

MILWAUKEE TRANSPORT SERVICES, INC.
Operator of the Milwaukee County Transit System
1942 NORTH 17TH STREET
MILWAUKEE, WI 53205
sbaker@mcts.org | www.ridemcts.com

Bid 2021-08 Three (3) COUNTERBALANCED WALKIE FORKLIFTS
Released: February 11, 2021

Milwaukee Transport Services (MTS), a quasi-governmental instrumentality of Milwaukee County and operator of the Milwaukee County Transit System (MCTS). MTS is accepting bids for **three (3) counter balanced walkie forklifts until**

March 18, 2021 by 2:00 PM CST

Bids will be publicly opened and read at the above opening date and time in Room 104 of the Administration Building- Materials Management Department. **Late bids will not be opened or accepted for evaluation.** Due to the pandemic vendors should consider sending earlier if using a third-party delivery method. Any bids received after the established due date and time at the place designated for receipt of bids is late and will not be accepted. One bid per bidder.

Specifications:

To comply with Specification No. FM-07-21 which is included in this solicitation document.

Contract Type and Term

This is a firm fixed price contract for the purchase of three (3) forklifts including delivery to MTS by October 15, 2021.

How to Bid and Award of Contract:

Bid a unit price per each unit. Award(s) will be based on the line-item price on Line 1, less invoice discount of 30 days (if any). Award(s) will be made to the lowest responsible bidder complying with the specifications, & will be based on what is deemed in the best interest of MTS.

All responses must be returned in a sealed envelope provided by the vendor with **Bid 2021-08** for forklifts clearly marked on the outside of the envelope and received by **March 18, 2021 by 2:00 PM CST**. If bids are returned via Federal Express or UPS, the outer envelope must also be clearly identified with the bid number & title as stated above. **Faxed or emailed bids will not be allowed or accepted. One bid per vendor.**

Allow for delivery timeline to take longer due to pandemic.

Bidders shall be responsible to obtain all documents pertaining to the bid via the website:

<https://www.ridemcts.com/business-partners/ebid>

Qualifying of Approved Equal:

All items must be furnished as specified unless a proposer requests and receives permission to substitute an approved equal. Vendors requesting that other products be approved equal to the specified product(s) must submit their request in writing to the Purchasing Agent sbaker@mcts.org accompanied by the physical characteristics, specifications of the product proposed.

All communications regarding this bid should be directed to the Purchasing Agent listed on page one. **The deadline for requesting an approved equal model is February 23, 2021 by Noon CST.**

Vendors may be required to submit an actual sample of equal quality to that being proposed upon request from MTS. If a vendor's request for approved equal is granted, all bidders will be notified through written addendum of the product(s) that have been approved equal to the specified products. Notice shall be deemed given with a faxed notification of the addendum's publishing to MTS' website. Failure to receive such notice shall not affect any bid or any contract award.

Question Deadline:

Questions regarding this solicitation document, and/or any requests for approved equal(s) MUST be submitted to Stephanie Baker via e-mail to sbaker@mcts.org and received **no later than February 23, 2021 by Noon CST.**

Manufacturers Name:

Bidders shall state in their bids the Manufacturer or Trade name and part number of the items they propose to furnish. The name of any manufacturer or trade name in the specifications is only for specifying a standard quality and type and for no other purpose.

Line items bid without listing manufacturer and part number will be considered nonresponsive.

Right to Reject:

MTS reserves the right to make an award based on its own determination, or to reject and or all bids or portions of same, if in the opinion of MTS, the best interest of MTS will be served thereby. In awarding a contract, MTS reserves the right to consider all elements entering the determination of the responsibility of the bidder. Any bid which is incomplete, conditional, obscure, or which contains additions not required, or irregularities of any kind, may be deemed non-responsive. In case of any discrepancy between the price written in the bid and that given in figures for any item, the price in writing will be considered as the bid. MTS also reserves the right to take into consideration the Bidders past performance with MTS or and other entity in determining if the Bidder is responsible and qualified.

Waiver of Informalities:

In its sole discretion, MTS may waive informalities and minor irregularities in bids received.

Binding Contract:

A bid received in response to this solicitation is an offer that can be accepted by MTS to create a binding contract without negotiation with any vendor.

Order of Precedence:

An order of precedence is hereby formally established and will be used to form a binding contract. The order is as follows:

1. Purchase Order.
2. All documents contained within and related to **Bid 2021-08**
3. Bid from the successful vendor.

The order of precedence establishes that, in any conflict between the bid and the Purchase Order and/or Bid Documents, the Purchase Order and/or Bid Documents take precedence and control.

Tax Exemption:

MTS is an agency of Milwaukee County and is exempt from Wisconsin Sales Tax under Section 77.54 (9a) (b) of the Wisconsin Statutes, and is exempt from the Federal Excise Tax, and has been granted Exempt No. 39-73-0429K. Wisconsin Exempt No. CES014818. Bids shall be submitted excluding any of these taxes.

Prices Bid:

The prices shall be unit prices and shall be stated in figures in the appropriate places shown on the bid form for the various items. Where the bidder desires to make this quotation by filing his catalogue, accompanied by his price list and discount sheet, if any, you may do so by attaching such documents to the bid and making them a part thereof, but such documents shall all be separately signed in the same manner and by the same person as the bid.

Method of Award

MTS reserves the right to make an award based upon the lowest, responsive, responsible bid or to reject any or all bids.

Net Price Used to Determine Lowest and Responsive Bid

Discounts offered by bidders should be reflected as a net price. Terms of payment required must be as identified on the Bid Form under Terms of Payment.

