THE CORPORATION OF
THE CITY OF BELLEVILLE

Purchase Order Terms and Conditions

This document is posted on the City's website at:
https://www.belleville.ca/en/do-business/purchasing-services.aspx

TABLE OF CONTENTS

1. General Definitions 3
2. Acceptance 3
3. Delivery Terms 3
4. Intended Purpose of Use 3
5. Indemnification 3
6. Liability Insurance Requirements 4
7. Workplace Safety and Insurance Board (WSIB) 6
8. Warranty Period 6
9. Defects 6
10. Manuals 6
11. Payment Terms 6
12. Invoices 7
13. Maintenance Security (Non-Statutory Holdback) 7
14. Material Safety Data Sheet (MSDS) 7
15. Discount Terms 8
16. Extras/ Changes to the Purchase Order 8
17. Mandatory Health & Safety Directive (COVID-19) 8
18. Termination 8
19. Hazardous Goods 8
20. Inspection and Acceptance 8
21. Governing Laws 8
22. Assignment 8
23. Force Majeure 8
24. Supplier Code of Conduct 9
25. Strikes & Accidents 9
26. Confidentiality 9

1. General Definitions

"Bid" means a Tender, Proposal or Quotation submitted in response to a solicitation from the Owner**.**

"Bidder" means any person who submits a response to a solicitation. For clarity, the "Bidder" shall also include "Proponent" and "Offeror".

"Bid Document" means the Owner's solicitation document, which may be in the form of a Request for Quotation (RFQ) or Request for Proposal (RFP), Request for Tender (RFT), For greater certainty the term Bid Document includes but is not limited to; the Terms, the Owner Standard Terms and Conditions and the Instructions to Bidders.

"Contractor" means the selected Bidder that has a Contract with the Owner to perform the Work and/or Services described in a Bid Call Document. For clarity, for this by-law only, "Contractor" includes "Consultant", "Vendor" and "Supplier".

"Consultant" means services of an advisory nature required to support policy development, decision making, administration, or management of a business or public entity, generally provided by individuals or organizations who possess specific knowledge, technical skills or unique abilities not usually available in-house or from the entity.

"High Value Acquisitions" means an acquisition of Goods and/or Services having a value of equal to or greater than $100,000.

"Owner" means the Corporation of the City of Belleville and its local boards.

"Procurement By-law" means the Owner's Procurement By-law Number 2023-183, as it may be amended, restated, supplemented or replaced from time to time.

"Work" means the Work to be undertaken by the Contractor pursuant to the provisions of the Contract.

2. Acceptance

The Contractor by accepting this order further acknowledges and accepts all Purchase Order Terms and Conditions stated herein, as amended.

3. Delivery Terms

a. All shipments shall be FOB Destination, Freight Prepaid and Allowed.

b. The F.O.B. Prepaid Destination point shall be the destination as indicated on the purchase order. For greater certainty, the Contractor shall be responsible for the payment of shipping, bearing the cost of shipping and for all liability related to the goods until the goods are delivered to and accepted by the Owner at the Owner's facility or if stated, the actual Facility Room or Department location indicated on the purchase order.

c. A copy of the Ownership and the Bill of Sale to the project contact is required for all vehicles and equipment.

4. Intended Purpose of Use

The Contractor warrants that the goods, materials and/or equipment are of merchantable quality, and fit for the intended use and will perform according to the requirements set out by the Owner.

5. Indemnification

The Contractor shall indemnify and save harmless the Owner, its officers, Council members, partners, agents and employees (the "Indemnified Parties") from and against all actions, claims, demands, losses, costs, damages, suits or proceedings whatsoever which may be brought against or made upon the Indemnified Parties or which the

Indemnified Parties may sustain, suffer or be put to, resulting from or arising out of the Contractor's actions, omissions or negligence in the performance of the Work, Services or this Purchase Order, or the breach, default, violation or non-performance of the Purchase Order, or in the performance or non-performance of any Work or service required to be performed hereunder, whether performed by the Contractor, its agents, servants, officials, employees, or otherwise, including any damage to property or injury to any persons, including third parties. This indemnification shall include all legal costs incurred by the Indemnified Parties on a substantial indemnity basis, including those incurred to defend any criminal or other prosecutions against the Indemnified Parties resulting from the actions of the Contractor.

