



THE CITY OF WINNIPEG

TENDER

TENDER NO. 539-2025

PROVISION OF MAINTENANCE OF AIR CONDITIONERS

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PART B - BIDDING PROCEDURES

B1. CONTRACT TITLE

B1.3 Provision of Maintenance Of Air Conditioners

B2. SUBMISSION DEADLINE

B2.1 The Submission Deadline is 4:00 p.m. Winnipeg time, June 17, 2025.

B2.2 The Contract Administrator or the Manager of Purchasing may extend the Submission Deadline by issuing an addendum at any time prior to the time and date specified in B2.1.

B3. SITE INVESTIGATION

B3.1 Further to C3.1, the Contract Administrator or an authorized representative will be available at the Site at 510 Main St on **Thursday June 10, 2025, between 9:00 and 12.00pm** to provide Bidders access to the Site.

B3.2 The Bidder shall not be entitled to rely on any information or interpretation received at the Site investigation unless that information or interpretation is the Bidder's direct observation or is provided by the Contract Administrator in writing.

B3.3 The Bidder is responsible for inspecting the Site, the nature of the Work to be done and all conditions that might affect their Bid or their 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.

B3.4 The Bidder is responsible for determining:

- (a) the location of any utility which can be determined from the records or other information available at the offices of any public authority or person, including a municipal corporation and any board or commission thereof, having jurisdiction or control over the utility;
- (b) the nature of the surface and subsurface conditions at the Site;
- (c) the location, nature, quality or quantity of the materials to be removed or to be employed in the performance of the Work;
- (d) the nature, quality or quantity of the Plant needed to perform the Work;
- (e) all matters concerning access to the Site, power supplies, location of existing services, utilities or materials necessary for the completion of the Work; and
- (f) all other matters which could in any way affect their Bid or the performance of the Work.

B4. BIDDERS' CONFERENCE

B4.1 The Contract Administrator will hold a Bidders' conference online at **11:00 am to 12:00 pm on Thursday June 11, 2025**. Contact the Contract Administrator with your intention to attend

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 D5.1.

B5.2 If the Bidder finds errors, discrepancies or omissions in the Tender, 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 Responses to enquiries which, in the sole judgment of the Contract Administrator, require a correction to or a clarification of the Tender will be provided by the Contract Administrator to all Bidders by issuing an addendum.

B5.4 Responses to enquiries which, in the sole judgment of the Contract Administrator, do not require a correction to or a clarification of the Tender will be provided by the Contract Administrator only to the Bidder who made the enquiry.

B5.5 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.

B5.6 Any enquiries concerning submitting through MERX should be addressed to:
MERX Customer Support
Phone: 1-800-964-6379
Email: merx@merx.com

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. The use and disclosure of the confidential information shall not apply to information which:

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

B6.2 The Bidder shall not make any statement of fact or opinion regarding any aspect of the Tender 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 Tender, 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.

B7.3 Addenda will be available on the MERX website at www.merx.com.

B7.4 The Bidder is responsible for ensuring that they have received all addenda and is advised to check the MERX website for addenda regularly and shortly before the Submission Deadline, as may be amended by addendum.

B7.5 The Bidder shall acknowledge receipt of each addendum in Paragraph 10 of Form A: Bid. Failure to acknowledge receipt of an addendum may render a Bid non-responsive.

B7.6 Notwithstanding B5, enquiries related to an Addendum may be directed to the Contract Administrator indicated in D5.

B8. SUBSTITUTES

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

- 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 proposed work schedule and the dates specified in the Supplemental Conditions for Total Performance;
 - (e) certify that, in the case of a request for approval as an approved alternative, the substitute will adequately perform the functions called for by the general design, be similar in substance to that specified, is suited to the same use and capable of performing the same function as that specified and can be incorporated into the Work, strictly in accordance with the proposed work schedule and the dates specified in the Supplemental Conditions for Total Performance.
- B8.5 The Contract Administrator, after assessing the request for approval of a substitute, may in their 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, to the Bidder who requested approval of the substitute.
- B8.6.1 The Contract Administrator will issue an Addendum, disclosing the approved materials, equipment, methods and products to all potential Bidders. The Bidder requesting and obtaining the approval of a substitute shall be responsible for disseminating information regarding the approval to any person or persons they wish 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 their 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 B18.
- 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.

B9. BID SUBMISSION

- B9.1 The Bid shall consist of the following components:
- (a) Form A: Bid;
 - (b) Form B: Prices.

- B9.2 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.
- B9.3 The Bid shall be submitted electronically through MERX at www.merx.com.
- B9.3.1 Bids will **only** be accepted electronically through MERX.
- B9.4 Bidders are advised that inclusion of terms and conditions inconsistent with the Tender document, including the General Conditions, will be evaluated in accordance with B18.1(a).

B10. BID

- B10.1 The Bidder shall complete Form A: Bid, making all required entries.
- B10.2 Paragraph 2 of Form A: Bid shall be completed in accordance with the following requirements:
- (a) if the Bidder is a sole proprietor carrying on business in their own name, their 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 their 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 Bid 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: Bid, the Bidder shall identify a contact person who is authorized to represent the Bidder for purposes of the Bid.
- B10.4 Paragraph 13 of Form A: Bid shall be signed in accordance with the following requirements:
- (a) if the Bidder is a sole proprietor carrying on business in their 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;
 - (d) if the Bidder is carrying on business under a name other than their 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: Bid should be entered below such signatures.
- B10.5 If a Bid 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 Bid 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 C12.2.3, 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.
- B11.1.2 Prices on Form B: Prices shall include:
- (a) duty;

- (b) freight and cartage;
- (c) Provincial and Federal 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 risks and contingencies connected therewith.
- (e) Shop Material
- (f) Truck Charges
- (g) Travel Time
- (h) Parking
- (i) Training Time

B11.1.3 Prices on Form B: Prices shall not include Environmental Handling Charges (EHC) or fees, 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 Bids.

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 Payments to Non-Resident Contractors are subject to Non-Resident Withholding Tax pursuant to the Income Tax Act (Canada).

B11.5 The Bidder shall enter the Total Bid Price from Form B: Prices into the Total Bid Price field in MERX.

B11.5.1 Bidders are advised that the calculation indicated in B18.4 will prevail over the Total Bid Price entered in MERX.

B12. DISCLOSURE

B12.1 Various Persons provided information or services with respect to this Work. 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.

B12.2 The Persons are:

- (a) N/A

B13. CONFLICT OF INTEREST AND GOOD FAITH

B13.1 Further to C3.2, Bidders, by responding to this Tender, declare that no Conflict of Interest currently exists, or is reasonably expected to exist in the future.

B13.2 Conflict of Interest means any situation or circumstance where a Bidder or employee of the Bidder 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 Bids or award of the Contract; or
- (ii) compromise, impair or be incompatible with the effective performance of a Bidder'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 their participation in the Tender 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 Tender process) of strategic and/or material relevance to the Tender process or to the Work that is not available to other bidders and that could or would be seen to give that Bidder an unfair competitive advantage.

B13.3 In connection with their Bid, each entity identified in B13.2 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 Tender 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.

B13.4 Without limiting B13.3, the City may, in their 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 their sole discretion, requires to satisfy itself that the Conflict of Interest has been appropriately avoided or mitigated, including requiring the Bidder to put into place such policies, procedures, measures and other safeguards as may be required by and be acceptable to the City, in their sole discretion, to avoid or mitigate the impact of such Conflict of Interest.