Determination of Bid Price

Bid Price shall be determined by subtracting the core credit from the initial cost. If a core credit will NOT be given, enter zero (0). If the number is greater than zero, then the awardee shall accept cores and grant the solicited credit.

Single Bid, If Received:

If only a single bid is received, MTS may require that the Bidder provide the necessary cost or pricing data to enable MTS to perform a cost or price analysis to ensure that the bid price is fair and reasonable. If requested, the Bidder shall provide the cost or price data within five (5) working days of the date requested. MTS reserves the right to reject or accept the bid based on the cost or pricing data. Where only one responsive and responsible bid is received, MTS may also negotiate price with the sole responsive bidder.

Amendments to Bid Document:

Any clarifications or further instructions to bidders will be sent to all prospective offerors in addendum form. All questions and comments regarding this solicitation must be submitted via email sbaker@mcts.org on or before **February 23, 2021– Noon CST.** Subject line of bid shall state bid 2021-08.

Inspection:

Materials or equipment purchased are subject to inspection and approval at MTS’s destination. MTS reserves the right to reject and refuse acceptance of items which are not in accordance with the instructions, specifications, drawings or a part of the contractor’s warranty (express or implied). Rejected materials or equipment shall be removed by, or at the expense of the contractor promptly after rejection.

Contract Continuation:

Contractor recognizes that the services under this contract are vital to MTS and to the public and must be continued without interruption. Contractor agrees that MTS, in its sole discretion, and by written notice to Contractor at least 30 days prior to contract expiration, may extend this Agreement for up to an additional 120 days. If so, extended by MTS, Contractor shall continue to provide services under this Agreement, on the same terms as set forth in this Agreement. MTS may terminate any such extension by providing Contractor with 30 days’ notice. Contractor further agrees to exercise its best efforts and cooperation to affect an orderly and efficient transition to any successor Contractor.

County Rights of Access and Audit

The Contractor, Lessee, or other party to the contract, its officers, directors, agents, partners and employees shall allow the County Audit Services Division and department contract administrators (collectively referred to as Designated Personnel) and any other party the Designated Personnel may name, with or without notice, to audit, examine and make copies of any and all records of the Contractor, Lessee, or other party to the contract, related to the terms and performance of the Contract for a period of up to three years following the date of last payment, the end date of this contract, or activity under this contract, whichever is later. Any subcontractors or other parties performing work on this Contract will be bound by the same terms and responsibilities as the Contractor. All subcontracts or other agreements for work performed on this Contract will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. The Contractor, Lessee, or other party to the contract, and any subcontractors understand and will abide by the requirements of Section 34.09 (Audit) and Section 34.095 (Investigations Concerning Fraud, Waste, and Abuse) of the Milwaukee County Code of General Ordinances.

Funds

If funds are not appropriated for payment of this contract, Purchaser may terminate contract at the end of any fiscal year upon 30 days written notice.

MTS operates the transit system for, and under an agreement with, Milwaukee County, Wisconsin. All multi-year contracts / agreements with MTS are contingent upon Milwaukee County retaining MTS as the operator of the transit system. The continuation of this agreement beyond December 31 of any given year, shall be contingent upon MTS receiving the necessary funding from the government agency.

Variations in Word and Figures

In case of variation between the amounts in words and figures, the amount prescribed in words will prevail.

Delays in Delivery

Delays in delivery caused by bona fide strikes, government priority or requisition, riots, fires, sabotage, acts of God or any other delays deemed by the Director of Materials Management to be clearly and unequivocally beyond the contractor's control, will be recognized. The vendor may be relieved of meeting the delivery time specified if vendor files with the Director of Materials Management a request for an extension of time, signed by a responsible official, giving in detail all the essential circumstances which upon verification by Director of Materials Management justifies such extension.

Delivery Terms

Bids shall include delivery costs to the specified delivery point, all transportation charges prepaid and borne by you. **All three forklifts must be delivered to Fleet Maintenance Building at 1525 W. Vine Street Milwaukee WI 53205 no later than October 15, 2021.**

PROTESTS AND APPEALS Policy for Sealed Bids:

Calculation of time in days and hours shall exclude Saturdays, Sundays and major holidays.

A. Prior to sealed bid opening:

1. Protests to form and content of bid documents shall be received by the Director of Materials Management not less than five (5) days prior to the time scheduled for bid opening. Protests shall be in writing and state the reason for it.

2. The Director of Materials Management shall review protests and if modification is necessary, the bid opening date shall be extended and addenda containing the changes shall be sent to each bidder. If the modification is rejected, the protestor shall be notified. The decision of the Director of Materials Management is final.

B. After sealed bid opening:

1. Protests concerning irregularities on sealed bid opening procedures or compliance by bidders with bid documents shall be received by the Director of Materials Management within seventy-two (72) hours after time of bid opening.

2. When a sealed bid is awarded to other than the lowest bidder, all bidders shall be notified in writing by certified mail, return receipt requested, or by email of the proposed award. Protest to the award must be delivered to the Director of Materials Management within seventy-two (72) hours after receipt of notice. A copy of the email, or envelope if mailed shall be conclusive proof of the time and date of receipt by a bidder.

3. A protest under either (B.1.) or (B.2.) above must be in writing and state the reason for it. The Director of Materials Management shall review the protest and notify the protestor of a decision in writing by certified mail return receipt requested, or by email transmission, within five (5) days. No contract shall be awarded while a protest is pending. A protest that is untimely or fails to clearly state the reason for it or shall have been made prior to bid opening is invalid.