6. Liability Insurance Requirements

All respective insurance coverage shall be the responsibility of the Contractor until acceptance is given by the City of Belleville.

The Contractor shall maintain in effect for the period of the Contract/ PO, at its own expense with insurers acceptable to the City, all necessary insurance considered appropriate for a prudent contractor undertaking work similar to this work including such of the following types of insurance as the City may elect, unless otherwise noted in the Bid Document:

a) Commercial General Liability

Commercial General Liability, underwritten by an insurer licensed to conduct business in the Province of Ontario, for a limit of not less than **Five Million ($5,000,000.00) Dollars** per occurrence, an aggregate limit of not less than **Five Million ($5,000,000.00) Dollars** within any policy year with respect to completed operations and a deductible of not less than **Five Thousand** (**$5,000.00) Dollars**. The policy shall include an extension for a standard provincial and territorial form of **non-owned automobile liability policy**. This policy shall include but not be limited to:

- Name the Owner as an additional insured
- Cross-liability and severability of interest
- Blanket Contractual
- Products and Completed Operations
- Premises and Operations Liability
- Personal Injury Liability
- Contingent Employers Liability
- Owners and Contractors Protective
- Broad Form Property Damage
- 30 days' notice of cancellation

b) Automobile Liability

Standard Form Automobile Liability Insurance that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than **Five Million ($5,000,000.00) Dollars** per occurrence for Third Party Liability, in respect of the use or operation of vehicles owned, operated or leased by the Contractor.

c) Professional Liability

(required if applicable to project deliverables)

This policy is required, at the sole discretion of the City, when professional services/ consulting services are being provided during the contract term/ PO, coverage shall be in the amount of **Two Million ($2,000,000.00)** Dollars providing coverage for acts, errors and omissions arising from their professional services performed under this Agreement. The policy SIR/deductible shall not exceed $100,000 per claim and if the policy has an aggregate limit, the amount of the aggregate shall be double the required per claim limit. The policy shall be underwritten by an insurer licensed to conduct business in the Province of Ontario and acceptable to the City of Belleville. The policy shall be renewed for 3 years after contract termination. A certificate of insurance evidencing renewal is to be provided each and every year.

d) Contractor's Equipment Floater Liability

(required if applicable to project deliverables)

This policy is required, at the sole discretion of the City, for all construction related projects where a significant value in the machinery, equipment or tools is identified to complete the deliverables/ project. The contractor shall provide and maintain coverage for equipment used during the term of this Agreement. Coverage will be provided, on a broad form basis, for construction machinery, equipment, tools and stock that will be used by the Contractor in the

performance of the work. The coverage will also include rental expense. Coverage is to be carried from the date of commencement of the work until one year after the date of Substantial Performance of the Work.

e) <u>Installation Floater Liability</u>
(required if applicable to project deliverables)
This policy is required, at the sole discretion of the City, where a significant value in materials are identified to complete the deliverables/ project. The Contractor shall, throughout the term of the contract, obtain and maintain an Installation Floater written on a "All Risk" perils basis in the amount equal to the value of the machinery and/or equipment. Coverage applies while property is in transit to the installation site, while stored at a temporary location, awaiting installation at the work site, during loading and unloading as well as during the course of installation.

f) <u>Data liability/Network Security</u>
(required if applicable to project deliverables)
This policy is required, at the sole discretion of the City for procurements related to, but not limited to, technology, software and/ or network security data for underwritten by an insurer licensed to conduct business in the Province of Ontario and in an amount not less than Five Million ($5,000,000.00) Dollars. Coverage is to respond to but not be limited to the following occurrences:

Privacy violations as a result of but not limited to unauthorized access to or dissemination of private information; failure to properly handle, manage, store, destroy or control personal information and include the failure to comply with privacy laws and their respective regulations regarding the collection, access, transmission, use and accuracy. Coverage shall extend to include the costs associated with notification of affected parties, regardless if required by statute as well as any fines or penalties or costs imposed as a result of the breach including defense of any regulatory action involving a breach of privacy.