B13.5 Without limiting B13.3, 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 their sole discretion:

- (a) disqualify a Bidder that fails to disclose a perceived, potential or actual Conflict of Interest of the Bidder or any of their 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 their sole discretion, determines cannot be avoided or mitigated;
- (c) disqualify a Bidder or employees proposed for the Work that fails to comply with any requirements prescribed by the City pursuant to B13.4 to avoid or mitigate a Conflict of Interest; and
- (d) disqualify a Bidder if the Bidder, or one of their 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.

B13.6 The final determination of whether a perceived, potential or actual Conflict of Interest exists shall be made by the City, in their sole discretion.

B14. QUALIFICATION

B14.1 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.
- B14.2 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, Purchasing Division website at <https://www.winnipeg.ca/matmgt/Templates/files/debar.pdf>
- B14.3 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;
 - (c) have a written workplace safety and health program, if required, pursuant to The Workplace Safety and Health Act (Manitoba); and
 - (d) have completed the Accessible Customer Service online training required by the Accessibility for Manitobans Act (AMA) (see B14.5 and D7).
 - (e) upon request of the Contract Administrator , provide the Security Clearances in accordance with PART F - ;
- B14.4 Further to B14.3(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) Written confirmation of a safety and health certification meeting SAFE Work Manitoba's SAFE Work Certified Standard (e.g., COR™ and SECOR™) in the form of:
 - (i) a copy of their valid Manitoba COR certificate and Letter of Good Standing (or Manitoba equivalency) as issued under the Certificate of Recognition (COR) Program administered by the Construction Safety Association of Manitoba or by the Manitoba Heavy Construction Association's WORKSAFELY™ COR™ Program; or
 - (ii) a copy of their valid Manitoba SECOR™ certificate and Letter of Good Standing (or Manitoba equivalency) as issued under the Small Employer Certificate of Recognition Program (SECOR™) administered by the Construction Safety Association of Manitoba or by the Manitoba Heavy Construction Association's WORKSAFELY™ COR™ 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 at https://www.winnipeg.ca/matmgt/Safety/safety_consultant.stm
- B14.5 Further to B14.3(d), the Bidder acknowledges that they and all Subcontractors have obtained training required by the Accessibility for Manitobans Act (AMA) available <https://accessibilitymb.ca/resources-events-and-training/online-training.html> for anyone that may have any interaction with the public on behalf of the City of Winnipeg.
- B14.6 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.

B14.7 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.

B15. OPENING OF BIDS AND RELEASE OF INFORMATION

B15.1 Bids will not be opened publicly.

B15.2 Following the Submission Deadline, the names of the Bidders and their Total Bid Prices (unevaluated and pending review and verification of conformance with requirements) will be available on the MERX website at www.merx.com.

B15.3 After award of Contract, the name(s) of the successful Bidder(s) and their Contract amount(s) will be available on the MERX website at www.merx.com.

B15.4 The Bidder is advised that any information contained in any Bid 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).

B15.4.1 To the extent permitted, the City shall treat as confidential information, those aspects of a Bid Submission identified by the Bidder as such in accordance with and by reference to Part 2, Section 17 or Section 18 or Section 26 of The Freedom of Information and Protection of Privacy Act (Manitoba), as amended.

B16. IRREVOCABLE BID

B16.1 The Bid(s) submitted by the Bidder shall be irrevocable for the time period specified in Paragraph 11 of Form A: Bid.

B16.2 The acceptance by the City of any Bid shall not release the Bids of the next two lowest evaluated responsive Bidders and these Bidders shall be bound by their Bids on such Work until a Contract for the Work has been duly executed and the contract security have been furnished as herein provided, but any Bid shall be deemed to have lapsed unless accepted within the time period specified in Paragraph 11 of Form A: Bid.

B17. WITHDRAWAL OF BIDS

B17.1 A Bidder may withdraw their Bid without penalty at any time prior to the Submission Deadline.

B18. EVALUATION OF BIDS

B18.1 Award of the Contract shall be based on the following bid evaluation criteria:

- (a) compliance by the Bidder with the requirements of the Tender, or acceptable deviation therefrom (pass/fail);
- (b) qualifications of the Bidder and the Subcontractors, if any, pursuant to B14 (pass/fail);
- (c) Total Bid Price ;
- (d) economic analysis of any approved alternative pursuant to B8;
- (e) costs to the City of administering multiple contracts. .

B18.2 Further to B18.1(a), the Award Authority may reject a Bid as being non-responsive if the Bid is incomplete, obscure or conditional, or contains additions, deletions, alterations or other irregularities. The Award Authority may reject all or any part of any Bid, 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 Bid submitted by a Bidder who does not demonstrate, in their Bid or in other information required to be submitted, that they are qualified.

- B18.4 Further to B18.1(c), the Total Bid Price shall be the sum of the quantities multiplied by the unit prices for each item shown on Form B: Prices.
- B18.4.1 Further to B18.1(a), in the event that a unit price is not provided on Form B: Prices, the City will determine the unit price by dividing the Amount (extended price) by the approximate quantity, for the purposes of evaluation and payment.
- B18.4.2 Bidders are advised that the calculation indicated in B18.4 will prevail over the Total Bid Price entered in MERX.
- B18.5 This Contract will be awarded as a whole.
- B19. AWARD OF CONTRACT**
- B19.1 The City will give notice of the award of the Contract 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 qualified, and the Bids 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 their own forces;
 - (d) only one Bid 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 qualified Bidder submitting the lowest evaluated responsive Bid in accordance with B18.
- B19.4 Further to Paragraph 6 of Form A: Bid and C4, the City may issue a purchase order to the successful Bidder in lieu of the execution of a Contract.
- B19.4.1 The Contract Documents, as defined in C1.1(p), 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.
- B19.5 Following the award of contract, a Bidder will be provided with information related to the evaluation of their Bid upon written request to the Contract Administrator.

PART C - GENERAL CONDITIONS

C0. GENERAL CONDITIONS

- C0.1 The *General Conditions for the Combined Provision of Goods and Services (2020-01-31)* are applicable to the Work of the Contract.
- C0.1.1 The *General Conditions for the Combined Provision of Goods and Services* are available on the Information Connection page at The City of Winnipeg, Corporate Finance, Purchasing Division website at http://www.winnipeg.ca/matmgt/gen_cond.stm
- C0.2 A reference in the Tender to a section, clause or subclause with the prefix “**C**” designates a section, clause or subclause in the *General Conditions for the Combined Provision of Goods and Services*.

PART D - SUPPLEMENTAL CONDITIONS

GENERAL

D1. GENERAL CONDITIONS

D1.1 In addition to the *General Conditions for the Combined Provision of Goods and Services*, 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 the Provision of maintenance of air conditioners for the period from the award of contract until June 30, 2026, with the option of five (5) mutually agreed upon one (1) year extensions.

D2.1.1 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.

D2.1.2 Changes resulting from such negotiations shall become effective on July 1 of the respective year. Changes to the Contract shall not be implemented by the Contractor without written approval by the Contract Administrator.

D2.1.3 Bidders are advised that, in future, the City may be participating in collaborative procurement initiatives with other levels of government. Accordingly, extensions to this Contract may not be exercised.

