



**THE CITY OF WINNIPEG**

# **OFFER OF SURPLUS GOODS**

**SURPLUS GOODS OFFER NO. 434-2019**

**REMOVAL AND SALE OF WASTE OIL, LUBRICANTS, SOLVENTS AND RELATED  
MATERIALS**

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## **PART B - BIDDING PROCEDURES**

### **B1. CONTRACT TITLE**

B1.1 REMOVAL AND SALE OF WASTE OIL, LUBRICANTS, SOLVENTS AND RELATED MATERIALS

### **B2. SUBMISSION DEADLINE**

B2.1 The Submission Deadline is 4:00 p.m. Winnipeg time, May 21, 2019.

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

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

### **B3. ENQUIRIES**

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

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

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

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

B3.5 The Offeror shall not be entitled to rely on any response or interpretation received pursuant to B3 unless that response or interpretation is provided by the Contract Administrator in writing.

### **B4. CONFIDENTIALITY**

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

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

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

### **B5. ADDENDA**

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

- B5.2 The Contract Administrator will issue each addendum at least two (2) Business Days prior to the Submission Deadline, or provide at least two (2) Business Days by extending the Submission Deadline.
- B5.3 Addenda will be available on the Offer Opportunities page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt/Offeropp.asp>
- B5.4 The Offeror is responsible for ensuring that he/she has received all addenda and is advised to check the Materials Management Division website for addenda regularly and shortly before the Submission Deadline, as may be amended by addendum.
- B5.5 The Offeror shall acknowledge receipt of each addendum in Paragraph 7 of Form A: Offer of Surplus Goods. Failure to acknowledge receipt of an addendum may render an Offer non-responsive.
- B5.6 Notwithstanding B3, enquiries related to an Addendum may be directed to the Contract Administrator indicated in D4.1.

## **B6. OFFER SUBMISSION**

- B6.1 The Offer shall consist of the following components:
- (a) Form A: Offer of Surplus Goods; and
  - (b) Form B: Offer.
- B6.2 All components of the Offer shall be fully completed or provided, and submitted by the Offeror no later than the Submission Deadline, with all required entries made clearly and completely.
- B6.3 The Offer of Surplus Goods Submission may be submitted by mail, courier or personal delivery, or by facsimile transmission.
- B6.4 If the Offer of Surplus Goods Submission is submitted by mail, courier or personal delivery, it shall be enclosed and sealed in an envelope clearly marked with the Offer of Surplus Goods number and the Offeror'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
- B6.5 If the Offer Submission is submitted by facsimile transmission, it shall be submitted to 204-949-1178.
- B6.5.1 The Offeror is advised that the City cannot take responsibility for the availability of the facsimile machine at any time or guarantee the successful receipt of a faxed Bid Submission.
- B6.6 Offerors are advised that inclusion of terms and conditions inconsistent with the Offer of Surplus Goods document, including the General Conditions, will be evaluated in accordance with B15.1(a).
- B6.7 Offers submitted by internet electronic mail (e-mail) will not be accepted.

## **B7. OFFER**

- B7.1 The Offeror shall complete Form A: Offer of Surplus Goods, making all required entries.
- B7.2 Paragraph 2 of Form A: Offer of Surplus Goods shall be completed in accordance with the following requirements:

- (a) if the Offeror is a private individual carrying on business in his/her own name, his/her name shall be inserted;
- (b) if the Offeror is a sole proprietor carrying on business in his/her own name, his/her name shall be inserted;
- (c) if the Offeror is a partnership, the full name of the partnership shall be inserted;
- (d) if the Offeror is a corporation, the full name of the corporation shall be inserted;
- (e) if the Offeror is carrying on business under a name other than his/her own, the business name and the name of every partner or corporation who is the owner of such business name shall be inserted.

B7.2.1 If an Offer is submitted jointly by two or more persons, each and all such persons shall identify themselves in accordance with B7.2.

B7.3 In Paragraph 3 of Form A: Offer of Surplus Goods, the Offeror shall identify a contact person who is authorized to represent the Offeror for purposes of the Offer.

B7.4 Paragraph 10 of Form A: Offer of Surplus Goods shall be signed in accordance with the following requirements:

- (a) if the Offeror is a private individual carrying on business in his/her own name, it shall be signed by the Offeror;
- (b) if the Offeror is a sole proprietor carrying on business in his/her own name, it shall be signed by the Offeror;
- (c) if the Offeror is a partnership, it shall be signed by the partner or partners who have authority to sign for the partnership;
- (d) if the Offeror 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;
- (e) if the Offeror is carrying on business under a name other than his/her 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.

B7.4.1 The name and official capacity, if applicable of all individuals signing Form A: Offer of Surplus Goods should be printed below such signatures.

B7.5 If an Offer is submitted jointly by two or more persons, the word "Offeror" shall mean each and all such persons, and the undertakings, covenants and obligations of such joint Offerors in the Offer and the Contract, when awarded, shall be both joint and several.

