

NOTICE

Thank you for your inquiry regarding the City of Portage project listed below:

Sale of Used Vehicle
1994 Case Model 721-C Articulated Wheel Loader

If you plan to bid on these vehicles, please send an e-mail response to purchasing@portagemi.com with the following information:

Firm Name: _____

Project Name: _____

Firm's Contact Person: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address: _____

Postal Address: _____

The City of Portage Purchasing Department will use this information to communicate with you in the event an addendum or change to this project is issued. If you do not send this information to the City of Portage, you will not receive any follow-up notification of any changes to the project.

Date of Issue: March 25, 2011

NOTICE TO BIDDERS

The City of Portage will open sealed bids on Tuesday, April 19, 2011 at 3:00 p.m. prevailing local time in the City Hall Conference Room #1 at 7900 South Westnedge Avenue for:

Sale of Used Vehicle
1994 Case Model 721-C Articulated Wheel Loader

You are invited to submit a bid for this project. Sealed bids may be mailed or delivered to the CITY OF PORTAGE, PURCHASING DEPARTMENT, 7900 South Westnedge Avenue, Portage, MI 49002. Envelopes should be plainly marked:

SEALED BID: Used Vehicle

FOR OPENING: Tuesday, April 19, 2011

General specifications, description and conditions upon which the bid proposal is to be based are available at the City of Portage website:

www.portagemi.gov/Departments/Purchasing/BidOpportunities.aspx.

Bid packages will also be mailed upon request.

The City reserves the right to reject any or all bids, to waive any irregularities, and further reserves the right to accept any bid or parts of bids which it deems to best serve the interest of the City.

Bidders may make arrangements to inspect the apparatus by contacting either Rod Russell, Fleet & DPS Facilities Manager at (269) 329-4441 or Ray Waurio, Deputy Director of Streets & Equipment at (269) 329-4430.

If you have any questions regarding disposal procedures, please contact the Purchasing Department at (269) 329-4534.

SPECIFICATION INDEX

<u>Section</u>	<u>Page No.</u>
Notice to Bidders	Cover
1. Instructions to Bidders	1
2. Specifications	2
3. Bid Proposal.....	3

- Attachments
Draft Bill of Sale
Draft Purchasing and Sale Agreement

1. INSTRUCTIONS TO BIDDERS

1.1. Examination of Bid Documents

Before submitting a proposal, bidders shall carefully examine the specifications and shall fully inform themselves as to all existing conditions and limitations and shall indicate in the proposal the sum to cover the cost of all items included on the bid form.

1.2. Withdrawal of Bids

Any bidder may withdraw his proposal, either personally or by facsimile or written request, at any time prior to the scheduled closing time for receipt of proposals.

Each proposal shall be considered binding and in effect for a period of sixty (60) days after the date of opening set forth in the advertisement.

1.3. Bid Opening

Bids will be opened and publicly read aloud at the time and place set forth in the Notice to Bidders.

1.4. Bid Form

1.4.1. Each bid shall be made on the form provided and, except for bids submitted via facsimile equipment, shall be submitted in a sealed envelope bearing the title of work and the name of the bidder, and shall be signed by an individual authorized to execute the proposal on behalf of the bidder.

1.4.2. Delivery of Proposals: Proposals shall be delivered by the time and to the place stipulated on the Notice to Bidders cover page. It is the sole responsibility of the bidder to see that his bid is received in the proper time. Any bid received after the bid opening date and time shall be returned to the bidder unopened.

1.5. Proposal Guarantee – Each bid shall be accompanied by a certified check or bid bond acceptable to the City in an amount equal to at least five percent (5%) of the proposal, payable without condition to the City as a guaranty that the bidder, if awarded the bid, will promptly execute the Agreement in accordance with the bid specifications. Bids that do not include a certified check or bid bond will be considered non-responsive and will be rejected. Company or personal checks will not be accepted as substitute for a certified check or bid bond. The Proposal Guarantees of all Bidders, except the three lowest, will be returned promptly after the canvass of Proposals.

1.6. Nondiscrimination

Upon submission of a proposal, the Bidder hereto agrees that he will comply with the

Federal Civil Rights Act of 1964 as amended; the Federal Civil Rights Act of 1991 as amended; the Americans with Disabilities Act of 1990 as amended; the Elliott-Larsen Civil Rights Act, Article 2, Act No. 453, Public Act of 1976 as amended; the Michigan Handicapper's Civil Rights Act, Article 2, Act No. 220; Public Act of 1976, as amended and all other applicable Federal, State and Local laws and regulations. Specifically, contractors and subcontractors are required not to discriminate against any employee or applicant for employment with respect to such person's hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because such person's height, weight, race, color, religion, national origin, ancestry, age, marital status, sex or disability, as defined by law. Breach of this covenant may be regarded as a material breach of the contract or purchase agreement and may be processed as provided under the State of Michigan laws.

