scale shall govern over those of smaller scale;
 - (h) figured dimensions shown on a Drawing shall govern over scaled or implied dimensions on the same Drawing; and
 - (i) Drawings shall govern over the Bid.
- C2.5 The various portions of the Contract are intended to be read together and complement each other, and what is called for by any one shall be deemed to be called for by all.
- C2.6 The City and the Contractor acknowledge and agree that the Contractor is an independent contractor and neither the Contractor, nor any officer, servant or agent of the Contractor, shall be deemed to be an employee, agent, representative or servant of the City.
- C2.7 The Contract shall constitute the entire agreement between the City and the Contractor. There are no representations, warranties, covenants or agreements other than those contained in the Contract.

C3. DECLARATIONS

- C3.1 The Contractor declares that, in bidding for the Work and in entering into the Contract, he:
 - (a) has investigated the nature of the Work to be done and all conditions that might affect his Proposal or his performance of the Work; or ,
 - (b) has not investigated the nature of the Work to be done or conditions;

and, in either event, assumes all risk for conditions now existing or arising in the course of the Work which have been or could have been determined through such investigation, and that he did not and does not rely upon information furnished by the City or any of its servants or agents other than information furnished in writing for or in connection with the Proposal or the Contract by the Contract Administrator.

- C3.2 The Contractor declares that, in bidding for the Work and in entering into the Contract, he:
- (a) does so in good faith and that to the best of his knowledge no member of Council or any officer or employee of the City has any pecuniary interest, direct or indirect, in the Contract which has not been disclosed to and approved by the authority having jurisdiction;
 - (b) has not participated in any collusive scheme or combine;
 - (c) shall forfeit all claims under the Contract as well as refund to the City any monies paid to him, beyond his actual proven expenses for Work done, if C3.2(a) or (b) are shown to be false.

C4. EXECUTION OF CONTRACT

- C4.2 The Contractor shall execute the Contract in the manner stipulated by the City Solicitor and return the Contract, within seven (7) Calendar Days of receipt of the Contract, to the City Solicitor at the address indicated in C22.4.
- C4.3 If the Contractor does not execute and return the Contract as set out in C4.2, the Contractor may be determined by the City to have abandoned the Contract, whereupon the acceptance of the offer by the City shall be null and void, and the City shall be entitled to retain the performance security accompanying the Bid as liquidated damages.
- C4.4 No payments will be made by the City to the Contractor until the Contractor has executed and returned the Contract as set out in C4.2.

C5. AUTHORITY OF CONTRACT ADMINISTRATOR

General

- C5.1 The Contract Administrator shall be the City's representative throughout the duration of the Contract and shall have authority to act on behalf of the City to the extent expressly provided for in the Contract.

Contract

- C5.2 The Contract Administrator shall interpret or clarify the Contract or any part thereof which appears indefinite, not clear or contradictory to the Contractor.
- C5.3 The Contract Administrator may at any time correct errors or omissions in the Contract or issue additional Drawings or Specifications further detailing, explaining or modifying the Work. Such Drawings or Specifications shall either supplement or supersede those forming part of the Contract at the time the Contract was executed.

Inspection

- C5.4 The Contract Administrator may examine or inspect the Work or any part thereof and determine whether the Work meets the requirements of the Contract. The Contract Administrator may reject the Work or any part thereof which does not meet the requirements of the Contract.

Control

- C5.5 The Contract Administrator may give instructions or orders to the Contractor to the extent necessary to ensure that the Work is performed in an orderly manner and meets the requirements of the Contract.

- C5.5.1 The Contract Administrator may give instructions or orders to the Contractor's supervisor and such instructions or orders shall be deemed to have been given to the Contractor.
- C5.6 The Contract Administrator may order the Contractor to remove from the Work any person employed or retained by the Contractor or a Subcontractor in the performance of the Work who the Contract Administrator determines is incompetent, negligent or guilty of misconduct.
- C5.7 The Contract Administrator may order the Contractor to alter or improve his methods, to increase or improve his Plant, to furnish additional or more suitable Material, or to employ additional or more qualified labour if, at any time, the Contract Administrator determines that the Work is not being, or will likely not be, performed satisfactorily.
- C5.8 The Contract Administrator may order the Contractor to stop work or to take such remedial measures as the Contract Administrator considers necessary, if, at any time, the Contract Administrator determines that:
- (a) a danger to life or to property exists; or
 - (b) such stoppage or remedial measures may be necessary to ensure the performance of the Work in accordance with the requirements of the Contract.
- C5.9 Neither the giving of any orders by the Contract Administrator nor the carrying out of such orders by the Contractor shall entitle the Contractor to any extra payment, nor relieve the Contractor of his responsibilities under C6.
- C5.10 The Contract Administrator shall determine if and when Total Performance is achieved and shall certify the date thereof.
- C5.11 If the Contractor disputes a determination or order of the Contract Administrator on any of the foregoing matters, the Contractor shall act in accordance with the Contract Administrator's determination or order. The Contractor may concurrently appeal the determination or order of the Contract Administrator to the Chief Administrative Officer as provided for in C20.

C6. RESPONSIBILITIES OF CONTRACTOR

General

- C6.1 Except as otherwise provided in the Contract, the Contractor shall be solely responsible for means, methods, techniques, sequences and procedures, and for coordinating the various parts of the Work so as to ensure its proper completion in a sound and workmanlike manner, in all respects in strict conformity with the Contract and in accordance with the approved work schedule.
- C6.2 The Contractor shall have complete control over the methods of performing the Work and shall direct and supervise the Work so as to ensure conformance with the Contract.
- C6.3 The Contractor shall provide all Plant, Material, labour, services and incidentals necessary for the performance of the Work.
- C6.4 The Contractor shall be responsible for any Work not explicitly set out in the Contract but which may be reasonably implied for the proper completion of the Work.
- C6.5 Unless otherwise specified in the Specifications, all Material shall be new, fit for the purpose intended and shall meet or exceed the kind, quality and quantity of same specified in the Contract. If required, the Contractor shall provide evidence satisfactory to the Contract Administrator that the foregoing requirements have been met.

Contract

- C6.6 The Contractor shall perform, complete and maintain the Work in strict accordance with the Contract.

- C6.7 If the Contract or any part thereof appears indefinite, not clear or contradictory, the Contractor shall refer such feature or features to the Contract Administrator for interpretation or clarification.
- C6.8 The Contractor shall obey, perform and comply with the Contract Administrator's orders, instructions, rules and procedures with respect to the Work or concerning the conduct thereof, promptly, efficiently and to the satisfaction of the Contract Administrator and the Contractor will assist other contractors, their employees and agents to do the same.
- C6.9 The Contractor shall be responsible for conveying the interpretation or clarification of the Contract, as given by the Contract Administrator, to Subcontractors.
- C6.10 The Contractor shall prepare and submit all drawings, schedules, documents or information required by the Contract and such other drawings, schedules, documents or information as may reasonably be required by the Contract Administrator.

Laws and Regulations

- C6.11 The Contractor shall comply with all laws, by-laws, ordinances, regulations, codes and orders of authorities having jurisdiction which are or come into force during the performance of the Work and which relate to the Work. Where there are two or more laws, by-laws, ordinances, regulations or codes applicable to the Work, the most restrictive shall apply.
- C6.12 The Contractor shall procure approvals, clearances, permits, licences and certificates required by law or by any by-laws, ordinances, regulations, codes or orders of the authorities having jurisdiction for the performance of the Work, but this shall not include the obtaining of permanent easements or rights of servitude.
- C6.13 The Contractor shall give any notices required by law or by by-laws, ordinances, regulations, codes or orders of the authorities having jurisdiction and which relate to the Work.
- C6.14 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.
- C6.15 The Contractor shall not be responsible for verifying that the Contract complies with the applicable laws, by-laws, ordinances, regulations, codes and orders relating to the Work.

Patents and Royalties

- C6.16 If the Contract requires or the Contractor desires the use of any design, device, material or process covered by letters patent, copyright, trademark or trade name, the Contractor shall provide for such use by suitable legal agreement with the owner or licensee.
- C6.16.1 Upon request of the Contract Administrator, the Contractor shall provide the City with a copy of the said agreement.
- C6.17 If the City or the Contractor is served with a claim or notice of an infringement or alleged infringement of any patent, copyright, trademark or trade name, the party so served shall immediately give notice thereof to the other party.
- C6.18 If the City or the Contractor is prevented by injunction from using any design, device, material or process covered by letters patent, copyright, trademark or trade name, the Contractor shall, at his own cost, substitute an equally suitable design, device, material or process, all subject to the prior approval of the Contract Administrator.

Personnel

- C6.19 The Contractor shall provide competent, suitably qualified personnel to perform the Work.

C6.20 If the Contract Administrator orders a person to be removed from the Work, the Contractor shall comply forthwith. Any person so removed shall not be re-employed on the Work by the Contractor or by a Subcontractor, without the written approval of the Contract Administrator.

Control

C6.21 The Contractor must arrange and carry on his Work so as not to conflict with the Work being carried on or to be carried on for the City by other contractors or by the City's employees. If the Contractor finds it difficult to work in harmony with such parties, he shall notify the Contract Administrator promptly.