## **B8. PRICES**

B8.1 The Offeror shall state a price in Canadian funds for each item of the Work identified on Form B: Offer using either one of "Unit Price Paid to the City" **OR** "Unit Price Charged to the City" as applicable.

B8.2 The City will not consider deductions in payment for any charges (e.g. minimum pickup charges, handling charges, container deposits, etc.) except those imposed after the Submission Deadline by a Government or Regulatory authority having jurisdiction.

B8.3 The quantities listed on Form B: Prices are to be considered approximate only. The City will use said quantities for the purpose of comparing bids.

B8.4 The quantities for which payment will be made by the Contractor shall be determined by the surplus goods actually supplied to the Contractor.

B8.5 Prices are subject to applicable taxes (G.S.T. and M.R.S.T.).

**B9. DISCLOSURE**

B9.1 Various Persons provided information or services with respect to the Offer of Surplus Goods. In the City's opinion, this relationship or association does not create a conflict of interest because of this full disclosure. Where applicable, additional material available as a result of contact with these Persons is listed below.

B9.2 The Persons are:

(a) N/A

**B10. CONFLICT OF INTEREST AND GOOD FAITH**

B10.1 Offerors, by responding to this Offer of Surplus Goods, declare that no Conflict of Interest currently exists, or is reasonably expected to exist in the future.

B10.2 Conflict of Interest means any situation or circumstance where a Offeror or employee of the Offeror proposed for the Work has:

- (a) other commitments;
- (b) relationships;
- (c) financial interests; or
- (d) involvement in ongoing litigation;

that could or would be seen to:

- (i) exercise an improper influence over the objective, unbiased and impartial exercise of the independent judgment of the City with respect to the evaluation of Offers or award of the Contract; or
- (ii) compromise, impair or be incompatible with the effective performance of a Offeror's obligations under the Contract;
- (e) has contractual or other obligations to the City that could or would be seen to have been compromised or impaired as a result of its participation in the Offer of Surplus Goods process or the Work; or
- (f) has knowledge of confidential information (other than confidential information disclosed by the City in the normal course of the Offer of Surplus Goods process) of strategic and/or material relevance to the Offer of Surplus Goods process or to the Work that is not available to other Offerors and that could or would be seen to give that Offeror an unfair competitive advantage.

B10.3 In connection with its Offer, each entity identified in B10.2 shall:

- (a) avoid any perceived, potential or actual Conflict of Interest in relation to the procurement process and the Work;
- (b) upon discovering any perceived, potential or actual Conflict of Interest at any time during the Offer of Surplus Goods process, promptly disclose a detailed description of the Conflict of Interest to the City in a written statement to the Contract Administrator; and
- (c) provide the City with the proposed means to avoid or mitigate, to the greatest extent practicable, any perceived, potential or actual Conflict of Interest and shall submit any additional information to the City that the City considers necessary to properly assess the perceived, potential or actual Conflict of Interest.

B10.4 Without limiting B10.3, the City may, in its sole discretion, waive any and all perceived, potential or actual Conflicts of Interest. The City's waiver may be based upon such terms and conditions as the City, in its sole discretion, requires to satisfy itself that the Conflict of Interest has been appropriately avoided or mitigated, including requiring the Offeror to put into place such policies, procedures, measures and other safeguards as may be required by and be acceptable to the City, in its sole discretion, to avoid or mitigate the impact of such Conflict of Interest.

- B10.5 Without limiting B10.3, and in addition to all contractual or other rights or rights at law or in equity or legislation that may be available to the City, the City may, in its sole discretion:
- (a) disqualify a Offeror that fails to disclose a perceived, potential or actual Conflict of Interest of the Offeror or any of its employees proposed for the Work;
  - (b) require the removal or replacement of any employees proposed for the Work that has a perceived, actual or potential Conflict of Interest that the City, in its sole discretion, determines cannot be avoided or mitigated;
  - (c) disqualify a Offeror or employees proposed for the Work that fails to comply with any requirements prescribed by the City pursuant to B10.4 to avoid or mitigate a Conflict of Interest; and
  - (d) disqualify a Offeror if the Offeror, or one of its employees proposed for the Work, has a perceived, potential or actual Conflict of Interest that, in the City's sole discretion, cannot be avoided or mitigated, or otherwise resolved.
- B10.6 The final determination of whether a perceived, potential or actual Conflict of Interest exists shall be made by the City, in its sole discretion.