1.7. Bids Submitted via Facsimile Equipment

1.7.1. Transmittal page must be plainly marked and faxed to 269-329-4535:

“Sealed Bid _____ for opening _____”
Bid Name Date

1.7.2. When bids are submitted via facsimile equipment, both the original document and the facsimile printout are counterpart originals.

1.7.3. Whenever a proposal guaranty/bond is required, bids submitted via facsimile equipment can comply with this provision by submitting a facsimile copy of the bond document. When a cashier's check is elected to meet the proposal guaranty/bond requirement, the cashier's check must be physically in the possession of the City by the date and time outlined on the Notice to Bidders, or such bid may be considered non-responsive.

1.7.4. **In electing to use the facsimile option, the bidder assumes full responsibility for any and all errors, omissions, or mistakes that result in a bid not being submitted in a timely manner, whether or not the mistake was the fault of the bidder.**

1.8. Basis of Award

The vehicle will be awarded on the basis of high bid. The City reserves the right to reject any or all bids, to waive any irregularities, and further reserves the right to accept any bid or parts of bids which it deems to best serve the interest of the City.

2. SPECIFICATION

- 2.1. **Description:** The City of Portage is accepting sealed bids for the sale of the following described vehicle:

1994 Case Model 721-C Articulated Wheel Loader

VIN# - JEE0041487

Hours - 8,134 hrs.

Condition: Overall body condition is good. Engine is in good shape and runs strong. The center and bucket pins are tight. Forward and reverse clutches are bad. Transmission slips when it gets hot. Cab heater core needs to be replaced. Heater core part will be provided with loader purchase.

Features: Heavy duty battery with cold start. 3 spool joy stick control operated by 2 levers in the cab. Tires - 20.5 x 25, in good condition with 75% rubber tread left. Loader has cab heat that requires repair, cloth seat, radio, ride control, mirrors, lights, backup alarm. The bucket is 2-3/4 yard capacity with bolt on cutting edge.

- 2.2. **Maintenance Records:** Maintenance records on the subject apparatus are available for review by making an appointment with Streets and Equipment personnel identified in section 2.5.
- 2.3. **Warranty/Vehicle Possession:** Unit is sold “as is” with no warranty expressed or implied. Buyer will take possession and be responsible for the transportation of the unit from the Streets & Equipment Department, 7719 South Westnedge Avenue, Portage, MI.
- 2.4. **Minimum Bid:** The vehicle has a reserve price. The reserve price will be announced prior to the opening of bids at the bid opening. Bids received for less than the minimum will be rejected.
- 2.5. For additional information, contact:

Rod Russell
Fleet & DPS Facilities Manager
Streets & Equipment Department
7719 South Westnedge Ave.
Portage, MI 49002
(269) 329-4441
FAX (269) 329-9240

Ray Waurio, Deputy Director
7719 South Westnedge Ave.
Portage, MI 49002
(269) 329-4430
FAX (269) 324-9240

DRAFT CONTRACT AGREEMENT

Following is a “*draft copy*” of the Bill of Sale and Purchase and Sale Agreement that will be executed by the City and the Buyer for the completion of this equipment sale.

BILL OF SALE

CITY OF PORTAGE, hereinafter "Seller", of 7900 S. Westnedge Avenue, Portage, Michigan 49002, hereby sells to _____, of _____, the following goods for the price of _____, the receipt of which is hereby acknowledged.

Description of goods:

1994 Case Model 721-C Articulated Wheel Loader

Unit is sold "as is" with no warranty expressed or implied of any kind.

Seller agrees to transfer all of the above property to _____ in exchange for \$ _____.

Seller warrants title to the goods.