C6.22 The Contractor shall perform the Work so as to progress continuously with the Work or any part thereof and in such a manner as to ensure the proper completion of the Work or any part thereof, within the time stipulated.

C6.23 The Contractor shall be solely responsible for safety at the Site and for compliance with all laws, rules, regulations and practices required by the applicable safety legislation.

Subcontractors

C6.24 The Contractor shall not employ any Subcontractor to whom the Contract Administrator objects, acting reasonably.

C6.24.1 The Contractor agrees that the Subcontractors identified in his Bid, or in any subsequent submission, are the Subcontractors proposed to be used to carry out those parts of the Work noted therein.

C6.24.2 The Contractor shall not add, remove or replace any Subcontractor, or change the part of the Work to be performed by a Subcontractor, without the prior approval of the Contract Administrator.

C6.25 The Contractor, with respect to Work to be performed under subcontract, shall:

- (a) 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
- (b) 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.

C6.26 The Contractor shall incorporate the terms and conditions of the Contract into all subcontract agreements he enters into with his Subcontractors.

C6.27 The Contractor shall make prompt payment to his Subcontractors, his employees or on account of the purchase or rental of Plant or Material.

C6.28 The Contractor shall promptly secure a discharge of a lien or trust claim served upon the City.

C7. CHANGES IN WORK

General

C7.1 The City shall have the right to order a Change in Work at any time after award of the Contract.

C7.2 If, at any time after award of the Contract, the Contractor is of the opinion that a Change in Work is necessary to accomplish the result intended by the Contract or if the Contractor considers it desirable that a Change in Work be approved, he shall promptly provide notice thereof to the Contract Administrator, including:

- (a) the reason for the proposed Change in Work;
- (b) a detailed description of the proposed Change in Work;

- (c) the Contractor's proposed method(s) to determine the adjustment, if any, in Contract Price pursuant to C7.4.

C7.2.1 Without limiting the generality of C7.2, if the Contractor observes:

- (a) any substantial difference in the nature of the surface or subsurface conditions at the Site, or the location, nature, quality or quantity of the materials to be removed, from those set out in the Contract; or
- (b) that the Contract is at variance with any laws, ordinances, rules, regulations or codes of authorities having jurisdiction, or if changes are made to any laws, ordinances, rules, regulations and codes subsequent to the Submission Deadline which require modifications to the Contract;

the Contractor shall immediately notify the Contract Administrator.

C7.3 The Contract Administrator shall determine whether a Change in Work is necessary or desirable and whether a corresponding adjustment to the Contract Price is required.

C7.3.1 If the Contract Administrator determines that no Change in Work is necessary or desirable, he will issue a notice stating his determination.

C7.3.2 If the Contract Administrator determines that a Change in Work is necessary or desirable but no corresponding adjustment to the Contract Price is required, he will issue a notice approving the Change in Work and stating his determination.

C7.3.3 If the Contract Administrator determines that a Change in Work is necessary or desirable, which requires a corresponding adjustment to the Contract Price, and he is able to determine such adjustment based on the available information, he shall issue a notice approving the Change in Work and stating his determination regarding the method(s) to be used to determine the adjustment in Contract Price pursuant to C7.4.

C7.3.4 If the Contract Administrator determines that a Change in Work is necessary or desirable, which requires a corresponding adjustment to the Contract Price, and he requires further information to determine such adjustment, he shall issue a notice stating his determination and requiring the Contractor to submit the Contractor's proposed method(s) to determine the adjustment in Contract Price pursuant to C7.4, and upon receipt and evaluation of such information, he shall issue a notice in accordance with C7.3.3.

Valuation of a Change in Work

C7.4 The adjustment in Contract Price resulting from a Change in Work shall be determined by one or more of the following methods:

- (a) by estimate in a lump sum;
- (b) by the unit prices and methods of measurement set out in the Contract or subsequently agreed upon;
- (c) by the actual cost of the Change in Work to the Contractor plus a fixed fee;
- (d) by the actual cost of the Change in Work to the Contractor plus fifteen percent (15%) on any portion of the Change in Work undertaken by the Contractor's own forces or plus ten percent (10%) on any portion of the Change in Work undertaken by a Subcontractor.

C7.4.1 For the purposes of C7.4(c) or (d), "actual cost" on any portion of the Change in Work undertaken by the Contractor's own forces shall mean the direct cost of labour plus an allowance for direct supervision and payroll burden (including Employment Insurance, Canada Pension, Payroll Tax, Workers Compensation assessments and vacation pay), purchase or rental of Plant and Material and any other payments made by the Contractor with the prior approval of the Contract Administrator that are necessary for the performance of the Change in Work.

C7.4.2 For the purposes of C7.4(c) or (d), "actual cost" on any portion of the Change in Work undertaken by a Subcontractor shall mean the amount invoiced by the Subcontractor and

paid by the Contractor, net of any discounts and excluding any late payment interest or penalties.

C7.5 If a Change in Work results in a reduction in the Contract Price, no claim may be made for damages on the ground of loss of anticipated profit on Work so diminished or on any other ground provided that the aggregate reduction in the Contract Price does not exceed twenty percent (20%) of the price agreed upon for the Work as of the date of the award of the Contract.

C7.5.1 Reductions in the Contract Price as a result of:

- (a) Changes in Work requested by the Contractor;
- (b) a deduction, pursuant to C10.5(d), for defective or deficient Work;
- (c) a decrease, pursuant to C11.3, due to a change in tax; or
- (d) the City's application of a remedy for an event of default;

shall not be considered in calculating the aggregate reduction in the Contract Price for the purposes of C7.5.

C7.6 If a Change in Work diminishes the Work, or any part thereof, resulting in:

- (a) extra cost to the Contractor, directly attributable to the diminution, for which he would not be entitled to payment on a unit price basis (e.g., loss of volume discounts); or
- (b) loss to the Contractor in respect of Material required by the City to be purchased by him for the Work but not used thereon as a direct result of the diminution (e.g., restocking charges);

the Contractor shall be compensated therefor by the City in the sum or sums determined by the Contract Administrator.

C7.7 If the method of valuation or measurement or the adjustment to the Contract Price cannot be promptly agreed upon and the Contract Administrator requires the Change in Work to proceed, then the Contract Administrator will determine the method of valuation and measurement and the adjustment to the Contract Price. The Contract Administrator shall issue a notice approving the Change in Work and setting out the method of valuation, measurement, and any approved adjustments to the Contract Price.

C7.8 If the Contractor disputes a determination made by the Contract Administrator, the Contractor shall act in accordance with the Contract Administrator's determination. The Contractor may concurrently appeal the determination of the Contract Administrator to the Chief Administrative Officer as provided for in C20.

Cost Records

C7.9 If a valuation is required pursuant to C7.4 or C7.6, the Contractor shall provide the Contract Administrator with:

- (a) detailed and accurate statements showing:
 - (i) description, cost (including expenses for operation and maintenance) and time for Plant used by the Contractor;
 - (ii) description, cost and quantity for Material used by the Contractor;
 - (iii) rate of pay and hours of work for each of the persons employed by the Contractor; and
- (b) access to any cost records (including payroll records, time books and invoices) or other data necessary to verify the accuracy of such statements.

C8. RIGHT OF ENTRY

C8.1 The Contractor shall not be entitled to exclusive possession of the Site.

- C8.2 The City shall have the right, for itself, its agents, representatives or other persons, to enter, occupy or use any portion of the Site or the Work, at any time and for so long a time as the Contract Administrator may require.
- C8.3 Such entry, occupation or use shall not constitute acceptance of the Work by the City nor shall it relieve the Contractor of responsibility to complete the Work.

C9. RISK AND RESPONSIBILITY

- C9.1 Plant or Material brought to the Site or the Work by the Contractor shall remain at the risk and the responsibility of the Contractor from the commencement of the Work until:
- (a) Material is incorporated into the Work; or
 - (b) Plant or Material is removed from the Site or the Work by the Contractor.
- C9.2 The Contractor shall be liable to the City for any loss of or damage to Plant or Material that is supplied to or placed in the care, custody and control of the Contractor by the City in connection with the Contract, whether or not that loss or damage is attributable to causes beyond the Contractor's control, from the commencement of the Work until:
- (a) Material is incorporated into the Work; or
 - (b) Plant or Material is returned, in its original condition, to the City.
- C9.3 The Work shall remain at the risk and the responsibility of the Contractor from the commencement of the Work until the date of Total Performance.
- C9.4 The Contractor shall, at his own cost, be required to maintain the Work, make good all damage thereto and imperfections therein and to deliver the completed Work to the City in accordance with the provisions of the Contract.

C10. INSPECTION

General

- C10.1 The Contractor shall provide the Contract Administrator access, whether at the Site or at the Contractor's Facility or the premises of any Subcontractor, to observe and inspect the Work and its progress.
- C10.2 The Contractor shall provide the Contract Administrator any samples required to inspect the Work.
- C10.3 The Contractor shall provide the Contract Administrator any and all assistance which he may require to observe and inspect the Work.
- C10.4 The inspection herein provided for shall in no way relieve the Contractor of full responsibility for the quality, proper operation and performance of the Work.