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

- (a) Two (2) APC twenty-two (22) ton "in room" air conditioners and their associated condensers;
- (b) Two (2) APC five (5) ton "in row" air conditioners and their associated condensers;
- (c) provision of quarterly preventive maintenance service at 510 Main Street on a pre-determined scheduled date and may be requested to do additional work "as required";
- (d) service shall include but not limited to phone support, seven (7) Calendar days per week, twenty-four (24) hours per day, three hundred and sixty-five (365) Calendar days per year;
- (e) perform environmental inspection;
- (f) check system operating conditions;
- (g) documentation as to system condition and further service needs;
- (h) recommendations regarding cooling solution repairs or enhancements if required^

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 Notwithstanding C7.4, the City shall have no obligation under the Contract to purchase any quantity of any item in excess of their actual operational requirements.

D2.4 Notwithstanding D2.1, in the event that operational changes result in substantial changes to the requirements for Work, the City reserves the right to alter the type or quantity of work performed under this Contract, or to terminate the Contract, upon thirty (30) Calendar Days written notice by the Contract Administrator. In such an event, no claim may be made for damages on the ground of loss of anticipated profit on Work.

D3. COOPERATIVE PURCHASE

- D3.1 The Contractor is advised that this is a cooperative purchase.
- D3.2 The Contract Administrator may, from time to time during the term of the Contract, may approve other public sector organizations and utilities, including but not limited to municipalities, universities, schools and hospitals, to be participants in the cooperative purchase.
- D3.3 The Contract Administrator will notify the Contractor of a potential participant and provide a list of the delivery locations and estimated quantities.
- D3.4 If any location of the potential participant is more than ten (10) kilometers beyond the boundaries of the City of Winnipeg, the Contractor shall, within fifteen (15) Calendar Days of the written notice, notify the Contract Administrator of the amount of any additional delivery charge for the location.
- D3.5 If any additional delivery charges are identified by the Contractor, the potential participant may accept or decline to participate in the cooperative purchase.
- D3.6 The Contractor shall enter into a contract with each participant under the same terms and conditions as this Contract except:
- (a) supply under the contract shall not commence until the expiry or lawful termination of any other contract(s) binding the participant for the same goods and/or services;
 - (b) a participant may specify a duration of Contract shorter than the duration of this Contract;
 - (c) a participant may specify that only some items under this Contract and/or less than their total requirement for an item are to be supplied under their contract; and
 - (d) any additional delivery charge identified and accepted in accordance with clause D3.4 and D3.5 will apply.
- D3.7 Each participant will be responsible for the administration of their contract and the fulfilment of their obligations under their contract. The City shall not incur any liability arising from any such contract.
- D3.8 No participant shall have the right or authority to effect a change in the Contract, or of any other participant in this Contract.

D4. DEFINITIONS

- D4.1 When used in this Tender:
- (a) **“Supply Chain Disruption”** means an inability by the Contractor to obtain goods or services from third parties necessary to perform the Work of the Contract within the schedule specified therein, despite the Contractor making all reasonable commercial efforts to procure same. Contractors are advised that increased costs do not, in and of themselves, amount to a Supply Chain Disruption;
 - (b) **” User”** means person, department or other administrative unit of the City authorized by the Contract Administrator to order Work under this Contract.

D5. CONTRACT ADMINISTRATOR

- D5.1 The Contract Administrator is:
Andres Villafana
Telephone No. 204 470-7374 204
Email Address. avillafana@winnipeg.ca
- D5.2 At the pre-commencement meeting, the Contract Administrator will identify additional personnel representing the Contract Administrator and their respective roles and responsibilities for the Work.

D6. CONTRACTOR'S SUPERVISOR

- D6.1 Further to C6.21, 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 their employ.
- D6.2 Before commencement of Work, the Contractor shall identify their designated supervisor and any additional personnel representing the Contractor and their respective roles and responsibilities for the Work.
- D6.2.1 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.

D7. ACCESSIBLE CUSTOMER SERVICE REQUIREMENTS

- D7.1 The Accessibility for Manitobans Act (AMA) imposes obligations on The City of Winnipeg to provide accessible customer service to all persons in accordance with the Customer Service Standard Regulation ("CSSR") to ensure inclusive access and participation for all people who live, work or visit Winnipeg regardless of their abilities.
- D7.1.1 The Contractor agrees to comply with the accessible customer service obligations under the CSSR and further agrees that when providing the Goods or Services or otherwise acting on the City of Winnipeg's behalf, shall comply with all obligations under the AMA applicable to public sector bodies.
- D7.1.2 The accessible customer service obligations include, but are not limited to:
- (a) providing barrier-free access to goods and services;
 - (b) providing reasonable accommodation;
 - (c) reasonably accommodating assistive devices, support persons, and support animals;
 - (d) providing accessibility features e.g. ramps, wide aisles, accessible washrooms, power doors and elevators;
 - (e) inform the public when accessibility features are not available;
 - (f) providing a mechanism or process for receiving and responding to public feedback on the accessibility of all goods and services; and
 - (g) providing adequate training of staff and documentation of same.

D8. SUPPLIER CODE OF CONDUCT

- D8.1 The Contractor has reviewed and understands the City's Supplier Code of Conduct. This document is located at: <https://www.winnipeg.ca/media/4891>
- D8.2 The Contractor agrees to comply with the Supplier Code of Conduct as it may be amended or replaced from time to time. The Contractor is responsible for periodically checking the above link for updates to the Supplier Code of Conduct. Contract signature on Form A: Bid/Proposal from the Contractor signifies agreement to the Supplier Code of Conduct which comes into effect once the Contract starts.
- D8.3 If there is a conflict between the Contract and the Supplier Code of Conduct – the Contract will prevail.

D9. UNFAIR LABOUR PRACTICES

- D9.1 Further to C3.2, the Contractor declares that in bidding for the Work and in entering into this Contract, the Contractor and any proposed Subcontractor(s) conduct their respective business

in accordance with established international codes embodied in United Nations Universal Declaration of Human Rights (UDHR) <https://www.un.org/en/about-us/universal-declaration-of-human-rights> International Labour Organization (ILO) <https://www.ilo.org/global/lang-en/index.htm> conventions as ratified by Canada.

- D9.2 The City of Winnipeg is committed and requires its Contractors and their Subcontractors, to be committed to upholding and promoting international human and labour rights, including fundamental principles and rights at work covered by ILO eight (8) fundamental conventions and the United Nations Universal Declaration of Human Rights which includes child and forced labour.
- D9.3 Upon request from the Contract Administrator, the Contractor shall provide disclosure of the sources (by company and country) of the raw materials used in the Work and a description of the manufacturing environment or processes (labour unions, minimum wages, safety, etc.).
- D9.4 Failure to provide the evidence required under D9.3, may be determined to be an event of default in accordance with C16.
- D9.5 In the event that the City, in its sole discretion, determines the Contractor to have violated the requirements of this section, it will be considered a fundamental breach of the Contract, and the Contractor shall pay to the City a sum specified by the Contract Administrator in writing (“Unfair Labour Practice Penalty”). Such a violation shall also be considered an Event of Default and shall entitle the City to pursue all other remedies it is entitled to in connection with same pursuant to the Contract.
- D9.5.1 The Unfair Labour Practice Penalty shall be such a sum as determined appropriate by the City, having due regard to the gravity of the Contractor’s violation of the above requirements, any cost of obtaining replacement goods/ services or rectification of the breach, and the impact upon the City’s reputation in the eyes of the public as a result of same.
- D9.5.2 The Contractor shall pay the Unfair Labour Practice Penalty to the City within thirty (30) Calendar Days of receiving a demand for same in accordance with D9.5. The City may also hold back the amount of the Unfair Labour Practice Penalty from payment for any amount it owes the Contractor.
- D9.5.3 The obligations and rights conveyed by this clause survive the expiry or termination of this Contract and may be exercised by the City following the performance of the Work, should the City determine, that a violation by the Contractor of the above clauses has occurred following same. In no instance shall the Unfair Labour Practice Penalty exceed the total of twice the Contract value.