CITY OF PORTAGE

Dated: _____, 2011

By: _____
Maurice S. Evans

Its: City Manager

Witnesses:

PURCHASE AND SALE AGREEMENT

This agreement is made on _____, 2011, between the CITY OF PORTAGE (“Seller”), a Michigan Municipal Corporation, located at 7900 South Westnedge Avenue, Portage, Michigan, and _____

RECITAL

The purpose of this agreement is to provide for the purchase and sale of a used vehicle, a 1994 Case Model 721-C Articulated Wheel Loader

AGREEMENT

In consideration of the mutual acts and promises, the parties agree as follows:

1. *Purchase and Sale of Equipment.* On the terms and subject to the conditions set forth in this agreement, Seller shall sell and convey to Buyer, and Buyer shall purchase from Seller, the Equipment.
2. *Purchase Price.* The purchase price for the Equipment shall be _____, which shall be paid in cash or certified check at the item of execution of this Agreement.
3. *Closing.* The closing of the purchase and sale shall take place on delivery of the Equipment to Buyer as set forth in paragraph 5.
4. *Bill of Sale.* At the closing, Seller shall execute and deliver to Buyer a bill of sale naming Buyer as owner of the Equipment.
5. *Delivery.* Buyer shall take delivery of the Equipment not later than _____. Buyer shall take the Equipment from Seller’s location and transport the Equipment at its own expense. The risk of loss shall pass to Buyer at closing.
6. *Representations and Warranties of Seller.* Seller represents and warrants to Buyer the following:
 - a) *Title:* Seller is the owner of the Equipment; the Equipment is free and clear of all security interests, liabilities, and encumbrances; Seller has the full right to sell

and transfer the Equipment; and Seller agrees to defend the title in the hands of Buyer against the claims of any person or entity whatsoever.

- b) **DISCLAIMER OF WARRANTY.** ALL EQUIPMENT IS SOLD “AS IS – WHERE IS,” WITHOUT ANY WARRANTY, EITHER EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- c) *Taxes.* Seller has paid in full, or will arrange to pay in full at or before the closing, any outstanding taxes with respect to the Equipment.
- d) *Judgments and Liens.* There are now and will be at the closing no judgments, liens, actions, or proceedings pending against Seller in any jurisdiction with respect to the Equipment.
- e) *Bulk Sale.* The sale and transfer of the Equipment does not constitute a bulk sale under any relevant Michigan statute, nor does it constitute a bulk sale under the Michigan Bulk Transfers Act (commonly known as the Bulk Sales Act), MCLA 440.6101 et seq., MSA 19.6101 et seq.
- f) *Approval.* The sale of the Equipment provided for in this agreement shall be approved by the City Council.
- g) *Liability.* The liability, if any, of Seller or its agents, officers, representatives, and employees regarding the Equipment and this agreement, for any claims, costs, damages, losses, and expenses for which they are, or may be, legally liable, whether arising in negligence or other tort, contract, or otherwise, shall not exceed in the aggregate the purchase price for the Equipment. **IN NO EVENT SHALL SELLER, ITS AGENTS, OFFICERS, REPRESENTATIVES, OR EMPLOYEES BE LIABLE FOR INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES.**

7. *Representations and Warranties of Buyer.* Buyer represents and warrants the following:

- (a) *Standing.* It is a corporation duly organized and validly existing and in good standing under the laws of the state of _____
- (b) *Conflict.* This agreement does not conflict with or constitute a default under any other agreement or commitment binding on Buyer.

8. *Default.* If Seller fails to comply with any term or condition of this agreement or is in violation of any warranty or representation, and if the failure is not cured within 10 days, Buyer’s remedy is limited to termination of this Agreement.

9. *Notices.* All notices required or appropriate to be given under this agreement shall be deemed to be given when delivered personally or by certified mail to Buyer or seller at their addresses listed above, or at any other addresses that may be communicated by the parties to each other in writing.

10. *Agreement Complete.* This document sets forth fully all agreements and understandings of the parties regarding the subject matter of this agreement.

11. *Captions.* The captions at the beginning of this agreement are not part of the context of this agreement, but have been inserted only to help locate and read the paragraphs. They shall be ignored in construing this agreement.
12. *Assignability; Binding Effect.* Neither Seller nor Buyer shall assign any portion or all of this agreement without the prior written consent of the other party. This agreement and all of its provisions shall be binding on, inure to the benefit of, and be enforceable by and against the respective successors, assigns, executors, and personal representatives of the parties.
13. *Governing Law.* This agreement shall be governed by the laws of the State of Michigan, but not including the application of any conflicts-of-law rules, and Seller and Buyer consent to jurisdiction of the Michigan courts over this agreement and over the parties in any proceeding brought to enforce this agreement.
14. *Authorization.* Each party to this Agreement which is a corporation, limited partnership, general partnership, trust or other entity warrants and represents that it is properly authorized by its board of directors, stockholders, partners, Elected and Appointed Officials, and/or holders of beneficial interests to enter into this Agreement.

The parties have each signed duplicate counterparts of this agreement on _____.

SELLER
CITY OF PORTAGE

BUYER

By: _____
Maurice S. Evans

By: _____

Its: City Manager

Its: _____