Defective Work

- C10.5 If the Contract Administrator determines that the Work, or any part thereof, is defective or deficient, the City shall have the right to do any one or more of the following in addition to anything permitted elsewhere in the Contract or by law:
- (a) if the Contract Administrator determines that any Plant is defective, deficient or otherwise unfit for the purpose intended, the Contract Administrator may direct the Contractor to remove such Plant from the Site and promptly replace it with Plant which meets the requirements of the Contract and is fit for the purpose intended;
 - (b) if the Contract Administrator determines that any Material which is not yet incorporated into the Work is defective, deficient or otherwise unfit for the purpose intended, the Contract Administrator may direct the Contractor to remove such Material from the Site and

promptly replace it with Material which meets the requirements of the Contract and is fit for the purpose intended;

- (c) if the Contract Administrator determines that the Work or any portion thereof, including any Material which is incorporated therein, is defective, deficient or otherwise unfit for the purpose intended, the Contract Administrator may direct the Contractor to repair, redo, replace or otherwise remedy the defect or deficiency;
- (d) if the Contract Administrator determines that it is not expedient to correct defective or deficient Work, the City may deduct from the Contract Price the difference between the value of the Work as done and that called for by the Contract, the amount of which shall be determined by the Contract Administrator.

C10.6 The Contractor shall, without delay, carry out the directives of the Contract Administrator pursuant to C10.5. In addition, the Contractor shall be responsible for the cost of any additional inspections necessitated thereby.

C10.7 The City shall be entitled, in its sole discretion, to use the Work or any portion thereof notwithstanding that it may be defective or deficient, and such use shall not constitute acceptance of any defects or deficiencies nor shall it relieve the Contractor of responsibility to complete the Work.

C11. MEASUREMENT AND PAYMENT

General

C11.1 The amounts to be paid by the City to the Contractor shall be the sums certified by the Contract Administrator.

C11.1.1 For unit price Contracts, such sums shall be determined by the Contract Administrator upon the basis of the unit prices for the various classes of the Work stated on Form B: Prices. The total amount to be paid to the Contractor for the Work will be the amount arrived at by measuring the amount of each class of the Work listed on Form B: Prices and performed in accordance with the Contract, and pricing the same, in accordance with the unit prices stated thereon.

C11.1.2 For lump sum Contracts, such sums shall be determined by the Contract Administrator upon the basis of the lump sum price stated on Form B: Prices.

C11.1.3 Prices stated on Form B: Prices shall be deemed to include:

- (a) duty;
- (b) freight and cartage;
- (c) Federal and Provincial taxes [except the Goods and Services Tax (GST) and Manitoba Retail Sales Tax (MRST, also known as PST), which shall be extra where applicable] and all charges governmental or otherwise paid;
- (d) profit and all compensation which shall be due to the Contractor for the Work and all details necessarily connected with the completion of the Work and all risks and contingencies connected therewith.

Increased or Decreased Costs

C11.2 The Contract Price shall not be increased or decreased by reason of any increase or decrease in the cost of the Work to the Contractor except as provided for herein.

C11.3 The Contract Price shall be adjusted if any change in a tax imposed under the Excise Act, the Excise Tax Act, the Customs Act, the Customs Tariff, The Mining Tax Act (Manitoba), or The Retail Sales Tax Act (Manitoba):

- (a) occurs after the Submission Deadline;
- (b) applies to Material; and
- (c) affects the cost of that Material to the Contractor.

- C11.4 If a change referred to in C11.3 occurs, the Contract Price shall be increased or decreased by an amount equal to the amount that is established, by an examination of the relevant records of the Contractor, to be the increase or decrease in the cost incurred that is directly attributable to that change.
- C11.5 For the purpose of C11.3, where a tax is changed after the Submission Deadline but public notice of the change has been given by either the Federal or Provincial Minister of Finance before that date, the change shall be deemed to have occurred before the Submission Deadline and the Contractor shall not be entitled to an increase in the Contract Price.

Final Payment

- C11.6 Approval by the City of final payment shall be subject to issuance by the Contact Administrator of a certificate of Total Performance.
- C11.7 Neither the issuance of a certificate of Total Performance nor final payment shall relieve the Contractor from his responsibilities either under C12 or as a result of any breach of the Contract by the Contractor including, but not limited to, defective or deficient Work appearing after Total Performance, nor shall it conclude or prejudice any of the powers of the Contract Administrator or the Chief Administrative Officer hereunder.
- C11.8 Subject to C11.9, acceptance by the Contractor of final payment shall constitute a waiver and release by him of all claims against the City whether for payment for Work done, damages or otherwise arising out of the Contract.
- C11.9 If the Contractor disputes a determination made by the Contract Administrator with respect to an interim or final payment, the Contractor shall be paid in accordance with the Contract Administrator's determination. The Contractor may concurrently appeal the determination of the Contract Administrator to the Chief Administrative Officer as provided for in C20.

C12. WARRANTY

General

- C12.1 The Contractor warrants that the Work will be free of any and all defects or deficiencies during the warranty period.

Warranty Period

- C12.2 Unless specifically stated otherwise in the Supplemental Conditions, the warranty period shall begin on the date of Total Performance and shall expire one (1) year thereafter unless extended pursuant to C12.2.1, in which case it shall expire when provided for under these sections.
- C12.2.1 If all outstanding defects or deficiencies have not been corrected to the satisfaction of the Contract Administrator by at least two (2) weeks prior to the date on which the warranty would expire except for this C12.2.1, then the Contract Administrator may require the Contractor to extend the warranty period for a further period of one (1) year for those defects or deficiencies in the Work identified by the Contract Administrator as still outstanding and uncorrected or for any portion of the Work whose use or operation is prevented by such defects or deficiencies.
- C12.3 Notwithstanding C12.2, 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.

Warranty Work

- C12.4 The Contract Administrator shall notify the Contractor of observed defects or deficiencies and damage, if any, arising or resulting from such defects or deficiencies, within the warranty period.

C12.5 The Contractor shall correct, to the satisfaction of the Contract Administrator, all defects, deficiencies and damage identified by the Contract Administrator in the manner and within the time period(s) specified in the notice.

C12.6 If the Contractor disagrees with the Contract Administrator's determination under C12.4, he shall nonetheless comply with C12.5. The Contractor may concurrently appeal the determination of the Contract Administrator as provided for in C20.

Acceptance of the Work

C12.7 The Contract Administrator shall certify acceptance of the Work upon:

- (a) the satisfactory performance of the Work during the warranty period;
- (b) the Contractor having fully complied with C12.5; and
- (c) the successful conclusion of any tests required under the Contract.

C12.8 Only certification of acceptance of the Work shall constitute:

- (a) acceptance of the Work; or
- (b) acceptance that the Work or any part thereof has been duly performed; or
- (c) acceptance of the accuracy of any claim of the Contractor.

C12.9 Certification of acceptance of the Work shall not, however, relieve the Contractor from his responsibilities for any breach of the Contract including, but not limited to, defective or deficient Work appearing after the date of such certification.

C13. GOVERNING LAW

C13.1 The Contract has been entered into in the Province of Manitoba and shall be governed by and construed and enforced in accordance with the laws of the Province of Manitoba and of Canada as applicable therein. The parties hereby irrevocably and unconditionally agree to the exclusive jurisdiction of the Courts in the Province of Manitoba and all courts competent to hear appeals therefrom.

C14. ASSIGNMENT

C14.1 The Contractor shall not assign the Contract or any payments thereunder without the prior consent of the City.

C14.2 The Contract shall inure to the benefit of and be binding on the respective heirs, executors, administrators, successors and assigns of the City and the Contractor.

C15. FORCE MAJEURE

C15.1 If the Contractor is delayed in the performance of the Work by reason of strikes, lock-outs (including lock-outs decreed for its members by a recognized contractors' association of which the Contractor is a member), an act of God, or any other cause which the Contractor satisfies the Contract Administrator to be totally beyond his control, the work schedule shall be adjusted by a period of time equal to the time lost due to such delays.

C15.2 No extension for delay shall be approved unless a notice of the claim is received by the Contract Administrator from the Contractor within seven (7) Calendar Days of the date on which the cause of delay arose.

C15.3 Any delay or failure by the City to perform its obligations under this Contract shall be excused, to the extent that the delay or failure is caused by an event or occurrence beyond the reasonable control of the City and without its fault or negligence, such as by way of example and not by way of limitation, strikes, lock-outs, or acts of God, provided that written notice of the

delay shall be given by the City within seven (7) Calendar Days of the date on which the cause of delay arose.

C15.4 Any notice or claim for extension must state the cause of delay and the length of extension requested.

C15.4.1 In the case of a continuing cause of delay, only one claim for an extension shall be necessary.

C16. INDEMNITY

C16.1 The Contractor shall save harmless and indemnify the City in the amount of two million dollars (\$2,000,000), plus a minimum of twice the Contract value 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) any claim for lien or trust claim served upon the City;
- (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.

C16.2 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.

C16.3 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.