D10. INFORMATION MANAGEMENT

- D10.1 The following provisions are in addition to any preceding obligations of confidentiality contained in this document. All requirements apply to the Contractor. Further, where the Services &/or Work is being provided by a third party (either by a Subcontractor or authorized third party reseller), the Contractor represents and warrants that it will ensure that the third party meets all of the relevant requirements of the Information Management clauses and will assume responsibility and liability for the third party’s compliance or non-compliance.
- D10.2 The Contractor acknowledges that The Freedom of Information and Protection of Privacy Act (“FIPPA”) and Personal Health Information Act (“PHIA”) imposes obligations on the City to collect, store, use, disclose, and destroy “personal information”, as that term is defined in FIPPA, (“Personal Information”) in the strictest of confidence and in accordance with FIPPA and PHIA.
- D10.3 The Contractor:
- (a) Shall be deemed to be an Information Manager as that term is defined in FIPPA;

- (b) Shall be responsible to ensure that all Personal Information is collected, stored, used, disclosed or destroyed only and strictly in accordance with the Contract; and
 - (c) Shall, in respect of all Personal Information, implement and comply with the security requirements, controls, policies, and standards set out in the Contract and the Specifications.
- D10.4 While this Contract is in effect, and at all times thereafter, the Contractor shall treat as confidential any and all Confidential Information which it acquires or that is collected, stored, used, disclosed or destroyed, or to which it is given access, or which in any other way it comes into possession or knowledge of, during the course of the performance of the Contract. For the purposes of this Contract, Personal Information shall be considered to be Confidential Information.
- D10.5 The Contractor shall comply with section 44.1 of FIPPA, and more generally, any collection, storage, use, disclosure or destruction of Personal Information by the Contractor shall be in compliance with FIPPA and PHIA.
- D10.6 Further to C23 of the General Conditions, all Confidential Information is and shall remain the property of the City.
- D10.7 The Contractor shall not disclose or appropriate to their own use, or to the use of any third party, all or any part of the Confidential Information without the prior written consent of the Contract Administrator. The Contractor shall not at any time make any public announcement, press release, or statement of fact or opinion regarding the Bid Opportunity, the Contract, the Work, the City, or the Confidential Information without the prior written consent of the Contract Administrator.
- D10.8 While this Contract is in effect and at all times thereafter the Contractor shall: (a) only collect, store, use, disclose or destroy the Confidential Information for the purposes expressly permitted by the City, and only to the extent necessary to perform its obligations under this Contract:
- (a) ensure that access to the Confidential Information is only provided or permitted a “need to know” basis, and that access, when given, shall be the minimum amount necessary to accomplish the task;
 - (b) not disclose or permit the disclosure of the Confidential Information or any copies thereof, whether in whole or in part, in any form or medium, to any third party, including Subcontractors or agents, without the prior written consent of the Contract Administrator;
 - (c) not reproduce any Confidential Information, in whole or in part, in any form or medium, without the express prior written consent of the Contract Administrator; and
 - (d) inform its Subcontractors of the obligations imposed upon it under this Contract and FIPPA and shall take whatever steps are necessary to ensure that all of its Subcontractors comply with those obligations, including (but not limited to) binding said Subcontractors to terms no less strict than those herein through written confidentiality agreements.
- D10.9 The Contractor shall put into place reasonable security arrangements, including administrative, technical, and physical safeguards that ensure the confidentiality and security of the Confidential Information. The standard of such security arrangements shall be the greater of:
- (a) the standards the Contractor has in place to protect its own confidential information; or
 - (b) the standards imposed on the Contractor by the Contract Administrator.
- D10.10 Upon becoming aware of any unauthorized use or handling of the Confidential Information (a “Confidentiality Breach”), the Contractor shall immediately notify the Contract Administrator in writing, take all reasonable steps to prevent the recurrence of any such Confidentiality Breach, and notify the Contract Administrator of said steps in writing.
- D10.11 Upon receiving a subpoena or other validly issued administrative or judicial order seeking Confidential Information, the Contractor shall provide the Contract Administrator with prompt

notice thereof, deliver a copy of its proposed response to the Contract Administrator, and thereafter be entitled to comply with the demand to the extent permitted or required by law (unless the demand has been time-limited, quashed, or extended). The Contractor shall cooperate with the Contract Administrator in the defense of the demand, if so requested by the Contract Administrator.

- D10.12 The Contractor shall, and shall ensure its Subcontractors, comply with all directives issued by the Contract Administrator with respect to safeguarding or otherwise ensuring the confidentiality of the Confidential Information, and shall cooperate with the Contract Administrator so that the Contract Administrator can verify that the Contractor has complied, and is complying, with its obligations hereunder.

SUBMISSIONS

D11. AUTHORITY TO CARRY ON BUSINESS

- D11.1 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.

D12. SAFE WORK PLAN

- D12.1 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 Documents, if applicable.
- D12.2 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, Purchasing Division website at <http://www.winnipeg.ca/matmgt/Safety/default.stm>
- D12.3 Notwithstanding B14.4 at any time during the term of the Contract, the City may, at their sole discretion and acting reasonably, require an updated COR Certificate or Annual Letter of good Standing. A Contractor, who fails to provide a satisfactory COR Certificate or Annual Letter of good Standing, will not be permitted to continue to perform any Work.

D13. INSURANCE

- D13.1 The Contractor shall provide and maintain the following insurance coverage:
- (a) commercial general liability insurance, in the amount of at least two million dollars (\$2,000,000.00) 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) if applicable, Automobile Liability Insurance covering all motor vehicles, owned and operated and used or to be used by the Contractor directly or indirectly in the performance of the Service. The Limit of Liability shall not be less than \$2,000,000 inclusive for loss or damage including personal injuries and death resulting from any one accident or occurrence;
- D13.2 Deductibles shall be borne by the Contractor.
- D13.3 All policies shall be taken out with insurers duly licensed to carry on business in the Province of Manitoba.

- D13.4 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 but in no event later than the date specified in C4.1 for the return of the executed Contract Documents, as applicable.
- D13.5 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.
- D13.6 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.

D14. SAFETY DATA SHEETS

- D14.1 The Contractor shall provide the Contract Administrator with one (1) copy of Safety Data Sheets (SDS's) for each product to be supplied under the Contract at least two (2) Business Days prior to the commencement of Work but in no event later than the date specified in C4 for the return of the executed Contract.
- D14.2 Throughout the term of the Contract, the Contractor shall provide the Contract Administrator with revisions or updates of the SDS's as soon as may be reasonably possible.

SCHEDULE OF WORK

D15. COMMENCEMENT

- D15.1 The Contractor shall not commence any Work until they are in receipt of a notice of award from the City authorizing the commencement of the Work.
- D15.2 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 D11;
 - (ii) evidence of the workers compensation coverage specified in C6.18;
 - (iii) evidence of the insurance specified in D13;
 - (iv) the direct deposit application form specified in D29; and
 - (b) the Contractor has attended a meeting with the Contract Administrator, or the Contract Administrator has waived the requirement for a meeting.
 - (c) ^
- D15.3 The Contractor shall commence the Work on the Site within seven (7) Business Days of receipt of the notice of award.