The decision of the Director of Materials Management disqualifying the protest for these reasons is final and cannot be appealed. A copy of the letter or email, shall be conclusive proof of the time and date of receipt by a bidder.

C. Appeals to the Purchasing Appeals Committee:

1. Protest from the decision of the Director of Materials Management shall be made to the Purchasing Appeals Committee by delivering a written request for appeal hearing both to the Materials Management Department and the Purchasing Appeals Committee within seventy-two (72) hours after the receipt of the Director of Materials Management's decision.
2. Written appeals to the Purchasing Appeals Committee shall be addressed as follows:
Purchasing Appeals Committee
C/O MTS Materials Management Department
1942 North 17th Street
Milwaukee, WI 53205
3. The request shall state the grounds upon which the protest is based and shall request an appeal hearing. No contract shall be awarded until the final disposition of the protest.
4. The Chairperson of the Purchasing Appeals Committee shall notify all interested persons of the time and place of the hearing.
5. The Purchasing Appeals Committee shall affirm, reverse or modify the decision of the Director of Materials Management and its' decision shall be final.

Code of Ethics

The Milwaukee County Code of Ethics states in part, "No person may offer to give to any Public official or employee or his immediate family, and no Public official or employee or his immediate family may solicit or receive anything of value pursuant to an understanding that such officers or employees' vote, official actions or judgment would be influenced thereby."

No person(s) with a personal financial interest in the approval or denial of a contract being considered by a County department or with an agency funded and regulated by a County department, may make a campaign contribution to any County official who has approval authority over that contract during its consideration.

Contract consideration shall begin when a contract is submitted directly to a County department or to an agency until the contract has reached final disposition, including adoption, county executive action, proceedings on veto (if necessary) or departmental approval. This provision does not apply to those items covered by Section 9.15 unless an acceptance by an elected official would conflict with this section. The language in Section 9.05(2)(l) shall be included in all Request for Proposals (RFP) and bid documents.

Indemnification Agreement

The successful bidder shall indemnify and hold harmless Milwaukee Transport Services, Milwaukee County, their employees, agents and assigns, from any and all liability for damages on account of injury, including death, to persons, including employees of Milwaukee Transport Services or Milwaukee County, or for damage to property which actually or allegedly results from or actually or allegedly arises in connection with the performance of services or the furnishing of goods or products provided in connection with this bid. In addition, the successful bidder shall reimburse Milwaukee Transport Services, Inc. and Milwaukee County for all costs, expenses, including all costs of defense attorneys fees, and all other losses incurred by Milwaukee Transport Services, Inc. or Milwaukee County in connection with any claims, demands and causes of action, whether meritorious or not, which may be brought against Milwaukee Transport Services, Inc., Milwaukee County or their employees, agents or assigns, arising in whole or in part from goods, services or products provided or furnished for this bid.

Intellectual Property Indemnification

The successful bidder shall defend, at its expense, any action brought against MTS or Milwaukee County or their employees to the extent that it is based on a claim that the goods, services, or products provided in connection with this purchase order infringes any patent, trade secret, trademark, copyright, or other proprietary right. Successful bidder shall indemnify MTS and Milwaukee County for any costs, damages, and fees, including any costs, damages, and fees finally awarded against MTS and Milwaukee County, which are attributable to such claim, provided that MTS or Milwaukee County notifies successful bidder of the claim. MTS and Milwaukee County shall permit successful bidder, at successful bidder's sole discretion, to defend, compromise or settle the claim. MTS and Milwaukee County shall provide all available information, assistance and authority to enable Vendor to do so, provided successful bidder reimburses MTS and Milwaukee County for such activity.

Independent Contractor

Nothing contained in the Agreement shall constitute or be construed to create a partnership or joint venture between MTS, Inc. or its successors and the Contractor or its successors or assigns. In entering into this Agreement, and in acting in compliance herewith, Contractor is at all times acting and performing as an independent Contractor, duly authorized to perform the acts required of it hereunder.

Retention of Records

Contractor agrees to retain all records related to this contract for a period of at least three years from final date of payment of this contract

Audit of Records

Contractor shall permit the authorized representative of the Milwaukee County Auditor, after reasonable notice, the right to inspect and audit all data and records of Contractor related to carrying out the contract for a period of up to three years after completion of the contract. If subcontracts and/or associates are utilized, prime contractor shall have written contractual agreement with County approved subcontractors and/or associates which bind the subcontractor to the same audit contract terms and conditions as the prime Contractor.

Non-Discrimination

The contractor, lessee, offeror, supplier, purchaser, etc., agrees not to discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, sex, or handicap, which include, but not limited to: recruitment or recruitment advertising; employment; upgrading; demotion or transfer, layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship. A violation of this provision shall be sufficient cause for MTS to terminate the contract, lease, order, etc. pursuant to County Ordinance 56.17 - Non-Discriminatory Contracts.

Written Change Orders

Oral change orders are not permitted. No change in this contract shall be made unless the contracting officer gives his prior written approval, therefore. The contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting, any specification changes not properly ordered by written modification to the contract and signed by the contracting officer.

Enclosures:

1. Specification **FM-07-21**
2. Requirements/Certifications Package

Do not return the full bid document.

Required forms

Bidders shall complete and return all bid forms required. The bid forms must be submitted using the exact forms provided and must be signed by an authorized representative of the Bidder. Any alterations of the Forms or failure to submit required Forms may cause the Bid to be rejected as non-responsive.

Documents that must be returned with Bid:

Vendors shall return all the forms listed below, in this order.