C16.4 If the Contractor fails to make any payment required to be made to the City pursuant to C16.2 and C16.3, 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.

C17. EVENTS OF DEFAULT

C17.1 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) 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) 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 take down, repair, redo, replace or otherwise remedy any defective or deficient Work, or to remove any defective or deficient Material; or
- (f) fails to remedy defects or deficiencies during the warranty period in the manner and within the time periods specified by the Contract Administrator; or
- (g) fails to make prompt payment to his Subcontractors, his employees or on account of the purchase or rental of Plant or Material; or
- (h) fails to promptly secure a discharge of a claim for lien or trust claim served upon the City; or
- (i) fails to comply with any laws, by-laws or statutory regulations; or
- (j) fails to provide competent supervision at the Site; or
- (k) fails to submit any schedules, documents or information required by the Contract; or
- (l) refuses or neglects to comply with an order given by the Contract Administrator; or
- (m) commits any other breach of the Contract.

C17.2 Any provision of the Contract may be waived only by express waiver in writing by the Contract Administrator. No express waiver of any provision shall imply the waiver of any other provision.

C18. CITY'S RIGHTS AND REMEDIES

General

- C18.1 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 control of the Contractor;
 - (c) demand payment for any amount owed to the City;
- all as more particularly set forth in C18.3 to C18.6 below.
- C18.2 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.

Withholding of Payment

- C18.3 If an event of default has occurred, the City may withhold or retain the whole or part of any payment to the Contractor.
- C18.4 The City may apply the amount withheld or retained to:
- (a) pay any person to whom the Contractor is indebted in respect of Material, labour or services furnished for the Work;
 - (b) secure the discharge of a lien or trust claim served upon the City;
 - (c) indemnify, compensate or reimburse the City for amounts paid or costs incurred by the City in connection with the event of default.
- C18.5 Payment of such amounts shall discharge the City's liability to the Contractor to the same extent as payment directly to him.
- C18.6 Upon remedy of the event of default, any amount remaining from the amount withheld will be released to the Contractor.

Taking the Work out of the Contractor's Control

- C18.7 If an event of default has occurred, the City may, without process or action at law, upon giving the Contractor notice, take the whole of the Work, or any part or parts thereof out of the control of the Contractor.
- C18.8 Upon such notice being given to the Contractor, he shall immediately discontinue the Work or any part or parts thereof specified in the said notice.
- C18.9 The taking of the Work or any part thereof out of the Contractor's control pursuant to C18.7 shall not relieve or discharge the Contractor from any obligation under the Contract or imposed upon him by law except the obligation to complete the performance of that part of the Work that was taken out of the Contractor's control.
- C18.10 The City shall have the right, subject to C19, to complete, by contract or with its own forces, the Work taken out of the Contractor's control. The City shall not be required to obtain the lowest price to complete the Work taken out of the Contractor's control.
- C18.11 If the cost to the City of completing the Work or portion thereof as aforesaid is less than the amount to which the Contractor would have been entitled under the Contract for so doing, the Contractor shall have no claims in respect thereof against the City. If the cost of the Work performed by the City is more than the amount to which the Contractor would have been entitled under the Contract for the same Work, the City shall have a claim against the Contractor for such excess costs.
- C18.12 When any portion of the Work is being carried on by the City, by contract or otherwise, the Contractor shall continue to perform the remainder of the Work in accordance with the Contract, and in such manner as in no way to hinder or interfere with the persons performing the portion of the Work being carried on by the City.

Demand for Payment

- C18.13 If an event of default has occurred, the City may demand payment from the Contractor for amounts paid or costs incurred by the City in connection with the event of default.
- C18.14 The Contractor shall, within seven (7) Calendar Days of receipt of a notice from the City, pay the City the amount set out in the notice.

C19. SURETY'S OPTION TO ASSUME THE CONTRACT

- C19.1 Where the City has given notice to the Contractor that the Work or part thereof has been taken out of the Contractor's control, the City shall promptly provide the Surety with a copy of such notice.
- C19.2 The Surety may, at its option, assume the Contract in respect of the Work specified in the notice and proceed to perform same.
- C19.2.1 The Surety shall advise the City whether it intends to exercise such option within fourteen (14) Calendar Days after the date on which the Surety is provided with a copy of the notice given to the Contractor.
- C19.2.2 The said option shall expire if the Surety fails to so advise the City within the time specified.
- C19.3 If the Surety has exercised its option in accordance with the foregoing, it shall take the Contractor's place in all respects. The Surety shall be bound by all terms and conditions of the Contract and shall be paid in accordance with the terms of the Contract for all Work performed by it.
- C19.4 The Surety may, with the consent of the City, subcontract the Work so taken over or any portion thereof.

C20. CONTRACTOR'S RIGHT TO APPEAL

- C20.1 If the Contractor disagrees with a determination or order of the Contract Administrator he may, within seven (7) Calendar Days after receiving notice of the Contract Administrator's determination or order, notify the Chief Administrative Officer of his appeal with respect thereto and request a determination thereon from the Chief Administrative Officer.
- C20.2 If the Contractor disagrees with the Chief Administrative Officer's determination he may request that the dispute be referred to arbitration in accordance with C21, by providing notice to the Chief Administrative Officer within seven (7) Calendar Days after receiving notice of the Chief Administrative Officer's determination.
- C20.3 If the Contractor neglects or fails to observe fully and faithfully the above conditions, he shall be deemed to have accepted the Contract Administrator's determination and to have waived any said claim, at law or otherwise.

C21. ARBITRATION

Requests for Arbitration

- C21.1 If, at any time before the termination of the warranty period, any dispute, difference or question shall arise between the City and the Contractor regarding the Work, then any such dispute, difference or question may, with the consent of both the City Solicitor, on behalf of the City, and the Contractor, be referred to arbitration.
- C21.2 The party desiring arbitration (the "Requesting Party") shall request the consent of the other party (the "Other Party") to refer a particular dispute, difference or question to arbitration.
- C21.3 The Other Party shall reply to the request within seven (7) Calendar Days of receiving same.

Referral to a Single Arbitrator

- C21.4 If the Other Party has consented to arbitration, the Requesting Party shall nominate an arbitrator (the "Requesting Party's Nominee") within seven (7) Calendar Days of receiving the reply. The Other Party shall have seven (7) Calendar Days after receiving notice of the nomination to accept or reject the Requesting Party's Nominee.
- C21.5 If the Other Party accepts the Requesting Party's Nominee, the dispute, difference or question shall be promptly referred to him or her.

Referral to a Panel of Arbitrators

- C21.6 If the Other Party rejects the Requesting Party's Nominee, it shall, within seven (7) Calendar Days of rejection, appoint its own arbitrator.
- C21.7 The Requesting Party shall, within seven (7) Calendar Days of receiving the Other Party's rejection, appoint its own arbitrator.
- C21.8 The arbitrators appointed under C21.6 and C21.7 shall, within seven (7) Calendar Days of the date on which the last of them was appointed, appoint a third arbitrator (the "Panel Chair") who will act as chair of the arbitration panel.

General

- C21.9 The Arbitration Act (Manitoba) or any successor legislation thereto shall apply to the arbitration in all respects except as expressly otherwise provided in these General Conditions.
- C21.10 The single arbitrator or the Panel Chair, as the case may be, shall determine the procedure to be followed in the arbitration, which shall be consistent with The Arbitration Act (Manitoba) or any successor legislation thereto.

- C21.11 Where the matter proceeds with a single arbitrator, each party shall be responsible for its own legal expenses, expenses to produce expert evidence or other expenses voluntarily incurred, and for an equal share of the fees and expenses of the single arbitrator and of any other expenses related to the arbitration.
- C21.12 Where the matter proceeds with an arbitration panel, each party shall be responsible for its own legal expenses, expenses to produce expert evidence or other expenses voluntarily incurred, for the fees and expenses of the arbitrator appointed by it, and for an equal share of the fees and expenses of the Panel Chair and of any other expenses related to the arbitration.

C22. NOTICES

- C22.1 All notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications required or permitted to be given under the Contract shall be in writing and shall be delivered by hand, by facsimile transmission (fax) or by mail.
- C22.2 All notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications to the City, except as expressly otherwise required in C22.3 or C22.4, or elsewhere in the Contract, shall be sent to the attention of the Contract Administrator.
- C22.3 All notices of appeal to the Chief Administrative Officer shall be sent to the following address or facsimile number:
The City of Winnipeg
Chief Administrative Officer Secretariat
Attn: Chief Administrative Officer
Administration Building, 3rd Floor
510 Main Street
Winnipeg MB R3B 1B9
Facsimile No.: (204) 949-1174
- C22.4 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
Internal Services Department
Legal Services Division
Attn: City Solicitor
185 King Street, 3rd Floor
Winnipeg MB R3B 1J1
Facsimile No.: (204) 947-9155
- C22.4.1 Either party may, by giving notice, designate another address or addresses at which it will accept delivery of notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications.
- C22.4.2 Delivery to the Contractor's designated supervisor at the Site shall constitute delivery to the Contractor.
- C22.5 Any notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications given as provided herein shall:
(a) if delivered by hand, be deemed to have been received on the day of receipt;
(b) if delivered by facsimile transmission, be deemed to have been received on the day of transmission, if a Business Day, or if not a Business Day, on the Business Day next following the day of transmission; and
(c) if delivered by mail, be deemed to have been received on the second Business Day on which mail is delivered by Canada Post following the date of mailing.