## **B11. QUALIFICATION**

- B11.1 The Offeror 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 Offeror 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.
- B11.2 The Offeror and any proposed Subcontractor (for the portion of the Work proposed to be subcontracted to them) shall:
- (a) be responsible and not be suspended, debarred or in default of any obligations to the City. A list of suspended or debarred individuals and companies is available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <https://winnipeg.ca/finance/findata/matmgt/listing/debar.pdf>
- B11.3 The Offeror and/or any proposed Subcontractor (for the portion of the Work proposed to be subcontracted to them) shall:
- (a) have successfully carried out work similar in nature, scope and value to the Work; and
  - (b) be fully capable of performing the Work required to be in strict accordance with the terms and provisions of the Contract;
  - (c) have a written workplace safety and health program, if required, pursuant to The Workplace Safety and Health Act (Manitoba);
  - (d) have the necessary certification required by the Government of Canada for the Transportation of Dangerous Goods, if applicable; and
  - (e) have upon request of the Contract Administrator , provide the Security Clearances in accordance with PART F -
    - (i) Security Clearance shall be required for individuals performing Work at 245 Smith Street.
- B11.4 The Offeror 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.



B11.5 The Offeror shall provide, on the request of the Contract Administrator, full access to any of the Offeror's equipment and facilities to confirm, to the Contract Administrator's satisfaction, that the Offeror's equipment and facilities are adequate to perform the Work.

## **B12. OPENING OF OFFERS AND RELEASE OF INFORMATION**

B12.1 Offers will not be opened publicly.

B12.2 After award of Contract, the name(s) of the successful Offeror(s), their address(es) and the Contract amount(s) will be available on the Closed Bid Opportunities (or Public/Posted Opening & Award Results) page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt>

B12.3 The Offeror is advised that any information contained in any Offer may be released if required by The Freedom of Information and Protection of Privacy Act (Manitoba), by other authorities having jurisdiction, or by law or by City policy or procedures (which may include access by members of City Council).

## **B13. IRREVOCABLE OFFER**

B13.1 The Offer(s) submitted by the Offeror shall be irrevocable for the time period specified in Paragraph 8 of Form A: Offer of Surplus Goods.

B13.2 The acceptance by the City of any Offer shall not release the Offers of the next two lowest evaluated responsive Offerors and these Offerors shall be bound by their Offers on such Work for the time period specified in Paragraph 8 of Form A: Offer of Surplus Goods.

## **B14. WITHDRAWAL OF OFFERS**

B14.1 A Offeror may withdraw his/her Offer without penalty by giving written notice to the Manager of Materials at any time prior to the Submission Deadline.

B14.1.1 Notwithstanding C10.7, the time and date of receipt of any notice withdrawing an Offer shall be the time and date of receipt as determined by the Manager of Materials.

B14.1.2 The City will assume that any one of the contact persons named in Paragraph 3 of Form A: Offer of Surplus Goods or the Offeror's authorized representatives named in Paragraph 10 of Form A: Offer of Surplus Goods, and only such person, has authority to give notice of withdrawal.

B14.1.3 If a Offeror gives notice of withdrawal prior to the Submission Deadline, the Manager of Materials will:

- (a) retain the Offer until after the Submission Deadline has elapsed;
- (b) open the Offer to identify the contact person named in Paragraph 3 of Form A: Offer of Surplus Goods and the Offeror's authorized representatives named in Paragraph 10 of Form A: Offer of Surplus Goods; and
- (c) if the notice has been given by any one of the persons specified in B14.1.3(b), declare the Offer withdrawn.

B14.2 An Offeror who withdraws his/her Offer after the Submission Deadline but before his/her Offer has been released or has lapsed as provided for in B13.2 shall be liable for such damages as are imposed upon the Offeror 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.

## **B15. EVALUATION OF OFFERS**

B15.1 Award of the Contract shall be based on the following Offer evaluation criteria:

- (a) compliance by the Offeror with the requirements of the Offer of Surplus Goods, or acceptable deviation therefrom (pass/fail);
- (b) qualifications of the Bidder and the Subcontractors, if any, pursuant to B11 (pass/fail); and
- (c) Evaluated Offer Price;

B15.2 Further to B15.1(a), the Award Authority may reject a Offer as being non-responsive if the Offer to purchase Submission is incomplete, obscure or conditional, or contains additions, deletions, alterations or other irregularities. The Award Authority may reject all or any part of any Offer, or waive any noncompliance with the requirements of the Offer to Purchase Surplus Goods if the interests of the City so require.

B15.3 Further to B15.1(c), the Offer Price shall be the sum of the quantities multiplied by the unit prices for each item shown on Form B: Offer.

B15.4 The City will deduct any and all prices quoted in the Unit Price Charged to the City column on Form B: Prices, from the total evaluated value from the Unit Price Paid to the City on Form B: Prices in order to determine the most advantageous offer to the City.

B15.5 This Contract will be awarded as a whole.

## **B16. AWARD OF CONTRACT**

B16.1 The City will give notice of the award of the Contract or will give notice that no award will be made.

B16.2 The City will have no obligation to award a Contract to or accept the Offer of an Offeror, even though one or all of the Offerors are determined to be qualified, and the Offers are determined to be responsive.

B16.3 The City will give notice of the acceptance of an Offer(s) or will give notice that no Offers were accepted will be made.