1. Bid Sheet
2. Signature Sheet
3. EEO Certificate
4. Bidders list form
5. Conflict of Interest Statement
6. Copy of the required 2-year Warranty for Proposed Bid Items

Conflict of Interest Statement

_____ hereby certifies that our Firm's officers and personnel assigned to the _____ project or their immediate family members do not have a conflict of interest performing the duties outlined in this contract with Milwaukee County Transit System (MCTS) or Milwaukee Transport Services (MTS). To the best of our knowledge no officer or personnel assigned or the immediate family members has a material financial interest in any commercial entity which may provide products or services as part of the _____ project. If any officers and personnel that are assigned to the _____ project become aware of a conflict of interest they will notify MTS immediately and take necessary action to address the conflict.

Conflict of Interest: A situation in which a person or organization is involved in multiple interests (financial, emotional, or otherwise) one of which could corrupt the motivation of the person or organization.

Company Name: _____

Authorized Name _____ Title: _____

Name of Consultant Assigned: _____

Consultant Signature: _____

Date: _____

SIGNATURE SHEET

CASH DISCOUNT:

Cash invoice discount for payment of invoices following receipt and acceptance of goods or services _____% 30 days.

DELIVERY:

Price shall include delivery, FOB destination freight prepaid to Milwaukee Transport Services, Inc., 1525 W. Vine St., Milwaukee, WI 53205, unless otherwise noted in this bid.

BY SIGNING THIS BID YOU ARE AGREEING WITH THE FOLLOWING STATEMENTS:

1. This bid has been made without any connection with any other bidder and is in all respects fair and without collusion or fraud.
2. This bid has been made with the understanding that no elected officer/employee of Milwaukee Transport Services, Inc., or Milwaukee County is interested therein, directly or indirectly.
3. The specifications for this bid have been read and understood.
4. Your company has never defaulted on any contract with Milwaukee Transport Services, Inc., or Milwaukee County.

In signing and submitting this bid, the bidder assures Milwaukee Transport Services, Inc., that the furnishing of the subject materials, services or equipment is under his/her control and accepts and has read all the Terms and Conditions of MTS, of this BID/RFP and all of its documents. If the bidder's performance, in the event he/she is successful is contingent upon the act of another party, the bidder assures MTS that he/she has the necessary commitments to complete the contract which may be awarded him/her.

Date: _____

Submitted by: _____

Name of firm: _____

Address of firm: _____

Signed per: (manual signature required) _____

Print name: _____

Title: _____ Email: _____

Telephone: _____ Fax: _____

Bid price page.

Bid 2021-08 Counterbalanced Walkie Forklifts

The undersigned bidder proposes to furnish the materials and services herein described at and for the prices hereinafter named, according to specification on file in the office of the Director of Materials Management, and, if successful, hereby agrees to enter into an agreement with Milwaukee Transport Services, Inc.

ITEM 1 Three (3) Each Counterbalanced walkie forklifts.
Big Joe model # CB33-104, Toyota 6BWC15 or approved equal including all delivery and set up charges.

Bid price in Words _____ each.

Bid price in Figures \$ _____ each.

Manufacturer & Part # _____

Complete delivery of forklifts must be prior to October 15, 2021.

Vendor Name: _____

Vendor email contact: _____

Vendor DUNS number: _____

**EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATE
FOR
MILWAUKEE COUNTY CONTRACTS**

In accordance with Section 56.17 of the Milwaukee County General Ordinances and Title 41 of the Code of Federal Regulations, Chapter 60, SELLER or SUCCESSFUL BIDDER or CONTRACTOR or LESSEE or (other-specify) _____ (henceforth referred to as **VENDOR**), certifies to MILWAUKEE COUNTY as to the following and agrees that the terms of this certificate are hereby incorporated by reference into any contract awarded.

Non-Discrimination

VENDOR certifies that it will not discriminate against any employee or applicant for employment because of race, color, national origin, age, sex or disability, which includes, but is not limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

VENDOR will post, in conspicuous places available to its employees, notices to be provided by the County setting forth the provisions of the non-discriminatory clause.

A violation of this provision shall be sufficient cause for the County to terminate the contract without liability for the uncompleted portion or for any materials or services purchased or paid for by the contractor for use in completing the contract.

Affirmative Action Program

VENDOR certifies that it will strive to implement the principles of equal employment opportunity through an effective affirmative action program, which shall have as its objective to increase the utilization of women, minorities, and persons with disabilities and other protected groups, at all levels of employment in all divisions of the seller, successful respondent or contractor's work force, where these groups may have been previously under-utilized and under-represented

Non-Segregated Facilities

VENDOR certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained.

Subcontractors

VENDOR certifies that it has obtained or will obtain certifications regarding non-discrimination, affirmative action program and non-segregated facilities from proposed subcontractors that are directly related to any contracts with Milwaukee County, if any, prior to the award of any sub-contracts, and that it will retain such certifications in its files.

Reporting Requirements

Where applicable, **VENDOR** certifies that it will comply with all reporting requirements and procedures in Title Code 41 Code of Federal Regulations, Chapter 60.

Affirmative Action Plan

VENDOR certifies that, if it has 50 or more employees, it has filed or will develop and submit (within 120 days of contract award) for each of its establishments a written affirmative action plan. Current affirmative action plans, if required, must be filed with ANY one of the following: The Office of Federal Contract Compliance Programs, or the State of Wisconsin, or the Milwaukee County Department of Audit, Milwaukee County - City Campus, 9th Floor, 2711 W. Wells Street, Milwaukee, Wisconsin 53208. If a current plan has been filed, indicate where filed _____ and the year covered _____. Please provide proof of your AA Plan approval.