PART D - SUPPLEMENTAL CONDITIONS

GENERAL

D1. GENERAL CONDITIONS

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

D1.1 In addition to the *General Conditions*, these Supplemental Conditions are applicable to the Work of the Contract.

D2. SCOPE OF WORK

D2.1 The Work to be done under the Contract shall consist of public transportation services for persons with physical disabilities or legally blind for the period of December 15, 2010 to December 14, 2017.

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

- (a) Providing transportation for persons with disabilities who require assistance to/from and into/out of the vehicle who travel in a wheelchair and require the use of a wheelchair accessible vehicle.
- (b) Providing transportation for persons with disabilities who require assistance to/from and into/out of the vehicle who use a wheelchair or scooter but can transfer to the seat of a vehicle without assistance, and
- (c) Providing transportation for persons with disabilities who require assistance to/from and into/out of the vehicle who are ambulatory and may use a mobility device such as a cane or walker.

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

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

D2.3.2 Subject to C7.2, the City shall have no obligation under the Contract to purchase any quantity of any item in excess of its actual operational requirements.

D2.3.3 The Work to be performed is on a vehicle hour basis.

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

D3. DEFINITIONS

D3.1 Notwithstanding C1.1, when used in this Request for Proposal:

- (a) "**Accessible Building Entrance Door**" means a door at a building entrance accessible without negotiating stairs in excess of three (3) risers, unless otherwise approved by the Supervisor of Handi - Transit;
- (b) "**Ambulatory**" where describing a person, means a disabled person able to walk with or without assistance but who does not use a wheelchair;
- (c) "**Budget**" means the annual budget of the City for the Handi-Transit Service which includes the supplementary "Service" to be provided;
- (d) "**Cancellation**" means a scheduled trip cancelled with notification to the Contractor's driver by radio, telephone or electronically;

- (e) **"Contract"** means the combined documents consisting of the Request for Proposal 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;
- (f) **"Dispatch"** means a person employed by the City who dispatches vehicles to meet the schedule requirements of the City;
- (g) **"Handi-Transit Vehicle"** is defined under this Contract as a light to medium duty low floor, right passenger side-entry, wheelchair accessible minibus, Arboc Spirit of Mobility LLC, that is 26 feet in length with a 191 inch wheelbase meeting or exceeding the CAN/CSA-D409-02 (Reaffirmed 2007) Standards, fully crash tested to meet Canadian Motor Vehicles Safety Standards (CMVSS) with a passenger capacity and seating configuration, design and material approved by the Contract Administrator;
- (h) **"No Show"** means a scheduled trip cancelled *without* telephone notification to the Handi-Transit Dispatch at least thirty (30) minutes before the scheduled pick-up time;
- (i) **"Passenger Trip"** means one (1) passenger transported from an origin point to a destination point. In the case of a route request with one (1) or more intermediate destinations, each stage of the route shall be a "Passenger Trip";
- (j) **"run"** means one (1) vehicle scheduled and available for or performing the Work for one (1) day;
- (k) **"Statutory Holiday"** means a statutory holiday as observed by the City except Easter Monday;
- (l) **"Vehicle Hour"** means one (1) vehicle scheduled and available for or performing the Work for one (1) hour.

D4. CONTRACT ADMINISTRATOR

D4.1 The Contract Administrator is:

Catherine Caldwell
Manager of Client Services
Transit Department
Unit B – 414 Osborne Street
Winnipeg Manitoba R3L 2A1

Telephone No.: (204) 986 - 5329
Facsimile No.; (204) 986 - 6863

D4.2 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.

D5. CONTRACTOR'S SUPERVISOR

D5.1 Further to C6.19, the Contractor shall employ and keep on the Work, at all times during the performance of the Work, a competent supervisor and assistants, if necessary, acceptable to the Contract Administrator. The supervisor shall represent the Contractor on the Site. The supervisor shall not be replaced without the prior consent of the Contract Administrator unless the supervisor proves to be unsatisfactory to the Contractor and ceases to be in his employ.

D5.2 Before commencement of Work, the Contractor shall identify his designated supervisor and any additional personnel representing the Contractor and their respective roles and responsibilities for the Work.

D5.2.1 Further to C5.5 Contract Administrator may give instructions or orders to the Contractor's supervisor and such instructions or orders shall be deemed to have been given to the Contractor.

D5.2.2 The Contractor shall provide one (1) contact phone number for all communications.

- D5.2.3 The Contractor must have a supervisor available at the contact number location during the “run” hours that any vehicle is assigned Work.

D6. CONFIDENTIALITY AND OWNERSHIP OF INFORMATION

- D6.1 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.
- D6.2 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.
- D6.3 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.

D7. NOTICES

- D7.1 Notwithstanding C22.3, 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 Financial Officer
Administration Building, 3rd Floor
510 Main Street
Winnipeg MB R3B 1B9
Facsimile No.: (204) 949-1174

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. SAFE WORK PLAN

- D9.1 The Contractor shall provide the Contract Administrator with a Safe Work Plan at least five (5) Business Days prior to the commencement of any Work on the Site but in no event later than the date specified in C4.1 for the return of the executed Contract.
- D9.2 The Safe Work Plan should be prepared and submitted in the format shown in the City’s template which is available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt/safety/default.stm>

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 five million dollars (\$5,000,000.00) inclusive, with The City of Winnipeg added as an additional insured; such liability policy to also contain a cross-liability clause, non-owned automobile liability and

products and completed operations cover, to remain in place at all times during the performance of the Work;

- (b) automobile liability insurance for owned and non-owned automobiles used for or in connection with the Work in the amount of at least five million dollars (\$5,000,000.00), to remain in place 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 certificate(s) of insurance, in a form satisfactory to the City Solicitor, at least two (2) Business Days prior to the commencement of any Work on the Site.

D10.4 The Contractor shall not cancel, materially alter, or cause the policy to lapse without providing at least thirty (30) Calendar Days prior written notice to the Contract Administrator.

D10.5 The City shall have the right to alter the limits and/or coverages as reasonably required from time to time during the continuance of this agreement.

D11. PERFORMANCE SECURITY

D11.1 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 fifty percent (50%) of the Contract Price; 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 fifty percent (50%) of the Contract Price; 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 fifty percent (50%) of the Contract Price.

D11.1.1 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.

D11.2 The Contractor shall provide the City Solicitor with the required performance security within seven (7) Calendar Days of notification of the award and prior to the commencement of any Work on the Site.

D12. SECURITY CLEARANCE

D12.1 Each individual proposed to perform Work under the Contract shall be required to obtain a Criminal Record Search Certificate from the police service having jurisdiction at his place of residence.

D12.2 The Criminal Record Search shall include a Vulnerable Sector Search. This can be obtained by completing and providing the following in person to the Winnipeg Police Service Bureau of Police Records, 4th Floor, 151 Princess Street:

- (a) Form P-612 Check the following boxes: Vulnerable Sector; and Other by inputting the Request for Proposal Number in the space provided. This form can be found on the website at:

www.winnipeg.ca/police/BPR/forms/Criminal_Record_Check_P612.doc

- (i) Individuals will need to state in Section 2 of the form, that they may be working in City of Winnipeg pools, libraries and community centres;

- (ii) Individuals will need to sign and date Section 3 of the form.
 - (b) Two (2) pieces of identification as stated in Bureau of Police Records on the website at: www.winnipeg.ca/police/BPR/id.stm
 - (c) Fee for each individual applying for a Criminal Record Search. Fee schedule can be found on the website at: www.winnipeg.ca/police/BPR/fees.stm
- D12.2.1 The original Criminal Record Search Certificate (Form P-253) will be provided by the Winnipeg Police Service to the individual applicant. The original has a validation sticker from the Winnipeg Police Service in the top right hand corner. The applicant shall:
- (a) Provide the original Criminal Record Search Certificate (Form P-253) to the Contract Administrator.
- D12.3 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 the Work.
- D12.4 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.
- D12.5 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.
- D12.6 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 any Work.

CONTROL OF WORK

D13. COMMENCEMENT

- D13.1 The Contractor shall not commence any Work until he is in receipt of a notice of award from the City 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 of authority to carry on business specified in D8;
 - (ii) evidence of the workers compensation coverage specified in C6.14;
 - (iii) the Safe Work Plan specified in D9;
 - (iv) evidence of the insurance specified in D10;
 - (v) the performance security specified in D11;
 - (vi) the security clearances 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.
- D13.3 The Contractor shall not commence the Work on the Site before December 15, 2010..

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.

D15. RECORDS

- D15.1 The Contractor shall keep detailed records of the services supplied under the Contract.
- D15.2 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) service date(s); and
 - (d) description and quantity of services provided.
- D15.3 The Contractor shall provide the Contract Administrator with a copy of the records for each quarter year within fifteen (15) Calendar Days of the end of that quarter.