D16. WORKING DAYS

- D16.1 Further to C1.1(uu), the Contract Administrator's determination of whether or not atmospheric and Site conditions are such that a Working Day is deemed to have elapsed may be based at one time on one type of work while at another time a Working Day may be based on another type of work. When more than one type of major work is involved, the quantity of equipment that must be able to work in order to meet the requirements of a Working Day may vary considerably from that specified in the General Conditions.
- D16.2 In the event that incidental work is behind schedule which, in the opinion of the Contract Administrator, should have been or could have been carried out by the Contractor in conjunction with or immediately following work of a major type, the City hereby reserves the right to charge Working Days on the incidental work until such time as it is up to schedule.
- D16.3 When the major type of work involves restoration of the site to the condition it was prior to rainfall, Working Days shall not be charged.

D16.4 The Contract Administrator will furnish the Contractor with a daily record for each major type of work showing various information concerning the equipment, the time it worked, could have worked and Working Days charged. This report is to be signed each day by an authorized representative of the Contractor.

D17. RESPONSE TIME

D17.1 Work shall be initiated within four (4) hours of the placing of an order, unless otherwise allowed by the User at the time of ordering.

D17.2 In the case of an emergency the Contractor shall perform the work within two (2) hours of receiving notification from the Contract Administrator or his/her designate.

D17.3 Call out Service Response Time:

(a) Within 4 hours Off Hours, Evenings, Weekends and Holidays

(b) Within 2 hours Regular Business Days and Working Hours (8:00 am – 5:00 pm)

D17.4 Attendance on Site:

(a) Within 24 hours Off Hours, Evenings, Weekends and Holidays

(b) Within 12 hours Regular Business Days and Working Hours (8:00 am -5:00 pm)

D18. LIQUIDATED DAMAGES

D18.1 If the Contractor fails to perform the Work in accordance with the Contract Administrator's stated requirements under D2 and E3 of the Contract, the Contractor shall pay the City one thousand {\$1000} dollars per Working Day for each and every Working Day following the day specified by the Contract Administrator on which the Work was to be performed until the failure is rectified.

D18.2 The amount specified for liquidated damages in D18.1 is based on a genuine pre-estimate of the City's damages in the event that the Contractor does not perform the Work in satisfaction of the City's requirements for same.

D18.3 The City may reduce any payment to the Contractor by the amount of any liquidated damages assessed.

D19. SUPPLY CHAIN DISRUPTION SCHEDULE DELAYS

D19.1 The City acknowledges that the schedule for this Contract may be impacted by the Supply Chain Disruption. Commencement and progress of the Work shall be performed by the Contractor with due consideration to the delivery requirements and schedule identified in the Contract, in close consultation with the Contract Administrator.

D19.2 If the Contractor is delayed in the performance of the Work by reason of the Supply Chain Disruption, the Work schedule may be adjusted by a period of time equal to the time lost due to such delay and costs related to such delay will be determined as identified herein.

D19.3 A minimum of seven (7) Calendar Days prior to the commencement of Work, the Contractor shall declare whether a Supply Chain Disruption will affect the start date. The Contractor shall provide sufficient evidence that the delay is directly related to ordering of Material or Goods, production and/or manufacturing schedules or availability of staff as appropriate.

D19.4 For any delay related Supply Chain Disruption and identified after Work has commenced, the Contractor shall within seven (7) Calendar Days of becoming aware of the anticipated delay declare the additional delay and shall provide sufficient evidence as indicated in D19.3. Failure to provide this notice will result in no additional time delays being considered by the City.

D19.5 Any time or cost implications as a result of Supply Chain Disruption and in accordance with the above, as confirmed by the Contract Administrator, shall be documented in accordance with C7.

CONTROL OF WORK

D20. THE WORKPLACE SAFETY AND HEALTH ACT (MANITOBA) - QUALIFICATIONS

D20.1 Further to B14.3, the Contractor/Subcontractor must, throughout the term of the Contract, have a Workplace Safety and Health Program meeting the requirements of The Workplace Safety and Health Act (Manitoba). At any time during the term of the Contract, the City may, at their sole discretion and acting reasonably, require updated proof of compliance, as set out in B14.3.

D21. SAFETY

D21.1 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.

D21.2 The Contractor shall be solely responsible for securing the Site, and any existing facility thereon, and for the proper care and protection of the Work already performed.

D21.3 The Contractor shall do whatever is necessary to ensure that:

- (a) no person, property, right, easement or privilege is injured, damaged or infringed by reason of the Contractor's activities in performing the Work;
- (b) the health and safety of all persons employed in the performance of the Work or otherwise is not endangered by the method or means of their performance;
- (c) adequate medical services are available to all persons employed on the Work and at all times during the performance of the Work;
- (d) adequate sanitation measures are taken and facilities provided with respect to the Work;
- (e) pedestrian and other traffic on any public or private road or waterway is not unduly impeded, interrupted or endangered by the performance or existence of the Work or Plant;
- (f) fire hazards in or about the Work are eliminated.

D22. SITE CLEANING

D22.1 The Contractor shall maintain the Site and the Work in a tidy condition and free from the accumulation of waste and debris, other than that caused by the City or by other contractors.

D22.1.1 As the Work progresses, the Contractor shall remove any Plant and Material not required for the performance of the remaining Work. He shall also remove waste and debris other than that caused by the City or other contractors and leave the Site and the Work clean and suitable for occupancy by the City unless otherwise specified.

D22.1.2 Total Performance shall not be considered to have been achieved until the Contractor has cleaned up the Site and has removed all Plant, surplus Material, waste and debris, other than that left by the City or other contractors.

D23. EMPLOYEE BEHAVIOUR AND SUPERVISION

D23.1 The Contractor shall provide adequate supervision of its employees and shall ensure that all such employees conduct themselves in a manner appropriate to people and shall without limitation ensure that employees:

- (a) behave in a courteous and polite manner (no profanity or excess noise) to City staff and other personnel;
- (b) do not smoke within a City facility;

- (c) obey all posted safety rules;
- (d) leave all furnishings, equipment etc. moved during the inspection and testing, in an "as found" condition at the completion of the work;
- (e) use their own two-way (2) radio(s) or telephones or cellular telephones necessary for on-site communication;
- (f) when employees are in the facility, that it is kept secure from entry by unauthorized persons.

D23.2 The Contractor and his employees are prohibited from entering the premises of any location other than to perform the Work of this contract unless accompanied by plant staff. The Contractor or his personnel will not be allowed to operate equipment other than described in this contract. No one other than the Contractor and his driver or helper shall be allowed on the City of Winnipeg owned property.

D24. INSPECTION

D24.1 Further to C11, before beginning or resuming operations upon any portion of the Work, the Contractor shall notify the Contract Administrator so as to enable him to arrange for inspection. If the Contractor fails to notify the Contract Administrator, the Contractor shall, if and when required by the Contract Administrator, forthwith take down or expose and redo that portion of the Work required to facilitate inspection. The cost of such taking down or exposure, and redoing, if any, shall be borne by the Contractor.

D24.2 If and when required by the Contract Administrator, the Contractor shall take down or expose forthwith any portion of the Work where the Contract Administrator determines that the Work is not in accordance with the Contract. The cost of such taking down or exposure, and redoing, if any, shall fall upon the City if the taking down or exposure indicates that the portion exposed was properly performed, but if otherwise the cost shall be borne by the Contractor.

D25. DEFICIENCIES

D25.1 Further to C11.7, the Contract Administrator may order the Contractor to alter or improve their methods, to increase or improve their 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:

- (a) the Work is not being, or will likely not be, performed satisfactorily; or
- (b) progress is not being, or will likely not be, maintained in accordance with the work schedule.