B16.4 The City reserves the right to accept or to reject any or all Offers, and the highest Offer of Surplus Goods will not necessarily be accepted.

B16.4.1 Without limiting the generality of B16.2, the City will have no obligation to award a Contract where:

- (a) in the judgment of the Award Authority, the interests of the City would best be served by not awarding a Contract.

B16.5 Where an award of Contract is made by the City, the award shall be made to the qualified Offeror submitting the highest evaluated responsive Offer, in accordance with B15.

## PART C - GENERAL CONDITIONS

### C0. GENERAL CONDITIONS

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) **“Business Day”** means any Calendar Day, other than a Saturday, Sunday, or a statutory or civic holiday;
- (c) **“C”** designates a section, clause or subclause in these General Conditions;
- (d) **“Calendar Day”** means the period from one midnight to the following midnight;
- (e) **“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;
- (f) **“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 Offer Opportunity and any documents and Drawings referred to and incorporated therein) together with the Offer 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 Offer of Surplus Goods and any documents and Drawings referred to and incorporated therein, together with the Offer and any submissions required to be made by the Contractor after award and all amendments to the foregoing;
- (g) **“Contract Administrator”** means the person designated as such in the Supplemental Conditions;
- (h) **“Contract Price”** means the price agreed upon payable by the Contractor to the City for the purchase of Surplus Goods;
- (i) **“Contractor”** means the person purchasing the Surplus Goods and undertaking the performance of the Work under the terms of the Contract;
- (j) **“Drawings”** means drawings which show the nature and scope of the Surplus Goods or Work to be performed and which have been prepared or approved by the Contract Administrator and are referred to in the Contract;
- (k) **“may”** indicates an allowable action or feature which will not be evaluated;
- (l) **“must” or “shall”** indicates a mandatory requirement which will be evaluated on a pass/fail basis;
- (m) **“Offer”** means the documents and other things, including but not limited to forms contained in the Offer of Surplus Goods, which must be completed or provided and submitted by the Submission Deadline in order to constitute a responsive offer;
- (n) **“Offer Opportunity”** means the Offer of Surplus Goods, the Offering Procedures, these General Conditions, the Supplemental Conditions, the Specifications, the Drawings and all addenda;
- (o) **“Offeror”** means any person submitting an Offer;
- (p) **“Offering Procedures”** means the portion of the Offer Opportunity by that name which sets out the terms and conditions governing the Offer, and a reference to a section, clause or subclause with the prefix “B” designates a section, clause or subclause in that portion of the Offer Opportunity;

- (q) **“Offer of Surplus Goods”** means that portion of the Offer Opportunity by the name which contains forms to be included in the Offer;
- (r) **“Person”** means an individual, firm, partnership, association or corporation, or any combination thereof, and includes heirs, administrators, executors or legal representatives of a person;
- (s) **“should”** indicates a desirable action or feature which will be evaluated on a relative scale;
- (t) **“Site”** means the City property at which the Surplus Goods are stored and are to be removed from by the Contractor;
- (u) **“Subcontractor”** means a person contracting with the Contractor for the performance of a part or parts of the removal of Surplus Goods and includes a Subcontractor’s subcontractor;
- (v) **“Submission Deadline”** means the time and date set out in the Bidding Procedures for final receipt of Offers;
- (w) **“Supplemental Conditions”** means the portion of the Offer of Surplus Goods 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 Offer of Surplus Goods;
- (x) **“Surplus Goods”** means the Surplus Goods offered for sale by the City and identified as such in the Offer Opportunity;
- (y) **“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 in order to remove the Surplus Goods from the Site.

## **C2. BIDDING PROCEDURES**

- C2.1 The Offer must be submitted on the forms provided, with all required entries made clearly in ink or legible text.
- C2.2 The Offeror is responsible for inspecting the Surplus Goods, the nature of the Work to be done , and all conditions that might affect his/her Offer or his/her performance of the Work, and shall assume all risk for conditions existing or arising in the course of the Work which have been or could have been determined through such inspection.
- C2.3 The Offer must be submitted enclosed and sealed in an envelope clearly marked with the Offer of Surplus Goods Number and the Offeror's name and address. Each envelope must contain only the Offer for one Offer of Surplus Goods for Sale.
- C2.4 The Offer must be submitted to the Materials Management Division at the address specified no later than the Submission Deadline specified. Offers received after the Submission Deadline will not be considered.
- C2.5 The Offer may be withdrawn without penalty at any time prior to the Submission Deadline.
- C2.6 The Offer shall be open for acceptance, binding and irrevocable for the period of time specified on Form A: Offer of Surplus Goods. A Offeror who withdraws his Offer after the Submission Deadline but before his/her Offer has been released or has lapsed shall be liable for such damages as are imposed upon the Offeror by law and subject to such sanctions as the City considers appropriate in the circumstances.

## **C3. SCOPE OF WORK**

- C3.1 The Work to be done under this Contract shall consist of the purchase and removal of the Surplus Goods.