VENDOR will also require its lower-tier subcontractors who have 50 or more employees to establish similar written affirmative action plans.

Employees

VENDOR certifies that it has _____ employees in the Standard
(No. of Employees)
Metropolitan Statistical Area (Counties of Milwaukee, Waukesha, Ozaukee and Washington, Wisconsin) and _____ employees in total.
(Total No. of Employees)

Compliance

VENDOR certifies that it is not currently in receipt of any outstanding letters of deficiencies, show cause, probable cause, or other notification of noncompliance with EEO regulations.

Executed this _____ day of _____ 20____ by:

Firm Name: _____

Address: _____

City/State/Zip _____

Telephone: _____

(Title)

WARNING: An unsigned form shall be considered as a negative response.

By _____
(Signature)

(Please Print Name Here)

MILWAUKEE COUNTY – BIDDERS LIST FORM
DOT ASSISTED CONTRACTS [49 CFR, Part 26]

49 CFR, Part 26 requires that all recipients of Federal Funds collect certain information from all bidders submitting responses to solicitations. To assist in the building of demographics for the area upon which reasonable and effective expectations of DBE opportunities may be based, all bidders are required to return this certificate with their offer. Any offer submitted that does not contain a completed copy of this form will be ruled as non-responsive and dropped from further consideration in the procurement process of the solicitation.

Firm Name: _____

Firm Address: _____

Firm Phone (____) _____ Firm Email Address _____

Firm Fax: (____) _____

General Classification of Firm by Quantity of Employees:

____ Less than 10 ____ 11-50 ____ 51-100 ____ 101-500
____ 501-1000 ____ 1001-5000 ____ More than 5000

General Classification of Firm in Age of Existence:

____ 0-5 years ____ 6-10 years ____ 11-50 years ____ Over 50 years

General Classification by Type:

____ Firm is a Small Business ____ Firm is a Certified DBE
____ Firm is a Certified WBE ____ Firm is not one of the above

General Classification by Annual Gross Income:

____ The approximate annual gross income for this firm is less than \$100,000
____ The approximate annual gross income for this firm is \$100,000 - \$250,000
____ The approximate annual gross income for this firm is \$250,001 - \$500,000
____ The approximate annual gross income for this firm is \$500,000 - \$1M
____ The approximate annual gross income for this firm is \$1M - \$5M
____ The approximate annual gross income for this firm is greater than \$5M

I certify this information is accurate to the best of my knowledge.

Signature

Print Name

Date

02/02/2021

Specification No: FM-07-21
For
Walk Behind Forklift

SCOPE

It is the intent of this specification to describe the minimum requirements for three (3) counterbalanced walkie forklifts for use at the Milwaukee County Transit System. All items or features not specifically mentioned which are necessary or are normally furnished in order to provide a complete unit shall be furnished by the successful bidder at the bid price and shall conform in quality of materials and workmanship to that usually provided by the engineering practice indicated in this specification. Milwaukee County Transit System Shall be referred to as MCTS hereinafter.

CLASSIFICATION

The three (3) counterbalanced walkie forklifts shall be an electric over hydraulic walk behind unit equipped with an automatic battery charging unit with automatic start and stop. Forklifts shall be a Big Joe model # CB33-104, Toyota 6BWC15 model or approved equal.

SECTION 1 –EQUIPMENT AND FEATURES
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- **Chassis:** 3,300 lbs. capacity @ 24” load center
- **Battery:** (4) 6V 224AH AGM battery with internal charger.
- **Mast:** two stage LH 104” CH 72” FL 6” EX H 140”
- 35.5” wide carriage
- 32.50” x 13.10” x open battery compartment
- 48” high load backrest
- Gauge type battery discharge indicator
- 24-volt ZAPI travel controller
- AC drive motor
- Anderson 175 gray connector
- 10” x 4” smooth polyurethane drive tire.
- 10” x 4” polyurethane load wheel
- Thumb control travel function control handle
- Lift / lower and tilt levers in handle
- Regenerative electromagnetic braking
- ‘Belly button’ reversing switch
- Anti-roll back and ‘neutral’ braking
- Built-in pressure valve
- Dual lifting chains
- 16.25” tall x 32” wide ITA fork carriage

- Minimum 8” / maximum 31.5” fork OD
- 48” tall load backrest
- 3 degrees forward and 7 degrees backward tilting fork carriage
- Automatic high speed cut off.
- Hour meter
- Battery charger shall be an automatic type equipped with automatic start and stop.
- Side shift within handle control and housing

SECTION 2 – INSPECTION

- 2.1 An authorized agent of MTS shall inspect and test the delivered equipment to determine compliance with this specification.

SECTION 3 – DELIVERY AND PREPARATION

- 3.1 Delivery: The three (3) counterbalance walkie forklifts shall be delivered F.O.B. destination, freight prepaid to:

Milwaukee County Transit System
 1525 W. Vine St.
 Milwaukee, WI 53205

Deliveries shall be made Monday through Friday, 7:00 am to 2:00 pm.

- 3.2 Preparation: The successful bidder shall supply the forklifts, and supply personnel to instruct employees of MTS in the use and operation of this machine. All of these services shall be covered in the basic bid price. All training shall be performed prior to payment.

SECTION 4 – NOTES

- 4.1 Warranty: This equipment shall have a two (2) year warranty covering ALL PARTS AND ALL LABOR, starting on the date the equipment is accepted and placed into service. The bidder shall be responsible for the warranty on all parts, including parts supplied by firms other than the manufacturer.
- 4.2 Manuals: The bid shall include service manuals, maintenance manuals and parts manuals, prior to final payment being made.

