

THIS AGREEMENT made in duplicate this                      day of                      . 2020.

BETWEEN:

**XXXXXXXXXX,**  
(hereinafter called the "Contractor")  
of the first part;

-and-

**CITY OF BRANDON,**  
(hereinafter called the "City")  
of the second part.

WHEREAS the City is the owner and manager of the following building and parking lots:

- a) A.R. McDiarmid Civic Complex located at 638 Princess Avenue (Visitor and Employee parking lot south of the building inclusive of the entrance, wheelchair ramp, wooden staircase & deck);
- b) Visitor and on-street parking on 7<sup>th</sup> Street (between Lorne Avenue & Princess Avenue) located on the west side of the A.R. McDiarmid Civic Complex;
- c) Paved loading dock where garbage bins are located on southwest side of A.R. McDiarmid Civic Complex;
- d) Parking lot located at 1201 Pacific Avenue;
- e) Parking lot located at 329 - 10<sup>th</sup> Street;
- f) Parking lot located at 20 - 8<sup>th</sup> Street and lane access from 9<sup>th</sup> Street;
- g) Parking lot located at 21 - 8<sup>th</sup> Street;
- h) Parking lot located at 641 Rosser Avenue (specifications collectively hereto on the attached Schedule "A");
- i) Parking lot located at 30 Knowlton Drive (specifications hereto on the attached Schedule "B"); and
- j) Parking lot located at 1020 Victoria Avenue (specifications hereto on the attached Schedule "C").

hereinafter collectively referred to as the "Locations"; and

WHEREAS the Contractor has submitted a Quotation for Snow Clearing of the Locations, which Quotation has been accepted by the City;

NOW THEREFORE the City and the Contractor covenant and agree as follows:

- 1. The preamble above and the attached Schedules shall form an integral part of this agreement.
- 2. The Contractor covenants and guarantees to provide the complete snow clearing services ("Services"), for the Locations in accordance with specifications attached hereto as Schedules A, B, and C, which shall form an integral part of this agreement and, to supply all labour, materials and equipment necessary therefore, throughout the Term hereof.
- 3. This Agreement shall be in effect for the 2020-2021 and 2021-2022 winter seasons (the "Term"). The Agreement commences on from date of award (the "Commencement Date") and expires on April 15, 2022 ("Expiry Date"). The said Term may be renewed thereafter for a further term of one (1) year with a fee increase of \_\_\_\_\_ % and with similar conditions at the written request of the City, and upon written acceptance by the Contractor. The Agreement for the renewed term shall commence on November 1<sup>st</sup>, 2022 and will expire on April 15<sup>th</sup>, 2023.
- 4. In the event that the basic minimum wage in the Province of Manitoba, as set by Provincial Legislation, is increased during the term hereof, the City agrees that the monthly wage allotment shall be increased by the same percentage as the increase to the minimum wage for any payments to the Contractor made subsequent to any such increase.

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5. The City's representative may, at any time, enter onto the Locations where the Contractor is undertaking the Services to inspect and ensure that the Services are being performed in accordance with the Specifications.
6. The City's representative, upon written notice to the Contractor, has the authority to stop the Services or to order the Contractor to take remedial action where:
  - a) The Contractor is not performing the Services in accordance with the Specifications; or
  - b) The City's representative is of the opinion that there exists a danger to life or to property.

The Contractor shall immediately obey the provisions of the notice and will not be entitled to any extra payment unless approved by a change order.