Network Security to protect against incidents arising from system security failures such as, but not limited to, unauthorized access, theft or destruction of data, electronic security breaches, denial of service, spread of virus within the Contractor's computer network or other City of Belleville computer information systems and will further include expenses related to third party computer forensics.

Data Breach Expenses including crisis management expenses related to electronic and non-electronic breaches.

The policy shall be maintained continuously during the term of this Agreement and for an additional two (2) years after the termination or expiration of the Agreement. If coverage is to be cancelled or non-renewed for any reason, 90-day notice of said cancellation or non-renewal must be provided to the City. The City has the right to request an Extended Reporting Endorsement be purchased by the Contractor at the Contractor's sole expense. The term of the Extended Reporting Endorsement will be decided by the City and Contractor.

g) <u>Contractor's Pollution Liability</u>
(required if applicable to project deliverables)
This policy is required, at the sole discretion of the City, for environmental related projects. The Bidder shall carry a Bidder's Pollution Liability Policy, underwritten by an insurer licensed to conduct business in the Province of Ontario for a limit of not less than **Five Million ($5,000,000.00)** Dollars per occurrence and in the aggregate. Such policy shall provide coverage for pollution conditions as a result of the operations performed at the jobsite. Coverage shall include bodily injury, property damage, clean-up and remediation costs. The Bidder shall purchase at minimum a 3 Year Extended Reporting Endorsement. The City reserves the right to waive this requirement in its sole discretion when it determines it is unlikely to be called upon.

h) All insurance policies required to be carried by the successful Contractor shall be primary and not additional to or contributing with any other insurance carried by the City of Belleville.

- Ten days prior to contract commencement, the Contractor shall provide to the City a valid **signed** Certificate of Insurance with the City of Belleville as the **certificate holder** and any replacements thereof that references the project name and contract number and confirms the coverage's identified above. The Contractor shall provide the City with a copy of the Policy if requested by the City and any renewal or replacement Certificates as may be necessary.

- Certificates must be provided allowing thirty (30) days' notice to the City in the event of Cancellation of such policy;

- The Contractor will be responsible for deductible amounts under all policies;
- To achieve the desired limits, umbrella or excess liability insurance may be used;

7. Workplace Safety and Insurance Board (WSIB) .

(Applicable to all service-related work)

The Contractor is required to protect its employees with Workplace Safety and Insurance Board coverage and a valid Certificate of Clearance indicating the project involved must be provided prior to commencement of any work.

a) The Contractor, forthwith upon being notified that they are the successful Contractor, shall provide the City with a current and valid "Clearance Certificate" from the WSIB.

b) The Contractor must submit a copy of a valid and current "Clearance Certificate" from the WSIB, or documentation from the WSIB confirming their exemption. This information is available to the Contractor on-line at **www.wsib.on.ca**.

c) If the Contractor does not provide a current and valid Clearance Certificate, or proof of exemption, on or before the commencement of the Contract, then at the option of the City, the Contract will be terminated and may be awarded to the next qualified Contractor.

d) During the term of the Contract, the Contractor shall ensure that the City has a current and valid "**Clearance Certificate**". The City will not pay invoices unless a current and valid "**Clearance Certificate**" is provided.

e) The City reserves the right to terminate any Contract in the event there is not a current and valid Clearance Certificate and reserves the right to refuse the Contractor access to the jobsite.

f) The Contractor clearly understands and agrees that they are not, nor is anyone hired by them, covered by the City under the **Workplace Safety Insurance Act, Employment Insurance Act**, or any other act whether provincial or federal in respect of themselves, their employees and operations, and shall, upon request, furnish the City with satisfactory evidence that they have complied with the provisions of any such Acts.

g) Information on coverage under the **Workplace Safety and Insurance Act** can be obtained directly from the WSIB. The City is not to be deemed the employer of the Contractor or their personnel under any circumstances whatsoever.

h) The Contractor will file a "Certificate of Clearance" from the WSIB prior to commencing the Contract. Clearance certificates should be renewed every ninety (90) days during the term of the Contract.