D25.2 If the Work or any part thereof is taken out of the Contractor's control pursuant to C19.1(b), all Plant and Material, and the interest of the Contractor in all licences, powers and privileges acquired, used or provided by the Contractor under the Contract shall be assigned by the Contractor to the City without compensation to the Contractor.

D25.3 The City shall have the right to take possession of and use any of the Contractor's material and property of every kind provided by the Contractor for the purpose of the Work, and to procure other Plant or Material for the completion thereof.

D25.4 When the Contract Administrator certifies that any Plant, Material or any interest of the Contractor referred to in D25.2, is no longer required for the purposes of the Work, or that it is not in the best interest of the City to retain that Plant, Material or interest, it shall revert to the Contractor.

D26. ORDERS

D26.1 The Contractor shall provide a local Winnipeg telephone number or a toll-free telephone number at which orders for delivery may be placed.

D27. RECORDS

- D27.1 The Contractor shall keep detailed records of the goods supplied under the Contract.
- D27.2 The Contractor shall record, as a minimum, for each item listed on Form B: Prices:
- (a) username(s) and addresses;
 - (b) order date(s);
 - (c) delivery date(s); and
 - (d) description and quantity of goods supplied.
- D27.3 The Contractor shall provide the Contract Administrator with a copy of the records for each quarter year within fifteen (15) Calendar Days of a request of the Contract Administrator.

MEASUREMENT AND PAYMENT

D28. INVOICES

- D28.1 Further to C12, the Contractor:
- (a) shall submit invoices for Work performed in accordance with the instruction on the City's website at: <https://www.winnipeg.ca/finance/corporate-accounts-payable.stm>; and
- D28.2 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 work performed;
 - (e) the amount payable with GST and MRST shown as separate amounts; and
 - (f) the Contractor's GST registration number.
 - (g) Any tariff related costs shown as separate amounts
 - (h) should copy the Contract Administrator on submission of its invoice.

D29. PAYMENT

- D29.1 Further to C12, the City shall make payments to the Contractor by direct deposit to the Contractor's banking institution, and by no other means. Payments will not be made until the Contractor has made satisfactory direct deposit arrangements with the City. Direct deposit application forms are at https://winnipeg.ca/finance/files/Direct_Deposit_Form.pdf.

D30. PAYMENT SCHEDULE

- D30.1 Further to C12, payment shall be in Canadian funds net thirty (30) Calendar Days after receipt and approval of the Contractor's invoice.

WARRANTY

D31. WARRANTY

- D31.1 Warranty is as stated in C13.

DISPUTE RESOLUTION

D32. DISPUTE RESOLUTION

- D32.1 If the Contractor disagrees with any opinion, determination, or decision of the Contract Administrator, the Contractor shall act in accordance with the Contract Administrator's opinion, determination, or decision unless and until same is modified by the process followed by the parties pursuant to D32.
- D32.2 The entire text of C21.4 is deleted, and amended to read: "Intentionally Deleted"
- D32.3 The entire text of C21.5 is deleted, and amended to read:
- (a) If Legal Services has determined that the Disputed Matter may proceed in the Appeal Process, the Contractor must, within ten (10) Business Days of the date of the Legal Services Response Letter, submit their written Appeal Form, in the manner and format set out on the City's the Website, to the Chief Administrative Officer, and to the Contract Administrator. The Contractor may not raise any other disputes other than the Disputed Matter in their Appeal Form.
- D32.4 Further to C21, prior to the Contract Administrator's issuance of a Final Determination, the following informal dispute resolution process shall be followed where the Contractor disagrees with any opinion, determination, or decision of the Contract Administrator ("Dispute"):
- (a) In the event of a Dispute, attempts shall be made by the Contract Administrator and the Contractor's equivalent representative to resolve Disputes within the normal course of project dealings between the Contract Administrator and the Contractor's equivalent representative.
- (b) Disputes which in the reasonable opinion of the Contract Administrator or the Contractor's equivalent representative cannot be resolved within the normal course of project dealings as described above shall be referred to a without prejudice escalating negotiation process consisting of, at a minimum, the position levels as shown below and the equivalent Contractor representative levels:
- (i) The Contract Administrator;
- (ii) Supervisory level between the Contract Administrator and applicable Department Head;
- (iii) Department Head.
- D32.4.1 Names and positions of Contractor representatives equivalent to the above City position levels shall be determined by the Contractor and communicated to the City at the pre-commencement or kick off meeting.
- D32.4.2 As these negotiations are not an adjudicative hearing, neither party may have legal counsel present during the negotiations.
- D32.4.3 Both the City and the Contractor agree to make all reasonable efforts to conduct the above escalating negotiation process within twenty (20) Business Days, unless both parties agree, in writing, to extend that period of time.
- D32.4.1 If the Dispute is not resolved to the City and Contractor's mutual satisfaction after discussions have occurred at the final escalated level as described above, or the time period set out in D32.4.3, as extended if applicable, has elapsed, the Contract Administrator will issue a Final Determination as defined in C1.1(v), at which point the parties will be governed by the Dispute Resolution process set out in C21.

THIRD PARTY AGREEMENTS

D33. FUNDING AND/OR CONTRIBUTION AGREEMENT OBLIGATIONS

D33.1 Funding for the Work of the Contract is being provided to the City of Winnipeg by the Government of Manitoba and/or the Government of Canada and accordingly, as required by the applicable funding agreements, the following terms and conditions shall apply.

D33.2 For the purposes of D33:

- (a) **“Government of Canada”** includes the authorized officials, auditors, and representatives of the Government of Canada; and
- (b) **“Government of Manitoba”** includes the authorized officials, auditors, and representatives of the Government of Manitoba.

D33.3 Indemnification By Contractor

D33.3.1 In addition to the indemnity obligations outlined in C17 of the General Conditions for the Combined Provision of Goods and Services, the Contractor agrees to indemnify and save harmless the Government of Canada and the Government of Manitoba and each of their respective Ministers, officers, servants, employees, and agents from and against all claims and demands, losses, costs, damages, actions, suit or other proceedings brought or pursued in any manner in respect of any matter caused by the Contractor or arising from this Contract or the Work, or from the goods or services provided or required to be provided by the Contractor, except those resulting from the negligence of any of the Government of Canada’s or the Government of Manitoba’s Ministers, officers, servants, employees, or agents, as the case may be.

D33.3.2 The Contractor agrees that in no event will Canada or Manitoba, their respective officers, servants, employees or agents be held liable for any damages in contract, tort (including negligence) or otherwise, for:

- (a) any injury to any person, including, but not limited to, death, economic loss or infringement of rights;
- (b) any damage to or loss or destruction of property of any person; or
- (c) any obligation of any person, including, but not limited to, any obligation arising from a loan, capital lease or other long-term obligation;

in relation to this Contract or the Work.

D33.4 Records Retention and Audits

D33.4.1 The Contractor shall maintain and preserve accurate and complete records in respect of this Contract and the Work, including all accounting records, financial documents, copies of contracts with other parties and other records relating to this Contract and the Work during the term of the Contract and for at least six (6) years after Total Performance. Those records bearing original signatures or professional seals or stamps must be preserved in paper form; other records may be retained in electronic form.