7. The City is not required to make inspections. Inspections made by the City do not relieve or release the Contractor from being responsible for the supervision of its operations under this Contract, from making its own inspections, and for ensuring that the Services are being performed in accordance with the Specifications.
8. As per the City's contract specifications, the Contractor agrees to the following terms:
  - a) The Contractor shall provide the Services at the Locations as outlined in the attached Schedules noting that each Location has separate requirements and levels of service.
  - b) For purposes of this Agreement, determination of the amount of snowfall accumulation shall be the amount as measured and reported upon by Environment Canada at the Brandon Municipal Airport (the "Weather Station"). The data from the Weather Station as to snowfall accumulation is to be final and not subject to review by the Contractor, although should, for any reason, the necessary data with respect to snowfall accumulation not be available from the Weather Station, or if within the reasonable opinion of the City such data is inaccurate, the City may, at its option, use data from any other source that the City selects within the exercise of its discretion solely.
  - c) The City will rely on the recorded snowfall amounts from the Environment Canada website and where any discrepancies shall arise between the City and the Contractor, the actual snowfall amounts indicated on the Environment Canada website, will be the deciding factor;
  - d) The Contractor is responsible to remove the snow from the Locations, at the same time as the push; with the exception of the parking lots located at 638 Princess Avenue, which snow can be piled, for up to a maximum of three (3) business/calendar days after clearing and 1201 Pacific Ave, which snow can be piled on the north side of the property so long as there is adequate space and does not affect the parking stalls;
  - e) The City shall have the ability to determine, at their discretion, the amount of snow packing that shall be allowed within the parking areas;
  - f) The Contractor is required to maintain a 12 inch or 1 foot buffer from any fence or electrical panel/outlet. No pushing or packing of snow against any fence or electrical outlet, is permitted. Access to any and all electrical outlets must be maintained at all times; the Contractor will be required to remove any snow that may have accumulated in front of the electrical outlet;
  - g) As per the BFES "Fire Hydrant Location/Fire Department Connection Policy – P29", the Contractor must maintain a clear and unobstructed, two (2)

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meter radius around any fire hydrant or fire department connection. They are also required to maintain a clear view from the roadway when approached from any direction;

- h) The City has the right to request the Contractor to attend performance review meetings throughout the term of the Agreement.
  - i) Should the Contractor provide the service of street sweeping or salting/sanding upon the request of the City, it is required to be completed prior to the Expiry Date of this contract.
  - j) A site assessment will be conducted at each of the Locations to document and assess any existing damage. A second walk through will be conducted after the Expiry Date to document and assess any additional damage that may have occurred during the season. Any damages caused by the Contractor, will be the sole responsibility of the Contractor to repair at their cost. The Contractor shall immediately report any damages to the City or private property to the Contract Administrator.
9. The Contractor shall provide, maintain, and pay for the following insurance policies providing coverage to the Contractor and any sub-contractor performing the Services provided by this Agreement:
- a. Commercial General Liability Insurance with limits of not less than two million dollars (\$2,000,000.00) inclusive per occurrence for personal injury, death, liability assumed under this contract, and damage to property.
  - b. Automobile Insurance maintained at a minimum of five million dollars (\$5,000,000.00) liability insurance in respect of owned, non-owned, leased, rented, licensed, and unlicensed vehicles or equipment used in performance of this Agreement.
10. The Contractor shall comply with the requirements of the Province of Manitoba Employment Standards Act, the Workers Compensation Act, and all other applicable federal and provincial legislation regarding wages and labour regulations.
11. The Contractor shall, upon request by the City, provide proof of payment of the Worker's Compensation Number \_\_\_\_\_, in good standing with the Worker's Compensation Board of Manitoba.
12. a) The Contractor shall indemnify and save and hold harmless the City, its officers, agents, servants and employees, from and against all costs, damages, losses or expenses arising from actions, suits, claims, demands and proceedings, by whomsoever brought, made or taken as a result of an act or omission of the Contractor, his Subcontractor(s), and their employees or agents in the performance or purported performance of the Services.
- b) The Contractor hereby waives all rights of recourse against the City, its elected officials, officers, agents, servants and employees with regard to damage to the Contractor's property.
- c) If the Contractor fails to make any payment required to be made to the City, the City shall be entitled to deduct the amount of such payment from any payment required to be made by the City to the Contractor under the Contract or take whatever other remedies against the Contractor that the City may have at law.
13. This Agreement is not assignable by the Contractor, however, the Contractor may subcontract Services in the event that the Contractor is unable to complete the Services within the required timeframe. The Contractor will be solely responsible for any subcontractor, including but not limited to liability of any kind and damages.