8. Warranty Period

Unless a greater warranty period is stated in the specifications of the Request for Quote/ Proposal or Tender Document, the warranty period shall be for a minimum of one (1) year on all parts, labour, goods, materials, equipment and/or services provided under the Contract (Unless otherwise stated in the specifications, the warranty period shall commence either from the date of substantial performance for construction or the day after delivery and acceptance for goods, services and equipment). A copy of all warranties shall be furnished upon delivery.

9. Defects

All products or services provided by the Contractor shall be new upon delivery and installed in good operating condition free of defects.

10. Manuals

Access to a complete manual, including repair and parts, shall be supplied for the Equipment and/or Vehicle/Equipment in either electronic or paperback.

11. Payment Terms

Payment for provision of Goods, Services and/or Construction, satisfactorily performed in the opinion of the Owner is Net Thirty (30) days unless otherwise noted in the Bid document.

The City of Belleville has implemented a mandatory direct deposit payment (EFT) that requires all Contractors to set up direct deposit as the method of receiving payment from the City. If your firm is not already set up to receive payments from the City through direct deposit, your firm is required to complete a City of Belleville direct deposit form. Contact ap@belleville.ca for more information.

12. Invoices

a. All invoices shall be sent to the City of Belleville, Finance Department - Accounts Payable, 169 Front Street, Belleville, ON K8N 2Y8 unless otherwise noted in the Bid document.

b. All invoices submitted by the Contractor shall reference the Purchase Order number and conform to the order and content as set out in the Owner's Purchase Order form and shall provide additional information as follows:
   i. Harmonized Sales Tax shown separately
   ii. Contractor's HST registration number

c. The Invoice shall state it is an invoice and contain sufficient detail in accordance with the items and unit prices of the awarded Bid. For example: Time and Material Contracts should provide a breakdown of labour and material utilized for the project.

13. Maintenance Security (Non-Statutory Holdback)

A non-statutory holdback applies to all high value acquisitions for construction related projects and must be clearly outlined on all invoices submitted to the City.

A Maintenance Security Holdback will be retained progressively, commencing on the first Payment Certificate, from monies that would otherwise be payable to the Contractor. The maximum value of the Maintenance Security Holdback shall be as follows:

TOTAL AMOUNT OF BID	MINIMUM DEPOSIT REQUIRED
$100,000	5%
$100,000.01 to $500,000	3%
$500,000.01 and over	2%

The maximum Maintenance Security Holdback will be held commencing on the issuance of the Completion Payment Certificate. The amount withheld on Payment Certificates prior to the Completion Payment Certificate will be based on the percentage of work completed.

Where additional work is added to the Contract the Contract Administrator shall withhold additional Maintenance Security to cover such additional work, if such additional security is deemed to be in the Corporation's best interests.

The retained amount is strictly to be used as a Maintenance Security.

Except as otherwise provided hereunder, the Maintenance Security, less any deductions made there from as provided for in the Contract, shall be paid to the Contractor following the issuance by the Contract Administrator of the Final Acceptance Certificate at the end of the warranty period.

14. Material Safety Data Sheet (MSDS)

The Contractor shall supply current Material Safety Data Sheets for all controlled products supplied on or before delivery of initial shipments and again sixty (60) days prior to expiry of the sheet. Failure

to comply with this instruction or to label products in accordance with the Workplace Hazardous Materials Information System Act may result in cancellation of the Contract, in which event any existing stocks shall be removed and credited back to the Owner in full by the Contractor. The Owner shall be under no obligation whatsoever, to any Contractor who does not comply with the Owner's procedure in this regard.