C3.2 The Contractor shall provide and pay for all materials, labour, equipment, tools, utilities, licenses and fees necessary to complete the Work.

#### **C4. PAYMENT AND REMOVAL OF SURPLUS GOODS**

C4.1 All Surplus Goods are sold on an "as is, where is" basis and the City makes no representation or warranty with respect to the fitness, merchantability, suitability or durability of any of the goods for any purpose.

C4.2 Payments shall be delivered to the Contract Administrator at the location(s) and in the manner designated by the Contract Administrator within ten (10) Calendar Days of each pickup of surplus goods.

C4.3 The Contractor shall inspect the Surplus Goods at the time of pick up. The City shall not be responsible for any damage, defect or deterioration of the goods purported to have occurred after any prior inspection by the Contractor unless such damage, defect or deterioration is identified at the time of pick up by the Contractor.

C4.4 All risk of loss and damage to the Surplus Goods shall transfer from the City to the Contractor at the time of acceptance of the offer. Title in and to the Surplus Goods shall transfer from the City to the Contractor when the Surplus Goods have been removed by the Contractor from the City's Site.

C4.5 The City shall not be liable for any loss of or damage to the Surplus Goods howsoever caused, including, without limitation, by reason of the negligence, gross negligence or willful misconduct of the City or those for whom it is responsible, and the Offerer shall indemnify and save harmless the City in all respects thereof.

C4.6 Prices are subject to applicable taxes (G.S.T. and M.R.S.T.).

#### **C5. CONTRACTOR'S OBLIGATIONS AND WARRANTIES**

C5.1 The Contractor shall comply with, and shall be liable for the due and proper observance (both by itself, and by its employees, agents, and contractors) of, all applicable federal, provincial, municipal, state, or other laws, by-laws and regulations which are, or may hereafter become, applicable to the Surplus Goods, and to this agreement.

C5.2 The Contractor represents, warrants, and covenants that the Surplus Goods shall be transported and disposed of in accordance with all applicable laws and regulations, including, without limitation, those concerning the environment and the handling and transportation of dangerous goods. The representation, warranty, and covenant in the immediately preceding sentence shall survive the entering into of any agreement of purchase and sale, and shall survive any termination of such agreement.

C5.3 Registration and any/all permits required for transportation of the Surplus Goods (including export) are the sole responsibility of the Contractor. If deemed necessary by the Contractor, the Contractor is solely responsible for securing insurance for the Surplus Goods.

#### **C6. DEFAULT BY CONTRACTOR/OFFEROR**

C6.1 If the Contractor is in default of any of its obligations hereunder, including without limitation:

- (a) the Contractor has not paid for the Surplus Goods in full as required herein; or
- (b) the Contractor has not, regardless of reason or cause, and regardless whether risk of loss and damage and/or title has transferred to the Contractor, removed the Surplus Goods as required herein on or before the time required,

the City shall be entitled to retain the deposit (if any) and/or the Contract Price, as the case may be, as the City's own property. The City may also terminate the award of Contract to the Contractor, and may sell the Surplus Goods to the next lowest Offeror. Whether or not the City

has then terminated or thereafter terminates the City's right and obligation to sell and the Contractor's right and obligation to purchase under this agreement by virtue of the Contractor's default, retention of the deposit (if any) and/or Contract Price shall not itself constitute a termination of the agreement and shall not restrict the City from exercising any other rights or remedies which the City may have hereunder or at law or equity by virtue of the Contractor's default, including the right to claim damages from the Contractor which the City sustains in excess of the deposit (if any) and/or Total Offer Price.

## **C7. ASSIGNMENT**

C7.1 The Contractor shall not assign the Contract without the prior written approval of the City.

## **C8. SUBCONTRACTING**

C8.1 If the Contractor subcontracts any portion of the Work, he/she shall:

- (a) employ only Subcontractors who have successfully carried out work similar in nature, scope and value to the portion of the Work proposed to be subcontracted to them, or who are fully capable of performing the Work required to be done in accordance with the terms of the Contract;
- (b) enter into contracts or written agreements with his/her Subcontractors to require them to perform their work in complete conformance with and subject to the terms and conditions of the Contract; and
- (c) be as fully responsible to the City for acts and omissions of his/her Subcontractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by him.

## **C9. INDEMNITY**

C9.1 The Contractor shall save harmless and indemnify the City for twice the contract price, unless specifically stated otherwise in the contract documents, against all costs, damages or expenses arising from actions, claims, demands and proceedings, by whomsoever brought, made or taken as a result of acts or omissions of the Contractor, his/her subcontractors, employees or agents in the performance or purported performance of the Work, and more particularly from:

- (a) accidental injury to or death of any person whether retained by or in the employ of the Contractor or not, arising directly or indirectly by reason of the performance of the Work, or by reason of any trespass on or damage to property;
- (b) damage to any property owned in whole or in part by the City, or which the City by duty or custom is obliged, directly or indirectly, in any way or to any degree, to construct, repair or maintain;
- (c) damage to, or trespass or encroachment upon, property owned by persons other than the City;
- (d) failure to pay a workers compensation assessment, or federal or provincial taxes;
- (e) unauthorized use of any design, device, material or process covered by letters patent, copyright, trademark or trade name in connection with the Work;
- (f) inaccuracies in any information provided to the City by the Contractor.