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14. The covenant and undertaking of the City to pay the Contractor for provision of the Services shall be subject to the Contractor complying fully with its covenants and undertakings in accordance with this Agreement, which shall include but not be limited to the City being entitled to review the invoices submitted by the Contractor and only remit payment to the Contractor for the sums as approved and agreed upon by the City. In the event the Contractor disagrees with the position of the City with respect to payment upon any one or more of its invoices submitted to the City, the parties shall make their respective reasonable best efforts to meet promptly and discuss the Dispute, on a without prejudice basis. In the event the parties are unable to resolve the Dispute within thirty (30) days of either or both parties providing a Notice hereunder, the Dispute shall be determined if both parties consent in writing, be referred to arbitration in accordance with *The Arbitration Act (Manitoba)*, whose decision shall be final and binding between the Parties.
15. For the purpose of this agreement, any notice to the City by the Contractor shall be addressed to the Property Section, City of Brandon, 638 Princess Avenue, Brandon, Manitoba, R7A 0P3 and any notice to the Contractor shall be addressed to \_\_\_\_\_, Brandon, Manitoba, Attention:\_\_\_\_\_.
16. The City reserves the right to cancel this Agreement or any part thereof upon thirty (30) days written notice to the Contractor if, at any time, the City is not satisfied with the quality of work being performed under this Agreement or if the Contractor fails to comply with any of the specifications attached hereto. All notices, instructions and approvals shall be issued by the City whose decision shall be final and binding upon both parties.
17. Either the City or the Contractor has the right to cancel this Agreement upon thirty (30) days written notice to either Party.
18. Upon any early termination of the Agreement by either party:
  - a) The City shall pay to the Contractor the money owing to them under this Agreement to the date of termination and upon such payment being made the City shall have no further obligation to the Contractor under this Agreement; and
  - b) If the Contractor right to perform the Services is terminated in accordance with the provisions of this Agreement, the City shall not be liable to the Contractor for any damage or loss, including economic loss, sustained, or suffered by the Contractor, because of any action taken by the City.
19. This Agreement shall ensure to the benefit of and be binding upon the parties hereto, their heirs, executors, and administrators.

*Applicable Laws:* This Agreement shall be governed by the laws of the Province of Manitoba.

*Waiver:* The waiver by the City of any breach of this Agreement by the Contractor, shall not require, nor be construed to require, the City to waive any subsequent breach of the same condition, covenant, or obligation.

*Entire Agreement:* This Agreement constitutes the sole and entire Agreement between the City and the Contractor relating to the Services and completely supersedes and abrogates any prior Agreement (if any) existing between the City and the Contractor whether written or oral.

*Sub-Contractors:* The City has the right, without any liability to the City, to reject any proposed sub-contractor and to require the Contractor to substitute another sub-contractor that is acceptable to the City.

Sub-Contractors approved by the City shall not be changed without the written consent

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of the City.

*Permits:* The Contractor shall, at their own expense, procure all permits, certificates, and licenses required by law for the execution of the Services.

**IN WITNESS WHEREOF** the parties have executed this Agreement the day and year first above written above by their officers or persons duly authorized to execute on their behalf.

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XXXXXXXXXX

**Per:**

\_\_\_\_\_  
Name:

Title:

"I am an employee of the Corporation  
and have authority to bind"

**THE CITY OF BRANDON**

**Per:**

\_\_\_\_\_  
**Patrick Pulak, P. Eng., City Engineer**

"I am an employee of the Corporation  
and have authority to bind"

**SCHEDULE "A"****SPECIFICATIONS FOR A.R. MCDIARMID CIVIC COMPLEX & CITY OWNED PUBLIC PARKING (AREAS A-H)**

1. Areas to be cleared are as follows:
  - A. Visitor and Employee parking lot south of the A.R. McDiarmid Civic Complex, located at 638 Princess Avenue, Brandon, MB inclusive of entrance, wheelchair ramp, wooden staircase and deck;
  - B. Visitor and on-street parking on 7th Street (between Lorne Avenue and Princess Avenue) located on the west side of the A.R. McDiarmid Civic Complex;
  - C. Paved loading dock area where garbage bins are located on the southwest side of the A.R. McDiarmid Civic Complex;
  - D. Parking lot located at 1201 Pacific Avenue;
  - E. Parking lot located at 329 – 10th Street;
  - F. Parking lot located at 20 – 8th Street and lane across from 9th Street;
  - G. Parking lot located at 21 – 8th Street; and
  - H. Parking lot located at 641 Rosser Avenue.
2. Snow is to be cleared from all areas whenever there is an actual snowfall of at least 5 centimeters or 2.0 inches and once snow has stopped falling or in the event of a continuous snowfall, the Contractor shall clear all areas each time snowfall has accumulated to 20.0 centimeters or 8.0 inches within all areas.
3. Clearing is to be completed by 7:30 a.m.
4. Contract Administrator for these locations is:  
 Angie Robertson, Property Coordinator  
 Phone: 204-761-0524 or 204-729-2163  
 Email: [a.robertson@brandon.ca](mailto:a.robertson@brandon.ca)
5. Clearing and Removal of Snow from Areas A, B, & C  
**TOTAL PRICE**      \$ \_\_\_\_\_ /occurrence (includes taxes)
6. Clearing of Snow from Area D, E, F, G, & H  
**TOTAL PRICE**      \$ \_\_\_\_\_ /occurrence (includes taxes)
7. Optional Services (if applicable):
 