THE MILWAUKEE COUNTY TRANSIT SYSTEM IS
OPERATED AND MANAGED BY
MILWAUKEE TRANSPORT SERVICES, INC. (MTS)

DIRECTIONS FOR BIDDING

1. **How to Bid**

All bids shall be in printed or typed and all prices and amounts stated in words and figures. All bids shall be submitted on the official bid price form furnished by Materials Management. The Signature sheet must be signed with the vendor's name and manually signed by an officer or employee authorized by the Vendor. Unsigned Signature sheets or missing Signature sheets shall be determined unresponsive shall not be considered. If the bid price sheet(s) do not provide sufficient space, bidders may attach a sheet supplying the additional information.

2. **How to Amend a Bid Before Due Date and Time**

After a bid has been filed with Materials Management Department and the bidder desires to amend his/her bid, he/she may do so before the due date and time by filing an amendment, fully identified with the original bid submitted by number, commodity and opening date. All the conditions and provisions of the original bid will be in effect. This must be submitted before the due date and time for receipt of bids as set forth in the bid documents. No bids or amendments will be accepted after the bid opening date and time specified.

3. **Variations in Word and Figures**

In case of variation between the amounts in words and figures, the amount prescribed in words will prevail.

TERMS AND CONDITIONS OF PURCHASE

Calculation of time in days and hours shall exclude Saturdays, Sundays and major holidays.

1. Award

Award will be made to the lowest responsive, responsible bidder meeting specifications. MTS reserves the right to award a separate contract for each item unless otherwise specified in the bid; any group of items; or to reject any or all bids or any portion of any or all bids when, in the opinion of the Director of Materials Management the best interests of MTS will be served thereby.

Milwaukee Transport Services, Inc reserves the right to make an award based on its own determination, or to reject any or all proposals or portions of same, if in the opinion of MTS, Inc., the best interests of Milwaukee Transport Services, Inc. will be served thereby.

2. Tie Bids

If there are tie bids, award will be made in accordance with tie bid provisions as outlined in Chapter 32 of the Milwaukee County General Ordinances.

3. Changes in Specifications

Changes to specifications are not permitted. Bids not meeting the minimum requirements specified shall be rejected. All merchandise shall be new and unused unless otherwise specified in the specifications.

4. Defaulting Bidders Excluded

No bids will be accepted from any person, firm or corporation that has failed to perform faithfully any previous contract with MTS unless said person, firm or corporation has been reinstated on the eligible list of bidders by the Director of Materials Management.

5. Delays in Delivery

Delays in delivery caused by bona fide strikes, government priority or requisition, riots, fires, sabotage, acts of God or any other delays deemed by the Director of Materials Management to be clearly and unequivocally beyond the contractor's control, will be recognized. The vendor may be relieved of meeting the delivery time specified if vendor files with the Director of Materials Management a request for extension of time, signed by a responsible official, giving in detail all the essential circumstances which upon verification by Director of Materials Management justifies such extension.

6. Delivery Terms

Bids shall include delivery costs to the specified delivery point, all transportation charges prepaid and borne by the vendor.

7. **Taxes**

MTS is exempt from Federal Excise Taxes and Wisconsin State Sales Tax. Bids shall be submitted without such taxes.

8. **Code of Ethics**

The Milwaukee County Code of Ethics states in part, "No person may offer to give to any Public official or employee or his immediate family, and no Public official or employee or his immediate family may solicit or receive anything of value pursuant to an understanding that such officers or employees' vote, official actions or judgment would be influenced thereby."

No person(s) with a personal financial interest in the approval or denial of a contract being considered by a County department or with an agency funded and regulated by a County department, may make a campaign contribution to any County official who has approval authority over that contract during its consideration. Contract consideration shall begin when a contract is submitted directly to a County department or to an agency until the contract has reached final disposition, including adoption, county executive action, proceedings on veto (if necessary) or departmental approval. This provision does not apply to those items covered by Section 9.15 unless an acceptance by an elected official would conflict with this section. The language in Section 9.05(2)(l) shall be included in all Request for Proposals (RFP) and bid documents.

9. **Funds**

If funds are not appropriated for payment of this contract, Purchaser may terminate contract at the end of any fiscal year upon 30 days written notice.

MTS operates the transit system for, and under an agreement with, Milwaukee County, Wisconsin. All multi-year contracts / agreements with MTS are contingent upon Milwaukee County retaining MTS as the operator of the transit system. The continuation of this agreement beyond December 31 of any given year, shall be contingent upon MTS receiving the necessary funding from the government agency.

10. **Insurance**

Contractor agrees to maintain policies of insurance and proof of financial responsibility to cover costs as may arise from claims for damages to property of and/or claims which may arise out of or result from Contractors activities, by whomever performed, in such coverage and amounts as required and approved by MTS. Acceptable proof of such coverage shall be furnished to MTS prior to commencement of activities under this agreement. A Certificate of Insurance including declarations page, shall be submitted for review for each successive period of coverage for the duration of this agreement, unless otherwise specified by MTS, in the minimum amounts specified below.