D33.4.2 In addition to the record keeping and inspection obligations outlined in C6 of the General Conditions for the Combined Provision of Goods and Services, the Contractor shall keep available for inspection and audit at all reasonable times while this Contract is in effect and until at least six (6) years after Total Performance, all records, documents, and contracts referred to in D33.4.1 for inspection, copying and audit by the City of Winnipeg, the Government of Manitoba and/or the Government of Canada and their respective representatives and auditors, and to produce them on demand; to provide reasonable facilities for such inspections, copying and audits, to provide copies of and extracts from such records, documents, or contracts upon request by the City of Winnipeg, the Government of Manitoba, and/or the Government of Canada and their respective representatives and auditors, and to promptly provide such other information and

explanations as may be reasonably requested by the City of Winnipeg, the Government of Manitoba, and/or the Government of Canada from time-to-time.

D33.5 Other Obligations

- D33.5.1 The Contractor consents to the City providing a copy of the Contract Documents to the Government of Manitoba and/or the Government of Canada upon request from either entity.
- D33.5.2 If the Lobbyists Registration Act (Manitoba) applies to the Contractor, the Contractor represents and warrants that it has filed a return and is registered and in full compliance with the obligations of that Act, and covenants that it will continue to comply for the duration of this Contract.
- D33.5.3 The Contractor shall comply with all applicable legislation and standards, whether federal, provincial, or municipal, including (without limitation) labour, environmental, and human rights laws, in the course of providing the Work.
- D33.5.4 The Contractor shall properly account for the Work provided under this Contract and payment received in this respect, prepared in accordance with generally accepted accounting principles in effect in Canada, including those principles and standards approved or recommended from time-to-time by the Chartered Professional Accountants of Canada or the Public Sector Accounting Board, as applicable, applied on a consistent basis.
- D33.5.5 The Contractor represents and warrants that no current or former public servant or public office holder, to whom the Value and Ethics Code for the Public Sector, the Policy on Conflict of Interest and Post Employment, or the Conflict of Interest Act applies, shall derive direct benefit from this Contract, including any employment, payments, or gifts, unless the provision or receipt of such benefits is in compliance with such codes and the legislation.
- D33.5.6 The Contractor represents and warrants that no member of the House of Commons or of the Senate of Canada or of the Legislative Assembly of Manitoba is a shareholder, director or officer of the Contractor or of a Subcontractor, and that no such member is entitled to any benefits arising from this Contract or from a contract with the Contractor or a Subcontractor concerning the Work.

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. In every instance where a brand name or design specification is used, the City will also consider approved equals and/or approved alternatives in accordance with B8.

E2. SERVICES

- E2.1 The Contractor shall maintain, inspect and make repairs to the air conditioners in accordance with the requirements hereinafter specified.
- E2.2 The Contractor shall supply all labour, materials, tools, equipment, ladders, man lifts and supervision necessary to perform the Work, except as otherwise stipulated hereinafter.
- E2.3 The Contractor shall perform all Work during the normal workday hours and shall coordinate with the Contract Administrator.
- E2.4 All materials to be supplied by the Contractor for scheduled inspection and testing shall be included in the price of the bid. Major repair/maintenance parts not normally incidental to inspection and testing shall be sold to the City (if authorized by the Contract Administrator) at the discount identified on Form B: Prices.
- E2.5 All materials supplied by the Contractor shall be new or fully reconditioned, unless otherwise specifically authorized by the Contract Administrator. Reconditioned parts are defined as those parts which have been returned to the "original manufacturer" for quality assurance testing and approved for reissue. Salvaged parts from other buildings that are not approved for reissue by the "OEM" Original Equipment Manufacturer will not be accepted.
- E2.6 The Contractor shall make minor repairs and/or replace minor parts as required, at the time of inspection. The inspection cost shall include the cost of minor parts associated labour. Minor repairs to include cleaning, replacement of air filters, fan belts, grease all bearings plus disassemble and clean.
- E2.7 The Contractor shall schedule all inspections with the Contract Administrator prior to the commencement of the Work.
- E2.8 Service call hourly rate for labour shall be from Monday to Friday from 8:00am to 5:00pm.
- E2.9 The Contractor shall complete the inspection and testing of each unit and send the completed information on Work performed signed and dated to the Contract Administrator within ten (10) Business days after the completion of Work.
- E2.10 All inspection reports shall be submitted to the Contract Administrator for review and approval prior to payment. Each report shall have a section for identifying the items for further maintenance. Should the Contract Administrator find the inspection not to be to prescribed standard(s), the Contractor, at his expense, shall correct all discrepancies within forty-eight (48) hours.
- E2.11 The Contractor shall supply all inspection/testing forms for the Site.
- E2.12 Where a replacement of mechanical components is necessary, and the costs are in excess of one thousand five hundred (\$1500.00) dollars, the Contractor must contact the Contract Administrator or his/her designate for approval before proceeding.

- E2.13 Where a component or system is not immediately vital to the operation, the Contract Administrator may request a written cost estimate.
- E2.14 The City retains the right to request prices for the repairs in E2.12 and E2.13 from other Contractors based on the information supplied by the Contractor.
- E2.15 Item No. 1 – Air conditioner quarterly maintenance. unit (ACPDX21-86 5K0938L00001) shall be the fee for cleaning and maintenance on a quarterly basis.
- E2.16 Item No. 2 - Air conditioner quarterly maintenance. unit (ACPDX21-86 5K0938L00003) shall be the fee for cleaning and maintenance on a quarterly basis
- E2.17 Item No. 3 - Air conditioner quarterly maintenance. unit (ACRD500 UK0914210186) shall be the fee for cleaning and maintenance on a quarterly basis
- E2.18 Item No. 4 - Air conditioner quarterly maintenance. unit (ACRD500 UK0911210713) shall be the fee for cleaning and maintenance on a quarterly basis
- E2.19 Item No. 5 - HDZ Condenser quarterly maintenance. unit (T08H01195) shall be the fee for cleaning and maintenance of this condenser on a quarterly basis
- E2.20 Item No. 6 - HDZ Condenser quarterly maintenance. unit (T08G04133) shall be the fee for cleaning and maintenance of this condenser on a quarterly basis
- E2.21 Item No. 7 – In-Room Condenser (5K0938L00002) quarterly maintenance. shall be the fee for cleaning and maintenance of this condenser on a quarterly basis
- E2.22 Item No. 8 – In-Room Condenser (5K0938L00004) quarterly maintenance. shall be the fee for cleaning and maintenance of this condenser on a quarterly basis
- E2.23 Item No. 9 - Service call hourly rate for labour during Normal Business Hours (from 8:00 a.m. - 5:00 p.m.) shall be the fee for apprentice labour for service call during normal business hours.
- E2.24 Item No. 10 - Service call hourly rate for labour outside Normal Business Hours (from 8:00 a.m. - 5:00 p.m.) shall be the fee for apprentice labour for service call outside normal business hours.
- E2.25 Item No. 11 - Service call hourly rate for Journeyman labour during Normal Business Hours (from 8:00 a.m. - 5:00 p.m.) shall be the fee for journeyman labour for service call during normal business hours.
- E2.26 Item No. 12 - Service call hourly rate for Journeyman labour outside of Normal Business Hours (evenings, weekend and stat holidays) shall be the fee for journeyman labour for service call during evenings, weekends, and stat holidays.
- E2.27 Item No. 13 - Percentage mark-up on parts & material shall be the percentage mark-up of part cost over the Contractor's cost for the part for parts.