C9.2 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.

C9.3 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.

## **C10. MISCELLANEOUS**

- C10.1 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.
- C10.2 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.
- C10.3 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. 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.
- C10.4 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.
- C10.5 Any notice or claim for extension must state the cause of delay and the length of extension requested. In the case of a continuing cause of delay, only one claim for an extension shall be necessary.
- C10.6 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.
- C10.7 All notices, requests, nominations, 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. All notices, requests, nominations, consents, approvals, statements, authorizations, documents or other communications shall be delivered to the applicable addresses set out in the Supplemental Conditions. Either party may, by giving notice, designate another address or addresses at which it will accept delivery of notices, requests, nominations, consents, approvals, statements, authorizations, documents or other communications. Delivery to the Contractor's designated supervisor at the Site shall constitute delivery to the Contractor. Any notices, requests, nominations, 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 the Sale of Surplus Goods*, these Supplemental Conditions are applicable to the Work and purchase of Surplus Goods under this Contract.

#### **D2. SURPLUS GOODS**

D2.1 The purchase of Surplus Goods to be done under this Contract shall consist of the purchase and removal of Surplus Goods, and the provision of ancillary services in accordance with applicable specifications, photos, drawings and any addenda.

D2.2 The Contractor shall provide and pay for all materials, labour, equipment, tools, utilities, licenses and fees necessary to complete the Work.

D2.3 The Contractor shall supply all necessary tanker trucks, collection containers, drums, and/or bins for the collection and removal of waste oil, waste oil filters, waste oil containers and other miscellaneous product containers. There are currently over 15 pick-up locations for these products.

D2.4 All items must be manifested by the Contractor in accordance with The Dangerous Goods Handling & Transportation Act (MR55/2003) available at <http://web2.gov.mb.ca/laws/statutes/ccsm/d012e.php>.

D2.5 The Contractor and/or their sub-contractors transporting waste oil, oil filters and/or waste oil containers must present a true copy of their Hazardous Waste Transporters' Licence issued in accordance with Manitoba Regulation 175/87 (generator Registration and Carrier Licensing Regulation) under The Dangerous Goods Handling and Transportation Act available at <http://web2.gov.mb.ca/laws/regs/pdf/d012-175.87.pdf>.

#### **D3. DURATION OF CONTRACT**

D3.1 The Contract shall be for the period of June 1, 2019 to May 31, 2020 with the option of four (4) mutually agreed upon one (1) year extensions.

D3.1.1 The City may negotiate the extension option with the Contractor within ninety (90) Calendar Days prior to the expiry date of the Contract. The City shall incur no liability to the Contractor as a result of such negotiations.

D3.1.2 Changes resulting from such negotiations shall become effective on June 1<sup>st</sup> of the respective year. Changes to the Contract shall not be implemented by the Contractor without written approval by the Contract Administrator.

D3.2 Notwithstanding the foregoing, the City may terminate the Contract upon thirty (30) Calendar Days written notice by the Contract Administrator in the event that operational changes result in substantial changes to the supply of the surplus goods.

#### **D4. CONTRACT ADMINISTRATOR**

D4.1 The Contract Administrator is:

Ekie Oseghale  
Contracts Officer

Telephone No.: 204- 986-2451

Email Address: eoseghale@winnipeg.caInsurance



## **D5. INSURANCE**

- D5.1 The Contractor shall provide and maintain commercial general liability insurance, in the amount of at least two million dollars (\$2,000,000.00) all inclusive, with The City of Winnipeg being added as an additional insured, with a cross-liability clause, to remain in place at all times during the performance of the Work.
- D5.2 Deductibles shall be borne by the Contractor.
- D5.3 The Contractor shall provide the Contract Administrator with a certified true copy or a certificate of insurance of the policy at least two (2) Business Days prior to the commencement of any Work on the Site but in no event later than seven (7) Calendar Days from notification of the award of Contract.
- D5.4 The Contractor shall not cancel, materially alter, or cause the policy to lapse without providing at least fifteen (15) Calendar Days prior written notice to the Contract Administrator.

## **D6. WORKERS COMPENSATION**

- D6.1 The Contractor shall be registered with the Workers Compensation Board of Manitoba, shall provide and maintain Workers Compensation coverage throughout the term of the Contract, and shall provide the Contract Administrator with evidence thereof upon request.