Contractor shall provide evidence of the following coverages and minimum amounts:

<u>Type of Coverage</u>	<u>Minimum Limits</u>
Wisconsin Workers' Compensation and Employer's Liability & Disease	Statutory/Waiver of Subrogation \$100,000/\$500,000/\$100,000

General Liability	\$1,000,000 Per Occurrence
Bodily Injury and Property Damage to include: Personal Injury, Fire, Products and Completed Operations	\$2,000,000 Aggregate
Automobile Liability	\$1,000,000 Per Accident
Bodily Injury and Property Damage All Autos	
Professional Liability	\$1,000,000 Per Occurrence
Refer to Additional Provision A.1.	\$3,000,000 Aggregate
Umbrella Liability	\$5,000,000 Per Occurrence
Policy will follow form to underlying Employer's, General, and Automobile Liability policies	\$5,000,000 Aggregate

Milwaukee Transport Services, Inc (MTS) and Milwaukee County shall be named as an Additional Insured on the General and Automobile Liability policies as respects the services provided in this agreement. A Waiver of Subrogation shall be afforded to MTS on the Workers' Compensation policy. A thirty (30) day written notice of cancellation or non-renewal shall be afforded to Milwaukee County.

The insurance specified above shall be placed with a Carrier approved to do business in the State of Wisconsin. All carriers must be A rated or better per AM Best's Rating Guide. Any requests for deviations from or waivers of required coverages or minimums shall be submitted in writing and approved by MTS's Risk Manager as a condition of this agreement.

A.1. Professional Liability – Additional Provision.

Contractor agrees to provide additional information on its professional liability coverage as respects policy type, i.e. errors and omissions for consultants, architects, and/or engineers, etc.; applicable retention levels; coverage form, i.e. claims made, occurrence; discover clause conditions, and effective retroactive and expiration dates, to MTS's Procurement Department as may be requested to obtain approval of coverage as respects this section.

It is understood and agreed that coverage which applies to the services inherent in this agreement will be extended for two (2) years after completion of all work contemplated on this project if coverage is written on a claims-made basis.

11. Indemnification Agreement

The successful bidder shall indemnify and hold harmless Milwaukee Transport Services, Milwaukee County, their employees, agents and assigns, from any and all liability for damages on account of injury, including death, to persons, including employees of Milwaukee Transport Services or Milwaukee County, or for damage to property which actually or allegedly results from or actually or allegedly arises in connection with the performance of services or the furnishing of goods or products provided in connection

with this bid. In addition, the successful bidder shall reimburse Milwaukee Transport Services, Inc. and Milwaukee County for all costs, expenses, including all costs of defense attorney's fees, and all other losses incurred by Milwaukee Transport Services, Inc. or Milwaukee County in connection with any claims, demands and causes of action, whether meritorious or not, which may be brought against Milwaukee Transport Services, Inc., Milwaukee County or their employees, agents or assigns, arising in whole or in part from goods, services or products provided or furnished for this bid.

12. **Intellectual Property Indemnification**

The successful bidder shall defend, at its expense, any action brought against MTS or Milwaukee County or their employees to the extent that it is based on a claim that the goods, services, or products provided relating to this purchase order infringes any patent, trade secret, trademark, copyright, or other proprietary right. Successful bidder shall indemnify MTS and Milwaukee County for any costs, damages, and fees, including any costs, damages, and fees finally awarded against MTS and Milwaukee County, which are attributable to such claim, if MTS or Milwaukee County notifies successful bidder of the claim. MTS and Milwaukee County shall permit successful bidder, at successful bidder's sole discretion, to defend, compromise or settle the claim. MTS and Milwaukee County shall provide all available information, assistance and authority to enable Vendor to do so, provided successful bidder reimburses MTS and Milwaukee County for such activity.

13. **Independent Contractor**

Nothing contained in the Agreement shall constitute or be construed to create a partnership or joint venture between MTS, Inc. or its successors and the Contractor or its successors or assigns. In entering into this Agreement, and in acting in compliance herewith, Contractor is always acting and performing as an independent Contractor, duly authorized to perform the acts required of it hereunder.

14. **Retention of Records**

Contractor agrees to retain all records related to this contract for a period of at least three years from final date of payment of this contract

15. **Audit of Records**

Contractor shall permit the authorized representative of the Milwaukee County Auditor, after reasonable notice, the right to inspect and audit all data and records of Contractor related to carrying out the contract for a period of up to three years after completion of the contract. If subcontracts and/or associates are utilized, prime contractor shall have a written contractual agreement with County approved subcontractors and/or associates which bind the subcontractor to the same audit contract terms and conditions as the prime Contractor.

16. **Non-Discrimination**

The contractor, lessee, offeror, supplier, purchaser, etc., agrees not to discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, sex, or handicap, which include, but not limited to: recruitment or recruitment advertising; employment; upgrading; demotion or transfer, layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship. A violation of this provision shall be sufficient cause for MTS to terminate the contract, lease, order, etc. pursuant to County Ordinance 56.17 - Non-

Discriminatory Contracts.

17. Disadvantaged Business Enterprise

The contractor, sub recipient or subcontractor shall not discriminate based on race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

18. Termination for Convenience

MTS may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in MTS's best interest. The Contractor shall be paid its cost, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to MTS to be paid the Contractor. If the Contractor has any property in its possession belonging to MTS, the Contractor will account for the same and dispose of it in the manner MTS directs.

19. Termination for Default

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, MTS may terminate this contract for default. Termination shall be affected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by MTS that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, MTS after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

20. Opportunity to Cure

MTS in its sole discretion may, in the case of a termination for default, allow the Contractor thirty (30) days to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to MTS' satisfaction the default or any other terms covenants, or conditions of this Contract within the thirty (30) days after receipt by the Contractor of written notice from MTS setting forth the nature of said default, MTS shall have the right to terminate the Contract without any further obligation to the Contractor. Any such termination for default shall not in any way operate to preclude MTS from also pursuing all available remedies against the Contractor and its sureties for said default.

