



270 North Clark Street • P.O. Box 1008 • Powell, Wyoming 82435  
(307) 754-5106 • Fax (307) 754-5385

January 6, 2012

SUBJECT: Financing for One WHEEL LOADER

Dear Financial Manager:

This letter is your notification of the City of Powell's intent to request bids from qualified firms for the tax free, lease/purchase financing of a WHEEL LOADER with a total cost, after trade in of a 1980 Case Loader, of \$141,613.00. (total new valuation \$153,113).

The City of Powell will make a \$60,000.00 down payment at acceptance of the 2012 WHEEL LOADER along with the trade-in of the 1980 Case Loader. The amount to be financed will be Eighty One Thousand Six Hundred and Thirteen Dollars (\$ 81,613.00). The balance would be paid off during the city's next two fiscal years, 2012/2013 and 2013/2014. The Fiscal Year for the City of Powell runs July 1<sup>st</sup> through June 30<sup>th</sup>. It is anticipated that the new Wheel Loader will be delivered March 1, 2012.

Please find enclosed a copy of:

Invitation to Bid

Instructions to Bidders

Bid Submittal sheet.

Lease / Purchase Agreement (Which may be switched for your financial institutions agreement with the City Attorneys review and possible revisions).

Checklist

These forms will enable you to submit a bid for the financing of the above-mentioned equipment.

Please do not hesitate to contact me should you have any questions. I thank you in advance for your interest in the City of Powell.

Sincerely yours,

Gary Butts  
Public Services Manager / Streets Superintendent  
City of Powell  
(307) 754-9513  
gbutts@cityofpowell.com



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## INVITATION TO BID

Sealed bids for the financing of a WHEEL LOADER for the City of Powell's street department will be received by the City of Powell at 270 North Clark, P.O. Box #1008, Powell, Wyoming, 82435 until 10:00 AM, Tuesday February 14, 2012.

Mailed and hand delivered bids shall have the words "LOADER LEASE" written on the outside of the envelope. The bids will be publicly opened, read and acknowledged at the above hour and date and award will be made as soon thereafter as practicable.

***Bids received after the time and date above will be rejected and returned unopened.***

Copies of the details, requirements and specifications may be obtained from the City of Powell, 270 North Clark, Powell, Wyoming, free of charge.

The City of Powell reserves the right to reject any or all bids and to waive informality in any bid received.

BY ORDER OF THE CITY OF POWELL

  
\_\_\_\_\_  
Zane Q. Logan  
City Administrator

Publish: **FIRST**  
**FINAL**

Tuesday  
Tuesday

January 17, 2012  
January 24, 2012

# **CITY OF POWELL, WYOMING**

## **1.0 INSTRUCTIONS TO BIDDERS**

### **1.1 Purpose**

To solicit bids from qualified firms for a three (3) year, tax free, financing plan for the lease/purchase for one (1) 2012 WHEEL LOADER.

### **1.2 Bid Submittal**

Sealed bids (using the City of Powell Bid Forms) will be accepted by the City of Powell, Post Office Box 1008, Powell, Wyoming, 82435-1008, until 10:00 AM, Tuesday, February 14, 2012. No e-mailed or Faxed bids are allowed due to W.S. 15-1-113(b). The bids will be publicly opened, read and canvassed on the above hour and date and award made as soon thereafter as practicable.

### **1.3 Preparation of Bid**

All bids must be submitted on the required bid forms. All blank spaces must be filled in, in ink or typewritten and the bid must be fully completed and executed when submitted. No alterations in the bid or in the printed forms will be acceptable.

## **2.0 GENERAL CONDITIONS**

### **2.1 Right to Reject Bids**

The City of Powell reserves the right to reject any or all bids, to waive technicalities or informalities and to accept any bid deemed to be in the best interest of the City.

### **2.2 Contract**

The contract shall be amenable to include a date agreed upon by the successful bidder and the City of Powell, as to when annual payments are to be made.

### **2.3 Interest Rate Protection**

Interest rates quoted in the bid shall be firm rated and not subject to increase during the three (3) year term of the contractual agreement between the City and the Leasing Firm.