MEASUREMENT AND PAYMENT

D16. INVOICES

- D16.1 Further to C11, the Contractor shall submit an invoice for each order delivered to:
- The City of Winnipeg
Handi -Transit Branch, Administrative Clerk – Contracts & Scheduling
Unit B – 414 Osborne Street
Winnipeg MB R3L 2A1
- D16.2 Invoices must clearly indicate, as a minimum:
- (a) the City's purchase order number;
 - (b) date of delivery;
 - (c) delivery address;
 - (d) type and quantity of goods delivered;
 - (e) the amount payable with GST and MRST shown as separate amounts; and
 - (f) the Contractor's GST registration number.
- D16.3 The City will bear no responsibility for delays in approval of invoices which are improperly submitted.

D17. PAYMENT

- D17.1 Further to C11, payment shall be in Canadian funds net thirty (30) Calendar Days after receipt and approval of the Contractor's invoice.
- D17.2 Further to C11, the City may at its option pay the Contractor by direct deposit to the Contractor's banking institution.
- D17.2.1 Work under this Contract shall be measured on an hourly, per unit basis.
- D17.2.2 The number of units to be paid for shall be the total number of Vehicle Hours scheduled and acceptably provided. No payment will be made for unscheduled time required to complete a trip commencing or assigned to commence during the normal operating hours that in the opinion of the Contract Administrator should have been completed during the normal service operating time defined under the Contract.
- D17.2.3 The Contractor shall submit a bi-monthly invoice showing the total number of Vehicle Hours provided in the month; and the total number of "No Shows" provided in the month.
- D17.2.4 The payment of the final invoice of this Contract will not be made until a Certificate has been filed with the city from the Worker's Compensation Board certifying that all

assessments due by the Contractor have been paid and a Statutory Declaration has been filed.

FORM H1: PERFORMANCE BOND
(See D11)

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

_____ dollars (\$_____.)

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 for

RFP NO. 771-2009

PROVISION OF HANDI - TRANSIT SERVICES

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 as to Principal if no seal)

(Name of Principal)

Per: _____ (Seal)

Per: _____

(Name of Surety)

By: _____ (Seal)
(Attorney-in-Fact)

**FORM H2: IRREVOCABLE STANDBY LETTER OF CREDIT
(PERFORMANCE SECURITY)**
(See D11)

(Date)

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

RE: PERFORMANCE SECURITY – RFP NO. 771-2009
PROVISION OF HANDI - TRANSIT SERVICES

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

_____ Canadian dollars.

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. APPLICABLE SPECIFICATIONS AND DRAWINGS

- E1.1 These Specifications shall apply to the Work.
- E1.2 Bidders are reminded that requests for approval of substitutes as an approved equal or an approved alternative shall be made in accordance with B8.

E2. SERVICES AREA

- E2.1 All trips under this Contract shall start and end at locations within those areas of the City of Winnipeg served by the regular Transit System.

E3. VEHICLES

- E3.1 The Contractor will be required to have six (6) new vehicles for the work, five (5) new vehicles to perform the Work and one (1) new spare vehicle in reserve.
- E3.2 All vehicles must be a light to medium duty low floor, right passenger side-entry, wheelchair accessible minibus, *Arboc Spirit of Mobility* LLC, that is 26 feet in length with a 191 inch wheelbase meeting or exceeding the CAN/CSA-D409-02 (Reaffirmed 2007) Standards, fully crash tested to meet Canadian Motor Vehicles Safety Standards (CMVSS) with a passenger capacity and seating configuration, design and material to be specified at the pre-commencement meeting.
- (a) each vehicle must be built on a General Motors "G Van" Cut-Away (GMT 610) Chassis of the current model year with only a driver position;
 - (b) each vehicle must have a Vortec 6000 V8 gasoline engine (SOM 26 191" WB GAS 14,200 GVW) or 6.6L Duramax diesel engine (SOM 26 191" WB DIESEL 14,200 GVW);
 - (c) each vehicle must have a Romeo Rim Bumper;
 - (d) each vehicle must have a Driver Side Running Board;
 - (e) each vehicle must have an Interior Mirror 6" X 9" inches;
 - (f) each vehicle must have a Rear Window Fresnal Lens;
 - (g) each vehicle must have Double T Slider Windows;
 - (h) each vehicle must have an Exterior Entrance Driver key;
 - (i) each vehicle must have a side-entry Exterior Passenger Entry Door Toggle Switch;
 - (j) each vehicle must have an Interior Passenger Entry Door Toggle Switch that can only be activated when the vehicle is in park;
 - (k) each vehicle must have a Roof Hatch – Transpec Decono #1975;
 - (l) each vehicle must have a backup alarm;
 - (m) each vehicle must have an Alarm, Door Ajar for Rear Door;
 - (n) each vehicle must have a Battery Compartment with Tray and Door included on vehicles that have a diesel engine;
 - (o) each vehicle must have Illuminated lights for all Egress Windows;
 - (p) each vehicle must have a storage compartment (walker rack) of design, dimensions, capacity and location that meets the approval of the Contract Administrator;
 - (q) each vehicle must have a fifty-six (56) inch, thirty-four (34) inch wide power assisted passenger entry ramp with a 6:1 slope in the kneeled position and a manual override;
 - (r) each vehicle must have an Exterior Ramp Toggle Switch;

- (s) each vehicle must have an Interior Ramp Activation Switch that can be easily reached while standing outside the right side-entry passenger door;
- (t) each vehicle must have retractable three (3)-point lap and shoulder seat belts for all occupants whether travelling in a wheelchair or seated passengers;
- (u) each vehicle must have Q Straint (4) QRT Max with retractable lap/shoulder belts wheelchair securement system that is self tightening, self-locking, and self-tensioning for each area designated for a passenger travelling in a wheelchair;
- (v) each vehicle must have a Q-Straint storage pouch mounted on the wall for each Q-Straint (4) QRT Max securement system for the secure storage of securement devices not in use when the vehicle is moving;
- (w) each vehicle must have seatbelt extensions for fifty (50%) percent of the occupant capacity for seated passengers and passengers traveling in a wheelchair;
- (x) each vehicle must have a fully charged and secured fire extinguisher onboard that meets the requirements of CAN/CSA-D409-02 (Reaffirmed 2007) Standards;
- (y) each vehicle must have a first aid kit onboard that complies with the requirements of CAN/CSA-D409-02 (Reaffirmed 2007) Standards and contains a minimum of two (2) pairs of new, individually wrapped surgical gloves;
- (z) each vehicle must have a functioning heating system capable of maintaining an interior temperature meeting CAN/CSA-D409-02 Standards (Reaffirmed 2007) under Winnipeg winter weather conditions;
- (aa) each vehicle must have two (2) supplementary passenger heating systems no less than sixty-five thousand (65,000) BTU each;
- (bb) each vehicle must have a functioning air conditioning system that is no less than eighty thousand (80,000) BTU that is side-skirt mounted under body;
- (cc) each vehicle must have two (2) Ceiling Grab Rails that are yellow;
- (dd) each vehicle must have right hand (RH) Grab Rail Parallel to Entrance Steps 1 ¼ inches that is yellow;
- (ee) each vehicle must have left hand (LH) Entry Grab Handle that is yellow;
- (ff) each vehicle must have Assist Handles on Entry Doors that are yellow;
- (gg) each vehicle must be pre-wired for two-way (2) radio and Global Positioning System (GPS) / Automated Vehicle Location System (AVL);
- (hh) each vehicle must have a two-way (2) radio that is only capable of communicating with Handi-Transit Dispatch and is approved by the Contract Administrator at an estimated cost of eight hundred (\$800.00) dollars, plus a one-time one hundred and twenty-five (\$125.00) dollar installation charge and one hundred and twenty-five (\$125.00) dollar yearly licence fee per vehicle;
- (ii) each vehicle must have a mobile data terminal or other reliable technology approved by the Contract Administrator able to receive messages electronically from any location in the service area at an estimated cost of five hundred (\$500.00) dollars per vehicle;
- (jj) each vehicle must have a Global Positioning /Automated Vehicle Location (AVL) unit approved by the Contract Administrator for Handi-Transit Dispatch to know the location of each vehicle when Work is being performed under this Contract at an estimated cost of seven hundred and fifty (\$750.00) dollars per vehicle;
- (kk) the Contractor will have the monthly fee for GPS/AVL for data storage and access itemized and deducted from their first bi-monthly payment each month at the estimated cost of thirty-five (\$35.00) dollars per vehicle;
- (ll) each vehicle must have one (1) camera and audio recording system approved by the Contract Administrator installed in a location that allows for maximum capture of passenger activity at an estimated cost of four thousand four hundred and forty-four (\$4,440.00) dollars per vehicle and a two hundred and sixty (\$260.00) dollars yearly service agreement