21. Employee's Right to Know

It is a direct condition of the Terms of this proposal that if there be any toxic substances, materials, or infectious agents, the offeror shall supply copies of material safety data sheets (SDS) in accordance with Wisconsin Statutes, Chapter 364. These can be sent to **Equipment Engineer, 1525 W. Vine Street, Milwaukee WI 53205**

22. Written Change Orders

Oral change orders are not permitted. No change in this contract shall be made unless the contracting officer gives his prior written approval therefore. The contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting, any specification changes not properly ordered by written modification to the contract and signed by the contracting officer.

23. Waiver of Informalities

In its sole discretion, MTS may waive informalities or minor irregularities in proposals received.

24. Protest and Appeal

Protest Policy for Sealed Bids:

Calculation of time in days and hours shall exclude Saturdays, Sundays and major holidays.

A. Prior to sealed bid opening:

1. Protests to form and content of bid documents shall be received by the Director of Materials Management not less than five (5) days prior to the time scheduled for bid opening. Protests shall be in writing and state the specific reason for the protest.
2. The Director of Materials Management shall review protests and if modification is necessary, the bid opening date shall be extended and addenda containing the changes shall be sent to each bidder. If the modification is rejected, the protestor shall be notified. The decision of the Director of Materials Management is final.

B. After sealed bid opening:

1. Protests concerning irregularities on sealed bid opening procedures or compliance by bidders with bid documents shall be received by the Director of Materials Management within seventy-two (72) hours after time of bid opening.
2. When a sealed bid is awarded to other than the lowest bidder, all bidders shall be notified in writing by email. The *sent* copy of the email shall be proof that the notification was sent to all bidders. Any protest to the award must be delivered to the Director of Materials Management within seventy-two (72) hours after receipt of the email.

Director of Materials Management within five (5) days after receipt of a protest notice, shall respond the bidder in writing via email or fax. The sent copy of the email or the copy of the fax transmission shall be conclusive proof of the time and date of receipt by a bidder.

3. A protest under either (B.1.) or (B.2.) above must be in writing and state the specific reason for the protest. The Director of Materials Management shall review the protest and notify the protestor of a decision in writing via email or via certified mail return receipt requested, or by fax machine transmission, within five (5) days. No contract shall be awarded while a protest is pending. A protest that is untimely or fails to clearly state the reason, or made prior to bid opening is invalid. The decision of the Director of Materials Management disqualifying the protest for these reasons is final and cannot be appealed. A copy of the *sent* email or fax transmission cover sheet shall be conclusive proof of the time and date of receipt by a bidder.

C. Appeals to the Purchasing Appeals Committee:

1. Protest from the decision of the Director of Materials Management shall be made to the Purchasing Appeals Committee by delivering a written request for appeal hearing both to the Materials Management Department and the Purchasing Appeals Committee within seventy-two (72) hours after the receipt of the Director of Materials Management's decision.
2. Written appeals to the Purchasing Appeals Committee shall be addressed as follows:
Purchasing Appeals Committee
C/O MTS Materials Management Department
1942 North 17th Street
Milwaukee, WI 53205
3. The request shall state the grounds upon which the protest is based and shall request an appeal hearing. No contract shall be awarded until the final disposition of the protest.
4. The Chairperson of the Purchasing Appeals Committee shall notify all interested persons of the time and place of the hearing.
5. The Purchasing Appeals Committee shall affirm, reverse or modify the decision of the Director of Materials Management and its' decision shall be final.

25. **Contract Continuation**

Contractor recognizes that the services under this contract are vital to MTS and to the public and must be continued without interruption. Contractor agrees that MTS, in its sole discretion, and by written notice to Contractor at least 30 days prior to contract expiration, may extend this Agreement for up to an additional 120 days. If so extended by MTS, Contractor shall continue to provide services under this Agreement, on the same Terms as set forth in this Agreement.

26. **Quantities**

Items shipped in excess of the designated quantities will not be accepted and will be returned at the Vendor's expense.

27. **Invoices**

Invoices shall be emailed to accountspayable@mcts.org

28. **Governing Law and Venue**

Any purchase made pursuant to these Terms shall be governed by and construed in accordance with the laws of the State of Wisconsin. The Vendor agrees and consents to the exclusive jurisdiction of the courts of the State of Wisconsin for all purposes regarding any such purchase, and further agrees and consents that venue of any action hereunder shall be exclusively Milwaukee County, Wisconsin.

29. **Compliance with Laws**

Vendor shall fully comply with all applicable provisions of federal, state and local laws, rules and regulations, and Vendor agrees to hold Milwaukee Transport Services, Inc and Milwaukee County, its agents, officers and employees harmless from any all liability and costs, including, but not limited to attorney's fees and damages resulting from failure of compliance.

30. **Most Favored Customer**

Vendor represents and warrants that the prices Vendor charges MTS do not exceed existing selling prices to other customers for same or substantially similar items or services for comparable quantities under similar Terms and Conditions.

31. **Code of Ethics**

Vendor during the period of any Contract with MTS shall not hire, retain, or utilize for compensation any member, officer, or employee of MTS or any person who. To the knowledge of Vendor, has a conflict of interest.

32. **Invalidity, Remedies Not Exclusive**

The invalidity in whole or in part of any Term or Condition of these Terms shall not affect the validity of the remainder of these Terms and the application of such provisions to other persons or circumstance shall not be affected thereby. The rights and remedies provided herein shall not be exclusive and are in addition to any other rights and remedies in law or equity.