Report of the Standing Policy Committee on Public Works dated June 25, 2002

Extension of Contract for the Supply and Delivery of Low Floor Transit Buses, Tender No. 701-2002

File TE-1 (Vol. 7)

1. On September 5, 2000, the Standing Policy Committee on Public Works concurred with a recommendation from the Director of Transit that a contract for the supply and delivery of 82 replacement low floor transit buses be awarded to New Flyer Industries. New Flyer Industries was the only responsive bidder that met the specifications of Tender No. 701-2000.

In 2001, at New Flyer Industries' request, the City agreed to vary the performance security requirements specified in Tender No. 701-2000. The City agreed to reduce the performance security requirement to 20% of the value of the 20 buses delivered in 2001 rather than 20% of the total value of the contract. This was approved on condition that New Flyer Industries would increase the value of the performance security to 20% of the value of the contract prior to the production of the remaining buses.

Tender No. 701-2000 was issued for the supply and delivery of approximately 90 replacement transit buses for the years 2000 to 2002 in accordance with Transit's long standing program to replace approximately 30 buses per year. The contract awarded to New Flyer Industries was for 82 buses to be delivered before September 30, 2002. Twenty buses were delivered in 2001. The contract also requires New Flyer Industries to deliver ten of its newly designed Invero buses to the City for a six month operational test. Based on the results of this test, the City has the option to select either the new Invero bus or New Flyer's current D40LF low floor bus model for the final 52 buses of the contract. The Transit Department has a strong preference for the Invero bus because it provides five additional passenger seats over the current D40LF bus; however, it has not been proven in regular transit service at this time. The contract also requires New Flyer Industries to provide and maintain a performance security of 20% of the total value of the contract, or approximately $5.8 million, for a period of one year after the date of total performance of the work.

After the award of the contract in 2000, New Flyer Industries began to experience financial difficulties that interrupted production schedules and prevented it from obtaining performance bonds. It also encountered unexpected delays in the production of its new Invero bus. Although New Flyer Industries resolved its financial difficulties earlier this year, it will not be in a position to deliver the required ten Invero test buses until the late summer of 2002. This would result in the City selecting the design for the final 52 buses in early 2003 and receiving these buses in middle to late 2003. The timing of these events would result in significant liquidated damages charges to New Flyer Industries that could approach $600,000.00.

New Flyer Industries approached the Business Liaison Office of the Executive Policy Committee Secretariat in February, 2002 with requests to modify the contract. It stated that the liquidated damages and performance bonding requirements specified in the contract would have a negative impact on its operations and attempts to increase its production back up to previous levels.

The ensuing discussions between the City and New Flyer Industries resulted in a potential resolution as follows:

1. The City will agree to accept 52 D40LF buses for delivery in 2002 rather than testing ten Invero buses for a six month period prior to selecting the design of the final 52 buses of the contract.

This concession will allow New Flyer Industries to fill voids in its 2002 production schedule and will significantly reduce liquidated damages.

2. The City will agree to return the 20% performance bond it holds for the 20 buses delivered by New Flyer Industries in 2001. The City will also agree to forego the requirement for New Flyer Industries to provide a 20% performance bond for the 52 D40LF buses that will be delivered in 2002.

3. New Flyer Industries will agree to provide a 20% performance security on the ten test Invero buses to be delivered in 2002 for a period of one year after delivery.

4. In return for these concessions, New Flyer Industries will agree to extend the current contract to include an additional 30 buses to be delivered in 2003 at the unit price tendered in 2000. This contract extension is subject to the approval of City Council.

5. If approval is received for the contract extension, the City will advise New Flyer Industries prior to delivery whether it will require a 20% performance bond for the additional 30 buses to be delivered in 2003.