## **SCHEDULE OF WORK**

### **D7. COMMENCEMENT**

- D7.1 Further to C4, the Contractor shall not pick up any Surplus Goods until he/she is in receipt of a notice of award from the City authorizing the Work
- D7.2 The Offeror shall not pick up any Surplus Goods until:
- (a) the Contract Administrator has confirmed receipt and approval of:
    - (i) evidence of authority to carry on business specified in B11.1(a);
    - (ii) evidence of the workers compensation coverage specified in D6; and
    - (iii) evidence of the insurance specified in D5.
  - (b) the Contractor has attended a meeting with the Contract Administrator, or the Contract Administrator has waived the requirement for a meeting.

### **D8. ORDERS**

- D8.1 The Contractor shall provide a local Winnipeg, or toll-free telephone number and email address at which orders for pick-up may be placed.
- D8.2 The Contractor shall make provisions to receive orders by any of the means identified in D8.1, at all times between 8:30 a.m. and 4:30 p.m. on Business Days.

### **D9. PICK UP**

- D9.1 Surplus goods shall be picked up on an "as-required" basis during the term of the Contract, f.o.b. origin, at various locations within the City.
- D9.1.1 Surplus goods shall be picked up within three (3) Business Days of the placing of an order, except where otherwise agreed at the time of ordering.
- D9.2 Surplus goods shall be picked up between 8:30 a.m. and 4:30 p.m. on Business Days.
- D9.3 In accordance with E3, Appendix A of these Specifications, listing intended pick up locations, is provided for the convenience of the Bidder only. The City reserves the right to add or delete

locations, within the boundaries of the City, or alter the type or quantity of surplus goods to be supplied at any location as required by changes in its operations during the term of the Contract.

## **MEASUREMENT AND PAYMENT**

### **D10. PAYMENT**

- D10.1 Further to C4 Payment shall be due from the Contractor within ten (10) Calendar Days after each pick-up. Payment shall be made to the department and location from which the pickup was made.
- D10.2 Each payment must be accompanied by a written statement clearly indicating at a minimum:
- (a) The City's Transaction number;
  - (b) Pickup date;
  - (c) Pickup address;
  - (d) Itemized description, quantity and unit price(s) of goods received;
    - (i) A certificate of Destruction, Reuse or Recycle must be sent with every payment or invoice by the Contractor clearly showing the method of disposal.
  - (e) Where applicable, the Contractor's vendor registration number or a copy of the Contractor's purchase exemption certificate and, where applicable, his/her licence number; and
  - (f) Total amount of payment with GST and PST, where applicable, shown as separate amounts.

### **D11. RECORDS**

- D11.1 The Contractor shall keep detailed records of the goods received under the Contract.
- D11.2 The Contractor shall record, as a minimum, for each item listed on Form B: Prices:
- (a) User name(s) and addresses;
  - (b) pick up date(s);
  - (c) payment date(s) and amount(s); and
  - (d) description and quantity of goods received.
- D11.3 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.

## **PART E - SPECIFICATIONS**

### **GENERAL**

#### **E1. APPLICABLE SPECIFICATIONS**

E1.1 These Specifications shall apply to the Offer of Surplus Goods.

#### **E2. SURPLUS GOODS**

E2.1 The City invites offers to purchase and remove surplus waste oil, lubricants, solvents and other related materials in accordance with the requirements hereinafter specified.

E2.2 Item No. 1 – Used Oil shall be the sale and removal of mixed oil that may include, but not limited to motor oil, transmission fluid, power steering fluid, gear oil, hydraulic fluid and brake fluid.

E2.3 Item No. 2 – Used Fuel shall be the sale and removal of mixed motor petroleum products that may include, but not limited to gasoline (marked and unmarked) and diesel (marked and unmarked).

E2.4 Item No. 3 – Paint and Paint Solvents shall be the sale and removal of paint solvents including but not limited to paint, paint thinner, and point solvents.

E2.5 Item No. 4 – Glycol & Water (Antifreeze) shall be the sale and removal of glycol & water (antifreeze).

E2.6 Item No. 5 – Water Contaminated with Fuel or Oil shall be the sale and removal water that has been mixed and/or contaminated with fuel or oil.

E2.7 Item No. 6 – Used Oil Filters shall be the sale and removal used oil filters that may include but not limited to oil filters and transmission filters. Filters may be of any and all sizes.

E2.8 Item No. 7 – Waste Oil Rags shall be the sale and removal of contaminated oil rags.

E2.9 Item No. 8 – Waste Absorbent shall be the sale and removal of oily floor Dry Absorb-all.

E2.10 Item No. 9 – Empty Plastic Oil Containers (5 Kg Bags) shall be the sale and removal of empty plastic oil containers.

E2.11 Item No. 10 – Other Contaminated Empty Plastic Containers (Antifreeze & DEF Fluid) shall be the sale and removal other plastic containers that may include but not limited to contaminated containers from antifreeze or other substances.

E2.12 Item No. 11 – Aerosol Containers shall be the sale and removal of industrial aerosol containers.