E3. PREVENTATIVE MAINTENANCE SERVICE REQUIRED

- E3.1 The Contractor shall measure and record room temperature and humidity.
- E3.2 The Contractor shall check the system for adequate cooling capacity to support the load and make recommendations as necessary.
- E3.3 The Contractor shall ensure the environment is within manufacturer-specified operating conditions and clearances.
- E3.4 The Contractor shall document any environmental noncompliance issues and recommend appropriate action as necessary.
- E3.5 The Contract shall perform the following tasks for each semi-annual check:

- (a) verify Main/Control voltages;
 - (b) check chilled water supply temperature, if applicable;
 - (c) replace drive belts if applicable;
 - (d) visually inspect refrigerant level if applicable; visually inspect for refrigerant and or chilled water leaks;
 - (e) visually inspect for water/glycol condenser loop for leaks if applicable;
 - (f) verify proper condensate removal from unit;
 - (g) replace and return air filters that will be provided;
 - (h) check and lubricate bearings if applicable;
 - (i) clean dust and debris from unit.
- E3.6 The Contractor shall perform the following checks on the systems operating conditions:
- (a) review alarm history and investigate logged alarms;
 - (b) confirm unit's ability to maintain temperature and humidity set points;
 - (c) check motor mounts/pulleys/ bearing set screws if applicable;
 - (d) check compressor operation if applicable;
 - (e) check operation of outdoor condenser/pump package if applicable;
 - (f) check and verify component amperages;
- E3.7 The Contractor shall measure and record room temperature and humidity.
- E3.8 The Contractor shall check the system for adequate cooling capacity to support the load and make recommendations as necessary.
- E3.9 The Contractor shall ensure the environment is within manufacturer-specified operating conditions and clearances.
- E3.10 The Contractor shall document any environmental noncompliance issues and recommend appropriate action as necessary.
- E3.11 The Contractor shall perform the following tasks for each semi-annual check:
- (a) verify Main/Control voltages;
 - (b) check chilled water supply temperature, if applicable;
 - (c) replace drive belts if applicable;
 - (d) visually inspect refrigerant level if applicable; visually inspect for refrigerant and or chilled water leaks;
 - (e) visually inspect for water/glycol condenser loop for leaks if applicable;
 - (f) verify proper condensate removal from unit;
 - (g) replace and return air filters that will be provided;
 - (h) check and lubricate bearings if applicable;
 - (i) clean dust and debris from unit.
- E3.12 The Contractor shall perform the following checks on the systems operating conditions:
- (a) review alarm history and investigate logged alarms;
 - (b) confirm unit's ability to maintain temperature and humidity set points;
 - (c) check motor mounts/pulleys/ bearing set screws if applicable;
 - (d) check compressor operation if applicable;
 - (e) check operation of outdoor condenser/pump package if applicable;

- (f) check and verify component amperages;
- (g) verify unit modes of operation; cooling/reheat/humidification/dehumidification;
- (h) verify operation of proportional chilled water actuator if applicable;
- (i) check electrical connections;
- (j) verify set points for outdoor heat exchanger and or pump package if applicable;
- (k) verify controller configuration and control set-points;
- (l) verify operation of water regulation valves if applicable;
- (m) check refrigeration pressures/temperatures/settings if applicable;
- (n) check glycol concentrations if applicable;
- (o) check operation of group control; and
- (p) confirm cleanliness of evaporator and condenser.

E4. ON-SITE SERVICE

E4.1 The On-Site Service visit shall be provided by the Contractor arriving at the City's location within the period of time as shown in D12.1 and D12.2 The following lists the details of, but not limited to, the service tasks to be provided:

- (a) cooling equipment status:
 - (i) The Contractor shall document the status of the cooling unit upon arrival to the site (i.e.- Verify Alarms, Loss of cooling.);
- (b) cooling equipment alarms:
 - (i) The Contractor shall view active alarms, event log and display for alarms / information. Download event logs from the cooling unit;
- (c) Troubleshoot:
 - (i) The Contractor shall troubleshoot and repair the system as required. Functional Testing shall be conducted after corrective action is taken;
- (d) On-Site Service Report Preparation:
 - (i) The Contractor shall describe the defect / failure of the cooling unit;
 - (ii) The Contractor shall describe the corrective actions taken to resolve the defect/failure of the cooling unit;
- (e) Remote Monitoring Service Deliverables:
 - (i) Upon detection of a critical device situation, the Contractor will be notified and will intervene onsite as necessary. The Contract Administrator will also be notified of any Site related critical issue to help the City maintain continuity of service;
- (f) Collect and Document Customer Information:
 - (i) The Contractor shall acquire pertinent information regarding the physical infrastructure and on-site contact information to facilitate real-time alert notification;
- (g) Monitor 24*7 Customer Equipment:
 - (i) The Contractor shall prompt the Contract Administrator by phone or e-mail with specific recommendations enables timely and informed choice of action during critical events;
- (h) Notify and dispatch Field Service Engineer:
 - (i) Proactively schedule and deploy a Field Service Engineer as necessary to resolve system alerts.

E5. MAINTENANCE SERVICE

E5.1 Maintenance services required are:

- (a) Air conditioner quarterly maintenance. unit (ACPDX21-86 5K0938L00001)

- (b) Air conditioner quarterly maintenance. unit (ACPDX21-86 5K0938L00003)
- (c) Air conditioner quarterly maintenance. unit (ACRD500 UK0914210186)
- (d) Air conditioner quarterly maintenance. unit (ACRD500 UK0911210713)
- (e) HDZ Condenser quarterly maintenance. unit (T08H01195)
- (f) HDZ Condenser quarterly maintenance. unit (T08G04133)
- (g) In-Room Condenser (5K0938L00002) quarterly maintenance.
- (h) In-Room Condenser (5K0938L00004) quarterly maintenance.
- (i) Service call hourly rate for labour during Normal Business Hours (from 8:00 a.m. - 5:00 p.m.)
- (j) Service call hourly rate for labour, outside of Normal Business Hours (evenings, weekend and stat holidays)
- (k) Service call hourly rate for Journeyman labour during Normal Business Hours (from 8:00 a.m. - 5:00 p.m.)
- (l) Service call hourly rate for Journeyman labour outside of Normal Business Hours (evenings, weekend and stat holidays)

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 their place of residence. This can be obtained from one of the following;
- (a) police service having jurisdiction at their place of residence; or
 - (b) Sterling BackCheck – for existing account holders, log into your account to send individual invitations to employees requiring security clearance. For those that do not have an account, click on the following link to open an account:
<https://forms.sterlingbackcheck.com/partners/platform2-en.php?&partner=winnipegcity> ; or
 - (c) Commissionaires (Manitoba Division), forms to be completed can be found on the website at: <https://www.commissionaires.ca/en/manitoba/home:or>
 - (d) FASTCHECK Criminal Record & Fingerprint Specialists, forms to be completed can be found on the website at: <https://myfastcheck.com>
- F1.2 The following is a link to information for obtaining the Police Information Check including the Vulnerable Sector screening from the City of Winnipeg Police Service.
<http://winnipeg.ca/police/pr/PIC.stm>
- F1.2.1 The Police Information Check shall include a Vulnerable Sector Screening. This can be obtained by following the link below <http://winnipeg.ca/police/pr/PIC.stm> .
- (a) Individuals will need to state in the form, that they may be working in City of Winnipeg pools, libraries and community centres;
- F1.3 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:
- (a) Provide the original Police Information Check (Form P–612) to the Contract Administrator.
- F1.4 Prior to the award of Contact, and during the term of the Contract if additional or replacement individuals are proposed to perform Work, the Bidder/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.
- F1.5 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.
- F1.6 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.
- F1.7 Notwithstanding the foregoing, at any time during the term of the Contract, the City may, at their 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.