- fee per vehicle. The data box must remain locked and is only accessible to the Contract Administrator or his designate for the purpose of investigating complaints;
- (mm) further to E3.36, E3.37, E3.38 and E3.40, replacement costs of damaged equipment shall be borne by the Contractor;
 - (nn) each vehicle must display posters inside each vehicle (supplied by Handi-Transit) informing passengers of video and audio recording occurring within the vehicle;
 - (oo) each vehicle must have a manufacturer installed kill switch;
 - (pp) each vehicle provided by the Contractor in the performance of this Contract shall be supplied, licensed, maintained, operated and equipped in accordance with all applicable statutes, regulations and legislation of Federal, Provincial and Municipal authorities;
 - (qq) each vehicle provided by the Contractor in the performance of this Contract must have a mechanical/safety inspection by a certified mechanic every six (6) months to ensure the vehicle is safe and in good running condition. Failure to do so may result in the assessment of a service recovery fee;
 - (rr) certification of all inspections must be signed by a certified mechanic and provided to the Contract Administrator;
 - (ss) each vehicle shall be identified with the Contractor's Company logo and a vehicle run number assigned by Handi-Transit. The vehicle number shall be displayed outside on the rear, right of centre and on the inside at a location to be determined by the Contract Administrator;
 - (tt) each vehicle shall be identified with a Handi-Transit logo supplied by Handi-Transit displayed outside on the rear on each side and on the rear in the centre. Handi-Transit logos must be removed and returned to Handi-Transit when a vehicle is no longer used to perform the Work and/or the Contract expires;
 - (uu) each vehicle shall in the sole opinion of the Contract Administrator, be kept in a clean condition;
 - (vv) all vehicles for use in this Contract shall be "No Smoking" vehicles.
- E3.3 The Contractor shall notify the Contract Administrator and obtain his approval before using a substitute vehicle or a vehicle substantially modified subsequent to the initial approval.
- E3.4 When the Contractor replaces any vehicle utilized under this Contract the replacement vehicle must meet or exceed the CAN/CSA-D409-02 Standards, fully crash tested to meet Canadian Motor Vehicles Safety Standards (CMVSS) or the applicable standards in place at the time the vehicles is purchased.
- E3.5 Replacement vehicles more than three (3) years of age from the first registration date shall not be used for services under this Contract without the prior written approval of the Contract Administrator at any time during the Contract.
- E3.6 Replacement vehicles must meet vehicle specifications outlined in E3.1 and E3.2 (a vv).
- E3.7 Each vehicle must be approved by the Contract Administrator before use in this Contract.
- E3.8 The Contract Administrator may, at any time before or after award of Contract, inspect any vehicle proposed for use in this Contract.
- E3.9 Any vehicles deemed, by the Contract Administrator, to not be fit for use shall be replaced with an acceptable vehicle.
- E3.10 The Contractor shall supply a list of vehicles being used for Handi-Transit Work within three (3) days (see Form K) of a request from the Contract Administrator. This list must include the identified spare (backup) vehicle. The vehicle list will include make, model, year, license plate and registration number of each vehicle. The Contractor shall supply the same information for replacement vehicles when acquired prior to being used for Handi-Transit service.

E4. DRIVERS

- E4.1 The Contractor will be required to establish an identified and dedicated pool of trained drivers who are willing and qualified to provide transportation service to persons with disabilities.
- E4.2 Drivers employed for Work under this Contract shall:
- (a) possess a valid Manitoba driver licence for the class of vehicle to be operated, as required by Provincial Legislation and Regulations;
 - (b) provide a copy of his valid Manitoba driver licence before commencement of Work under this Contract to the Contract Administrator;
 - (c) provide his valid Manitoba driver licence to Handi-Transit Inspectors upon request;
 - (d) provide vehicle registration/insurance documents to Handi-Transit Inspectors upon request;
 - (e) possess a functional ability to read and communicate orally in the English language;
 - (f) be physically and mentally fit for the Work;
 - (g) be alert and well rested at all times while operating the vehicle;
 - (h) be polite and considerate of the public at all times;
 - (i) be well groomed and properly attired as described in E9.2 to the satisfaction of the Contract Administrator;
 - (j) have a good knowledge of the location of streets and major activity areas in the City of Winnipeg;
 - (k) Comply with security clearance requirements as described in D12.
- E4.3 Drivers employed for Work under this Contract must successfully complete a two (2) day orientation and training program conducted by the City before commencement of Work. The orientation and training program is generally as follows:
- (a) the number of drivers attending such a training program and the times for attending the program will be determined by mutual agreement between the City and the Contractor;
 - (b) the normal class size will be twelve (12) drivers;
 - (c) a fee per driver will be charged in advance to cover the City's costs in providing this driver training;
 - (d) the length and method of the training program may change as training and development needs are identified which may increase the fee of the training program to cover the City's costs;
 - (e) the City may require drivers employed for Work under this Contract to attend refresher training at various times during the period of the Contract. If such refresher training is required, it will be provided by the City at no fee to the Contractor;
 - (f) the City may require re-training of a driver employed for Work under this Contract to improve performance. The re-training will be provided by the City and the established fee will be charged.
- E4.4 The City has the right to remove drivers from service when, in the opinion of the Contract Administrator, it is in the best interests of passenger safety or quality of service, or failure to comply with specified regulations/procedures.
- (a) Further to E4.4 above, drivers who have been removed from Handi-Transit service may undertake the following steps for appeal of the decision;
 - (i) Interview with the Contractor's company Manager;
 - (ii) Interview with the Contractor's company Manager and the Senior Inspector of Handi-Transit.

E4.5 Tests in public relations, ability to speak and read English, and physical abilities for this type of Work will be conducted. Drivers who do not pass these tests will not be allowed to do Handi-Transit Work and will not be refunded the training fee.

E5. SCHEDULING

E5.1 All trip requests will be received and scheduled by the City.

E5.2 The City will provide the Contractor with the daily schedule for each run electronically (e-mail) by (19:00 hours) or (7:00 p.m.) the day before.

E5.3 The Contractor shall schedule vehicles to meet the Handi-Transit service demands and must provide the Handi-Transit Office with a list of the vehicles run numbers and the names of the drivers that will be used for the next day's Hand-Transit Work by (20:00 hours or 8:00 p.m.) the day before. Failure to do so may result in the assessment of a service recovery fee. The service recovery fee will be the cost of providing the service thru any means deemed appropriate by the Contract Administrator.

E5.4 The City will notify the Contractor of any scheduled trips cancelled during the day. These cancelled trips will be communicated by the City to the Contractor's driver by e-mail to the mobile data terminal in the vehicle.

E5.5 The City may add short-notice trips subsequent to the posting of a day's schedule if the Contractor is not, in the sole opinion of the Contract Administrator, scheduled to full capacity for the time period in which the trip will occur. These trip requests will be communicated by the City to the Contractor's driver by e-mail to the mobile data terminal in the vehicle.

E5.6 The Contractor shall inform Handi -Transit Dispatch within ten (10) minutes if a delay in the schedule is anticipated or encountered for any reason.

E5.7 The driver must not arrive at the scheduled pick-up location any earlier than ten (10) minutes before the scheduled pick-up time.

E5.8 The driver shall not depart from any scheduled pick-up location without the scheduled passenger(s) sooner than five (5) minutes after the scheduled pick-up time unless instructed by Handi -Transit Dispatch or the passenger(s) being picked up.

E5.9 The driver must obtain approval from Hand i-Transit Dispatch by radio to leave after five (5) minutes has elapsed after the scheduled pick-up time and the passenger(s) has not appeared at the pick-up area.

E5.10 The Contractor shall provide a backup vehicle in the event of a vehicle breakdown within two (2) hours. If the Contractor does not or cannot respond, a service recovery fee may be applied. The service recovery fee will be the cost of providing the service thru any means deemed appropriate by the Contract Administrator.

E5.11 The Contractor shall cooperate with City staff in the implementation of any procedural changes that may result in increased productivity and efficiency associated with the service.

E6. QUANTITIES

E6.1 Table 1 provides the estimated annual quantities of Work effective December 15, 2010 under this Contract for wheelchair accessible low floor mini-buses.

Table 1

**WHEELCHAIR ACCESSIBLE VEHICLES
HOURLY RATE SERVICE**

Day Type	Average Daily Vehicle Hours	Average Weekly Vehicle Hours	Approximate Annual Vehicle Hours
Weekday	80	400	20,800
Saturday	36	36	1,872
Sunday/Statutory Holidays (except Easter Monday)	24	N/A	1,512

E6.2 Table 2 has the distribution of runs for the Work. All run start and end times are flexible and are determined daily based on service demand. Time Out and Time In may change on a daily basis but the total hours of the run will not be reduced.

Table 2

Day Type	Run (one vehicle)	Time Out	Time In	Total Hours
Weekday	1	6:00 (flexible)	22:00 (flexible)	16
	2	7:00 (flexible)	23:00 (flexible)	16
	3	7:00 (flexible)	23:00 (flexible)	16
	4	7:30 (flexible)	23:30 (flexible)	16
	5	8:00 (flexible)	24:00 (flexible)	16
Saturday	1	7:00 (flexible)	19:00 (flexible)	12
	2	7:30 (flexible)	19:30 (flexible)	12
	3	12:00 (flexible)	24:00 (flexible)	12
Sunday and Holidays (except Easter Monday)	1	8:00 (flexible)	20:00 (flexible)	12
	2	10:00 (flexible)	22:00 (flexible)	12

E7. PASSENGER ASSIGNMENT

E7.1 Handi -Transit schedules all passenger pickups. The number of passengers assigned to a vehicle will not exceed the seating capacity of the vehicle.