#### **E3. APPENDIX A – PICK UP LOCATIONS**

##### **Fleet Management Services**

195 Tecumseh Street  
215 Tecumseh Street  
1539 Waverley Street – Door 12  
960 Thomas Avenue  
2170 Main Street

##### **Public Works**

1500 Plessis Road  
1220 Pacific Avenue

**Fire Paramedic Service**

2546 McPhillips Street

**Transit Department**

421 Osborne Street  
1520 Main Street

**Water & Waste Department**

598 Plinquet  
2230 Main Street  
Brady Road Landfill

**Water & Waste 4R Depots**

429 Panet Rd  
1120 Pacific Ave  
1777 Brady Rd

**Winnipeg Police Service \*\* Security Clearance as per B11.3(e) required for this location.**

245 Smith Street

## PART F - SECURITY CLEARANCE

### F1. SECURITY CLEARANCE

- F1.1 Each individual proposed to perform Work under the Contract shall be required to obtain a Police Information Check from the police service having jurisdiction at his place of residence.
- (a) Police Information Checks can be obtained by one of the following:
    - (i) police service having jurisdiction at his/her place of residence; or
    - (ii) BackCheck, forms to be completed can be found on the website at: <http://www.backcheck.net/>; or
    - (iii) Commissionaires (Manitoba Division), forms to be completed can be found on the website at: <https://www.commissionaires.ca/en/manitoba/home>.
  - (b) The following is a link to information for obtaining the Police Information Check from the City of Winnipeg Police Service: <http://winnipeg.ca/police/pr/PIC.stm>.
  - (c) The original Police Information Check (Form P-612) 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:
    - (i) Provide the original Police Information Check (Form P-612) to the Contract Administrator.
  - (d) Prior to the award of Contract, 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 Police Information Check 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.
  - (e) Any individual for whom a Police Information Check is not provided, or for whom a Police Information Check indicates any convictions or pending charges related to property offences or crimes against another person will not be permitted to perform any Work.
  - (f) Any Police Information Check obtained thereby will be deemed valid for the duration of the Contract subject to a repeated records search as hereinafter specified.
  - (g) 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 Police Information Check. Any individual who fails to provide a satisfactory Police Information Check as a result of a repeated Police Information Check will not be permitted to continue to perform any Work.
- F1.2 The City will conduct a Level One Security Clearance Check, for any individual proposed to perform Work under the Contract at Winnipeg Police Service facilities.
- (a) The Contractor shall provide the Contract Administrator with a list of individuals proposed to perform Work under the Contract at Winnipeg Police Service facilities:
    - (i) within five (5) Business Days of the Award of Contract; or
    - (ii) in the case of additional or replacement individuals during the term of the Contract, at least thirty (30) Calendar Days before each individual is proposed to commence Work at Winnipeg Police Service facilities.
  - (b) Each individual shall submit the required information and form to the Winnipeg Police Service Division 30 Security Section Supervisor at Main Floor, 245 Smith Street;
    - (i) A completed Form P-608: Security Clearance Check authorization form available at [https://www.winnipeg.ca/matmgt/templates/Security\\_Clearance/Security\\_Clearance.stm](https://www.winnipeg.ca/matmgt/templates/Security_Clearance/Security_Clearance.stm). Form P-608 must be signed and dated.
    - (ii) Signature of Witness shall be signed by the contact person stated on Paragraph 3 of Form A: Bid.
  - (c) Identification - photocopies of two valid pieces of identification with at least one piece of photo identification:
    - (i) Photo Identification must be one of the following:
      - (i) Driver's License,

- (ii) Passport,
  - (iii) Permanent Resident Card,
  - (iv) Aboriginal Status Card,
  - (v) Manitoba Public Insurance Identification Card.
- (ii) Second identification must be one of the following:
- (i) Birth Certificate,
  - (ii) Social Insurance Card – (SIN confirmation letters effective April 2014),
  - (iii) Provincial Health Card,
  - (iv) Citizenship Card,
  - (v) Firearms License,
  - (vi) Immigration Papers,
  - (vii) National Defense Card,
  - (viii) Nexus Card,
  - (ix) FAST CARD from Canada Border Services Agency.
- (d) Any individual for whom a satisfactory Level One Security Clearance is not obtained will not be permitted to perform any Work within Winnipeg Police Service facilities.
- (e) Any satisfactory Security Clearance obtained thereby will be deemed valid for one (1) year from the date of clearance, subject to a repeated Security Clearance Check as hereinafter specified.
- (f) Each individual doing Work in a Winnipeg Police Service Facility shall provide photo identification upon entry, in order that their Level One security clearance can be verified.
- (g) Notwithstanding the foregoing, at any time during the term of the Contract, the City may, at its sole discretion and acting reasonably, require a further Security Clearance Check. Any individual who fails to obtain a satisfactory Security Clearance Check as a result of a repeated Security Clearance Check will not be permitted to continue to perform Work under the Contract at Winnipeg Police Service Facilities.