Street sweeping – All areas: \$ \_\_\_\_\_ (includes taxes)

Salting/Sanding – All areas: \$ \_\_\_\_\_ (includes taxes)

State your hourly rate: \$ \_\_\_\_\_ (includes taxes)

Increase/decrease for optional 2021-2022 season: \_\_\_\_\_ %

## SCHEDULE “B”

### SPECIFICATIONS FOR SPORTSPLEX (AREA I)

1. Areas to be cleared:
  - A. Front ramp on East side including parking area beside front entrance;
  - B. Parking lot on South side including all entrances;
  - C. Parking lot on West side including laneway; and
  - D. Tennis court/overflow parking on North side.

Snow must be cleared from all of the above areas prior to leaving the site.
2. Areas to be cleared whenever there is a snow fall of 5 centimeters or 2 inches and once the snow has stopped falling or has accumulated to the maximum of 20 centimeters or 8 inches whether still snowing or not.
3. Clearing to be done between 11:00 p.m. to 6:00 a.m.
4. Snow cannot be stockpiled in front of the building. Snow can either be put over the fence (not pushed) into the playground on the north side of the building or pushed and stockpiled in the track area in front of the timing tower. Snow does not need to be removed from these sites. Snow cannot be pushed across the street in front of the houses on the other side of the street.
5. Contract Administrator for these locations is:  
 Name:  
 Phone:  
 Email:
6. Clearing of Snow from Area I  
**TOTAL PRICE**    \$\_\_\_\_\_ /occurrence (includes taxes)
7. Optional Services (if applicable):  
  
 Street sweeping – All areas: \$ \_\_\_\_\_ (includes taxes)  
  
 Salting/Sanding – All areas: \$ \_\_\_\_\_ (includes taxes)  
  
 State your hourly rate: \$ \_\_\_\_\_ (includes taxes)  
  
 Increase/decrease for optional 2021-2022 season: \_\_\_\_\_%

SCHEDULE “C”

SPECIFICATIONS FOR BRANDON POLICE SERVICE (AREA J)

1. Areas to be cleared:

A. Visitor and employee parking lot north side of the building.

B. Police parking lot on the south side of the building.

C. Paved apron where garbage bins are located on east side of building.

D. All sidewalks at front of building.

E. All entrances to building from parking lots (man doors and garage doors).
2. Snow is to be cleared from areas A, B and C whenever there is a snow fall of 5 centimeters and once the snow has stopped falling or has accumulated to the maximum of 10 centimeters whether still snowing or not. Snow is to be cleared from area D and E when there is a snow fall of 2 centimeters once the snow has stopped falling or has accumulated to 5 centimeters whether still snowing or not.
3. Clearing to be completed by 6:00 a.m.
4. Contract Administrator for these locations is:

Name:

Phone:

Email:
5. Clearing of Snow from Area J

**TOTAL PRICE**    \$\_\_\_\_\_ /occurrence (includes taxes)
6. Optional Services (if applicable):

Street sweeping – All areas: \$ \_\_\_\_\_ (includes taxes)

Salting/Sanding – All areas: \$ \_\_\_\_\_ (includes taxes)

State your hourly rate: \$ \_\_\_\_\_ (includes taxes)

Increase/decrease for optional 2021-2022 season: \_\_\_\_\_%
7. The City reserves the right to temporarily remove sections of Areas B & C due to construction during the term of this agreement. Costs shall be on a prorated basis and agreed to by the Contract Administrator above and the Contractor in advance and in writing.



**XXXXXXX,**  
(hereinafter called the "Contractor"),  
**OF THE FIRST PART,**

**THE CITY OF BRANDON,**  
(hereinafter called the "City")

October 21, 2020

Tel: (204) 729-2232  
Fax: (204) 725-3235