## **3.0 SELECTION PROCESS**

### **4.1 Evaluation**

Appropriate city staff will review and evaluate all bids.

### **4.2 Selection**

Following the evaluation process described above, the evaluation staff will present their recommendation to the City Administrator. The City will make all decisions regarding selection and awarding of contract. The decisions of the Mayor and Council will be considered final.

# CITY OF POWELL

## BID FORM

### LEASE//PURCHASE FINANCING FOR WHEEL LOADER

Bid being submitted by : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone Number : \_\_\_\_\_

Bid as Follows:

Interest rate \_\_\_\_\_

Fees \_\_\_\_\_

Total Cost of Lease Purchase at end of term Including  
Principle, Interest and fees:

\_\_\_\_\_

Bid valid until \_\_\_\_\_

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed name of above signature

# MUNICIPAL/GOVERNMENTAL LEASE PURCHASE AGREEMENT

LEASE PURCHASE AGREEMENT (Lease) entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2012, between \_\_\_\_\_, herein known as LESSOR, and the City of Powell, a municipal corporation of the State of Wyoming, Post Office Box Number 1008, Powell, Wyoming 82435, herein known as LESSEE.

## 1. TERMS AND PAYMENTS

LESSOR hereby leases to LESSEE and LESSEE hereby leases from LESSOR for a period of three (3) years the following equipment:

2012 Wheel Loader.  
Lease / Purchase amount: \$141,613.00.  
Herein referred to as "equipment."

As consideration for this lease, LESSEE agrees to pay LESSOR lease payments of \_\_\_\_\_ and 00/100 dollars (\$XX,XXX.XX) as follows:

- a. \$60,000.00 to be paid by March 1, 2012 to be applied to principal balance;
- b. The remaining \$\_\_\_\_\_ to be paid in two (2) annual payments including principal and interest with the first payment date being \_\_\_\_\_, 201\_\_ and continuing one year thereafter until paid in full on or about \_\_\_\_\_, 201\_\_.

If LESSEE fails to pay any lease payment(s) specified herein within ten (10) days after the due date, LESSEE shall pay LESSOR interest on such delinquent lease payment(s) from the due date until paid at the lower of twelve (12%) per annum or the highest note rate permitted by law.

## 2. PROPEY TAXES, LICENSE FEES, ETC.:

In addition to the lease payments to be made pursuant to Section 1, LESSEE agrees to pay, and to indemnify and hold LESSOR harmless from, all licenses, sales, use, personal property, or other taxes, penalties, fines, interest or charges of any kind that may be assessed or charged against the equipment or use there of.

## 3. LESSEE'S COVENANTS AND REPRESENTATIONS:

LESSEE represents and warrants as follows for the benefit of the LESSOR (all such representations and warranties being continuing), and is delivering an opinion of its counsel dated the date hereof, in form and substance satisfactory to LESSOR, confirming

**3. LESSEE'S COVENANTS AND REPRESENTATIONS:** (continued)

that LESSEE has the authority to enter into this Lease and make the following representations and warranties:

- a. LESSEE is a public body corporate and politic, and a political subdivision thereof, legally existing under the laws of the State of Wyoming;
- b. This Lease has been duly authorized, executed and delivered by LESSEE;
- c. This Lease is a legal, valid and binding obligation of LESSEE, enforceable in accordance with its terms.

LESSEE further represents and warrants as follows:

- d. LESSEE has received and accepted the equipment, which is in good condition and repair and complies in all respects with the LESSEE's specifications;
- e. LESSEE will do all things lawfully within its power to obtain and maintain funds from which the lease payments may be made, including making provision for such payments to the extent necessary in each annual budget submitted for the purpose of obtaining funding, using its bona fide best efforts to have such portion of the budget approved and exhausting all available reviews and appeals in the event such portion of the budget is not approved. To the knowledge of the LESSEE, there are no circumstances affecting LESSEE that could reasonably be expected to alter its foreseeable need for the equipment or adversely affect its ability or willingness to budget funds for the payment of sums due hereunder.
- f. There are no actions, lawsuits or proceeding pending or, to the knowledge of LESSEE, threatened against or affecting LESSEE in any court of before any governmental commission, board or authority which, if determined adversely against LESSEE, would have a material adverse effect on the ability of LESSEE to perform its obligations under this Lease.
- g. LESSEE does not have budgeted in its current fiscal period sufficient funds to purchase the equipment for cash.