E7.2 The Contractor shall not use vehicles for any purpose other than performance of the Work under this Contract.

E7.3 Passengers shall not be transferred from one (1) vehicle to another except in the event of a vehicle being disabled.

E8. FARES

E8.1 The Contractor shall collect fares from passengers in the form of:

- (a) exact cash payment in the amount specified by the Contract Administrator; or
- (b) a Handi -Transit ticket in the amount and form specified by the Contract Administrator and sold to passengers by the City.
- (c) a small number of passengers use a monthly Handi-Transit pass, which will be recorded on the run sheet.

E8.2 The Contractor shall under no circumstances collect or attempt to collect any payment in excess of the prescribed fare. Drivers will not be allowed to accept tips from passengers for Work performed under this Contract.

E8.3 The Contractor shall deliver all fares to the City, at the location and time specified by the Contract Administrator, on a weekly basis.

E8.4 The Contractor shall be responsible for all fares until delivered to and accepted by the City.

E8.5 The fares are the property of the City and are not payment to the Contractor in addition to the unit prices.

E9. PASSENGER SERVICE

E9.1 Contractors must have a spare key for each vehicle labelled and kept at the company office/with the Contractor so it can be delivered to a driver if required.

E9.2 The Contractor's drivers must:

- (a) assist the passenger from inside an accessible building entrance door into the vehicle;
- (b) four (4)-point secure all wheelchair(s) with Q-Straint securement system described in E3.4;
- (c) store all "not in use" wheelchair(s) securement equipment in the storage pouch specified in E3.9.
- (d) ask the passenger to use the vehicle seatbelt and offer to assist with securing it.
- (e) ensure all passengers wear the vehicle seatbelt.
- (f) wear the vehicle seatbelt while driving.
- (g) transport the passenger to the scheduled destination;
- (h) turn on the air conditioning at the request of a passenger (s).
- (i) assist the passenger from the vehicle to just inside an accessible building entrance door;
- (j) assist passengers in manual wheelchairs in negotiating a maximum of three (3) steps at the building entrance;
- (k) at all times be courteous to their passengers;
- (l) not smoke or permit a passenger(s) to smoke in the vehicle.
- (m) turn on the air conditioning when asked to do so by a passenger.
- (n) wear a shirt, work pants, jacket and winter parka approved by the Contract Administrator;
- (o) not wear sandals or open toe shoes at any time when doing Work under this Contract.

- (p) wear a safety vest of a colour and style approved by the Contract Administrator at all times to ensure visibility to passengers and drivers of other vehicles;
- (q) wear their Handi-Transit Identification card at all times (which will be issued following successful completion of the two (2) day driver training session) in a visible location when doing Work under this Contract;
- (r) have a spare key for the vehicle or keyless entry remote on their person at all times, apart from the key ring the vehicle keys are kept, to ensure entry into the vehicle is possible if the key is lost or accidentally locked in the vehicle;
- (s) remove the key from the ignition when leaving the vehicle. If weather conditions require the vehicle to remain running, drivers must activate the kill switch before leaving the vehicle;
- (t) close the door of the vehicle when getting a passenger(s);
- (u) kneel the bus for ambulant passenger(s) and offer to deploy the ramp.
- (v) not stop to put fuel in the vehicle when a passenger is onboard;
- (w) not make a personal stop when a passenger(s) is onboard;
- (x) not alter the scheduled destination of a trip without clearance from Handi-Transit Dispatch

E9.3 Further to E9.1 of the specifications contained herein, the Contractor's drivers shall provide service as specified in the Handi-Transit Service Manual, which will be made available at the training session. Additional copies will be made available on a direct cost basis.

E9.4 Drivers may have a cell phone, blackberry or similar electronic device for the purpose of contacting the Contractor for assistance or instruction, and

- (a) will have the cell phone turned off when transporting a passenger(s);
- (b) will not talk on a cell phone (hand held or hands free) while the vehicle is moving,
- (c) will not make personal calls on a cell phone even when the vehicle is stopped when a passenger is onboard.
- (d) will check voice-mail, e-mail, or radio Handi-Transit Dispatch only when the vehicle is not moving.

E9.5 Drivers failing to comply with E9.2, E9.3 and E9.4 contained herein, may result in the Contractor being charged a service recovery fee. The amount of this fee will be based on the direct costs incurred by the City to monitor the service and respond to passenger complaints resulting from a driver not fulfilling their responsibilities in accordance with the service specifications of this Contract.

E9.6 The amount of the service recovery fee will be deducted from the Contractor's bi-monthly payment.

E9.7 The City has the right to have a driver removed from the Work of the Handi-Transit Contract.

E10. DOCUMENTATION

E10.1 The Contractor shall submit, with the delivery of fares collected, the following:

- (a) a trip summary sheet showing the number of trips, and the pick-up time, drop-off time and type of fare (cash or ticket) collected for each trip according to the schedule provided by the Handi-Transit office;
- (b) a list of cancellations and no shows; and
- (c) when applicable, complaint reports and accident/incident reports.

E10.2 The Contractor shall submit the information on forms supplied by the City, in the manner specified by the Contract Administrator.

E11. SERVICE MONITORING

- E11.1 The Contractor must monitor at least two (2) trips per driver each week to ensure that all Work is being performed in accordance with the service specifications described in E9 contained herein.
- E11.2 Further to E11.1 above, service monitoring must be undertaken during evenings and weekends (if applicable) as well as during the day.
- E11.3 The Contractor will submit a service monitoring report on a form specified by the Contract Administrator along with a summary of any actions taken regarding driver's to the Handi-Transit Senior Inspector as soon as possible the next Working Day. Any discrepancies between the Contractor's service monitoring report and Handi-Transit's service monitoring personnel will need to be resolved immediately. The Contractor may be charged a service recovery fee for the additional Work undertaken by City staff to resolve the discrepancy.

E12. CUSTOMER COMPLAINTS

- E12.1 The City will provide the Contractor with written notice of any customer complaint regarding the Contractor. Complaints will be categorized by the Contract Administrator as:
- (a) **Class A** – alleged vehicle condition or driver behaviour which, in the sole opinion of the Contract Administrator, constitutes a potential risk to passengers or the public;
 - (b) **Class B** – alleged unacceptable vehicle condition or driver behaviour which, in the sole opinion of the Contract Administrator, is of a less severe nature than Class A; and
 - (c) **Class C** – alleged failure to meet schedule or service specifications.
- E12.2 The Contractor shall, immediately upon receipt of notice of a Class A complaint, remove the subject vehicle and/or the subject driver from the Work. The subject vehicle or driver shall not be employed on the Work until authorized in writing by the Contract Administrator.
- E12.3 The Contractor shall, within two (2) regular business days of receipt of notice of any complaint, respond in writing to the Contract Administrator or his/her designate identifying:
- (a) If the complaint was accurate or inaccurate; and
 - (b) If accurate, the cause and the remedy for the specific problem, and the measures proposed to be instituted to prevent future occurrences; or
 - (c) If inaccurate, a statement of the facts as known by the Contractor.
- E12.4 If the Contractor does not or cannot respond to a Class B complaint in accordance with E12.3 above, the Contractor shall, within two (2) regular business days of receipt of the notice of complaint, remove the subject vehicle and/or the subject driver from the Work.
- E12.5 If the Contractor does not or cannot respond to a Class B or Class C complaint in accordance with E12.3 above, a service recovery fee may be assessed.
- E12.6 The foregoing shall not in any way limit the authority of the Contract Administrator or limit the other remedies available to the City under the Contract or at law.
- E12.7 Complaints from passenger(s), or any other persons, regarding the service shall be referred to the Contract Administrator.
- E12.8 The Contractor will rectify passenger complaints effectively and efficiently providing the Contract Administrator with responses regarding any complaints within two (2) regular business days of receipt of same. A service recovery fee may be assessed for the additional Work required by City staff to resolve this issue.

E13. SUSPENSION OF WORK

- E13.1 The Contract Administrator may suspend Work:

- (a) If, in his sole opinion, weather or other emergency conditions so require; or
- (b) In the event of a strike or walk-out that causes the City to suspend Handi-Transit service.

E13.2 All trips in progress when a suspension of Work is invoked shall be completed unless otherwise authorized by the Contract Administrator.

E13.3 The Contractor will not receive payment for any period of time the Work is suspended.

FORM K: EQUIPMENT
(See E3.10)

PROVISION OF HANDI - TRANSIT SERVICES

<p>1. Category/type:</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p>
<p>2. Category/type:</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p>
<p>3. Category/type:</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p>

FORM K: EQUIPMENT
(See E3.10)

PROVISION OF HANDI - TRANSIT SERVICES

<p>4. Category/type:</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p>
<p>5. Category/type:</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p>
<p>6. Category/type:</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p> <p>Make/Model/Year: _____ Serial No.: _____</p> <p>Registered owner: _____</p>