15. Discount Terms

If a discount is allowed for payment within a certain time, the time for taking the discount will not begin until the date of the receipt of the invoice or the date of the delivery of the goods, whichever is later. However, if an invoice is returned for correction, the time for taking the discount will not begin to run until the date of the receipt of the corrected invoice.

16. Extras/ Changes to the Purchase Order

No charges for extras or changes or changes to pricing will be allowed unless it has prior written authorization from the City.

17. Mandatory Health & Safety Directive (COVID-19)

The successful Bidder shall take all possible measures to prevent the spread of COVID-19 through compliance with requirements under the Occupational Health & Safety Act and associated regulations and any other applicable laws, including but not limited to municipal by-laws. The Contractor shall have regard to public health directives (from the Chief Medical Officer of Health and/or the Region's Medical Office of Health) and apply as appropriate.

18. Termination

The Owner may terminate this Purchase Order without prior written notice if Goods, Services and / or Construction are not provided within the timeframe specified. The Contractor shall give the Owner written notice of the cause and extent of any delay, and the Owner, at its sole discretion may terminate the Purchase Order and may order with another Contractor, without penalty or other fee. Furthermore if the Owner, in its sole opinion, determines that the Contractor has neglected, failed or refused to proceed promptly with delivery of the Goods, Services and/or Construction, the Owner may cancel the Purchase Order without penalty or other fee.

19. Hazardous Goods

Goods must be transported by the Contractor or Contractor's agent in accordance with all relevant federal and provincial legislation covering the handling and transportation of all hazardous and dangerous goods.

20. Inspection and Acceptance

All Goods, Service(s) and/or Construction are subject to inspection and acceptance by the Owner or the Owner's representative. Rejected Goods, Services and/or Construction, upon written notice of rejection by the Owner, shall be returned and either exchanged, refunded or cancelled at the Owner's discretion, at the Contractor's expense and cost.

21. Governing Laws

This Purchase Order shall be governed by the laws of Province of Ontario.

22. Assignment

The Contractor is not permitted to assign the work of this Purchase Order, in whole or in part, to any party, without the prior written approval of the Manager, Procurement Services or designate.

23. Force Majeure

It is understood and agreed that the Contractor shall not be held liable for any losses resulting if the fulfilment of the terms of the Contract shall be delayed or prevented by wars, acts of public enemies, strikes, fires, floods, act of God, or for any other cause not within the control of the Contractor and which by the exercise of reasonable diligence the Contractor is unable to prevent. Should the performance of any Contract be delayed or prevented as herein set forth,

the Contractor agrees to give immediate written notice and explanation of the cause and probable duration of any such delay.

24. Supplier Code of Conduct

Contractors agree by accepting this order declare that they have read and understood the Owner's Supplier Code of Conduct in its entirety and that the Contractor and any applicable sub-contractors, are not only in full compliance with this Supplier Code of Conduct but we will maintain compliance with it throughout the full duration of this Contract.

25. Strikes & Accidents

In the event of strikes, accidents or unforeseen contingencies causing stoppage of work, the Owner reserves the right to; delay or cancel the work specified on the Purchase Order.

26. Confidentiality

All requirements and information obtained by the Contractor in connection with the work specified on the Purchase Order is the property of the City and its Departments, Agencies, Boards and Commissions, and must be treated as confidential and not used for any purposes other than the fulfillment of this assignment.

Information, data, material, etc., gathered as part of this assignment shall be treated as confidential and shall only be discussed with the City Contact listed herein, unless directed otherwise by the City Contact. The Consultant shall not duplicate information unless authority has been received from the City Contact.

All documentation, which a Contractor/ Consultant delivers to the City or its designated agents for the purposes of this Purchase Order, becomes the property of the City.

END OF DOCUMENT