This potential resolution is believed to be equitable as it addresses New Flyer Industries' requirements and it would result in the City receiving additional replacement buses from one to two years earlier than would occur otherwise, at prices bid in 2000. Waiving the requirement for performance bonds for the D40LF buses is not believed to present a significant risk to the City because the design is mature and well tested. Hundreds of these buses, including 141 in Winnipeg, have been successfully operated throughout North America in over a decade of production.

The Transit Department has a critical requirement to maintain its long-standing bus replacement program. Replacement full size buses have not been received since early 1999. Forty one buses in the fleet are currently at or over their nominal 18 year life expectancy. This number will increase to 106 buses in 2003 if new replacement buses are not received in 2002 and 2003 as proposed in this resolution. Delaying the replacement of the oldest buses in the fleet will result in a significant decrease in the reliability of the service and a significant increase in maintenance costs.

The 30 additional replacement buses that will be supplied under this proposed resolution will be compatible with the other low floor buses operated by the City that have been supplied by New Flyer Industries. This compatibility will provide significant benefits to the City in two major areas. Firstly, the additional costs of purchasing and storing additional spare parts will be avoided. Secondly, the additional costs to train maintenance and support employees and the resulting inefficiencies that will occur while employees become familiar with new equipment will be avoided.

The City's Policy on Purchasing Procedures and the Disposal of Surplus Supplies, Article 7 (b)(i), makes provision for a single source purchase without solicitation where the compatibility of a purchase with existing equipment is a paramount consideration.

The 2003 to 2007 Capital Forecast that was approved in principle by Council with the 2002 Capital Budget includes total funding of $11,963,000.00 for replacement transit buses in 2003. The anticipated sources of funding for these buses is $6,330,000.00 from the Transit Bus Replacement Reserve, $3,000,000.00 from a dedicated Provincial UCPA grant and $2,633,000.00 from the unconditional Provincial UCPA grant. Provincial UCPA funding would not likely be approved until 2003; however,

the administration has received a commitment from the Province that the funding pattern for transit bus purchases will continue. It should be noted that 2003 would be the first year of a new UCPA agreement.

Council approval is required for contract extensions that exceed $1,000,000.00.
The Financial Impact Statement is outlined on Attachment "A".

The Standing Policy Committee on Public Works recommends:

I. That the existing contract with New Flyer Industries Limited for the supply and delivery of 82 low floor transit buses, Tender No. 701-2000, be extended to include an additional 30 low floor transit buses to be delivered before December 31, 2003 in the amount of $10,806,660.00 excluding all taxes.

II. That the Province of Manitoba be requested to commit to funding 50% of the cost of the 2003 bus replacements.

III. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including the execution of any documents related thereto.

Attachment "A" referred to in Clause 1 of the Report of the Standing Policy Committee on Public Works dated June 25, 2002

Financial Impact Statement:

Project Name: Extension of Contract for the Supply and Delivery of Low Floor Transit Buses, Tender No. 701-2000

Date: May 1, 2002 First Year of Program 2003

	2003	2004	2005	2006	2007
Capital					
Capital Expenditures Required	$ 11,963,000				
Less: Existing Budgeted Costs	11,963,000				
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal					
Debt - External					
Grants (Enter Description Here)					
Reserves, Equity, Surplus	6,330,000				
Other - Provincial UCPA	5,633,000				
Total Funding	$ 11,963,000	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs		$ (100,000)	$ (100,000)		
Less: Incremental Revenue/Recovery					
Net Cost/(Benefit)	$ -	$ (100,000)	$ (100,000)	$ -	$ -
Less: Existing Budget Amounts			n/a	n/a	n/a
Net Budget Adjustment Required	$ -	$ (100,000)	n/a	n/a	n/a

The existing capital budgeted cost assumes Council approves the 2003 Capital Budget for transit buses as presented in the 2002 Capital Estimates and 2003 to 2007 Capital Forecast. The direct cost savings represent the savings in bus maintenance attributed to the opportunity to receive buses earlier than would otherwise be available.

Manager of Finance & Administration