**4. NONAPPROPRIATION OF FUNDS:**

- a. In the event funds are not budgeted and appropriated in any fiscal year for lease payments due under this Lease for the then current or succeeding fiscal year, this Lease shall impose no obligation on the LESSEE as to such current and succeeding fiscal year and shall become null and void except as to the lease payments herein agreed upon for which funds shall have been appropriated and budgeted, and no right or action or damage shall accrue to the benefit of LESSOR, its successors or assigns, for any further payments.

4. **NONAPPROPRIATION OF FUNDS:** (continued)

- b. If the provisions of Section 4a are utilized by LESSEE, LESSEE agrees to immediately notify LESSOR of this Lease if funds are not budgeted and appropriated, to peaceably surrender possession of the above-described equipment to LESSOR or its assignee.

5. **EARLY TERMINATION/PURCHASE OPTION:**

In the event LESSEE should desire to terminate this Lease or purchase the equipment on any lease payment due date prior to the end of the lease term for reasons other than non-appropriation of funds as described in Section 4, the following options are available:

- a. LESSEE may request LESSOR to sell the equipment for a fair market value price, and LESSEE shall pay LESSOR the Termination Value/Option Price shown on the Exhibit A less the net proceeds received from the sale of the equipment.
- b. LESSEE, having complied with the terms and conditions of this Lease, shall have the option to purchase the equipment by paying the Termination Value/Option Price shown on Exhibit A.

In the event LESSEE makes all lease payments as scheduled, LESSEE shall be deemed to have properly exercised its option to purchase the equipment and shall acquire all of LESSOR's rights, title and interest in and to the equipment at the time the final payment is made. Until such time as the lease payments are made, title to the equipment shall remain in LESSOR.

6. **DEFAULT AND LESSOR'S REMEDIES:**

- a. The occurrence of one or more of the following events shall constitute an Event of Default, whether occurring voluntarily or involuntarily, by operation of law or pursuant to any order of any court or governmental agency:
  - i. Failure of LESSEE to pay any lease payments within thirty (30) days of the time specified;
  - ii. LESSEE'S failure to comply with any other covenants, condition or agreement of LESSEE hereunder for a period of thirty (30) days after notice thereof;
  - iii. If LESSEE shall make, permit or suffer any unauthorized assignment, transfer or other disposition of this Lease, or any interest herein or of any item(s) of the equipment or interest herein.
- b. Upon the occurrence of any Event of Default specified herein, LESSOR may exercise any or all of the following remedies.

**6. DEFAULT AND LESSOR'S REMEDIES:** (continued)

- i. Terminate this Lease and repossess the equipment, in which event LESSEE shall be liable for any amounts payable hereunder through the date of such termination and all costs and expenses (including, but not limited to, reasonable attorney's fees) incurred by LESSOR in connection therewith;
- ii. Sell the equipment at public or private sale. In the event the proceeds of such sales, less the costs or repossession (including reasonable attorney's fees and the costs of sale) and less any past due lease payments or interest owing the LESSEE (the "disposition credit"), do not equal the applicable Terminate Value/Option Price on the current lease payment date, then LESSEE shall be liable for the difference between said disposition credit and such Termination Value/Option Price.
- iii. Pursue and exercise any other remedy available at law or in equity, in which event LESSEE shall be liable for any and all costs and expenses (including, but no limited to, reasonable attorney's fees) incurred by LESSOR in connection therewith.

**7. ASSIGNMENT AND SUBLEASE:**

- a. LESSEE shall not assign, transfer, pledge or hypothecate this Lease, the equipment or any part thereof, or any interest therein, or permit the equipment or any part thereof to be used by anyone other than LESSEE or its employees
- b. LESSEE agrees that LESSOR may assign this Lease, as well as all right, title and interest of LESSOR in and to the equipment and all lease payments due or to become due hereunder. LESSEE's obligation to make lease payments under this Lease shall not, as to any such assignee, be subject to any reduction arising out of any breach or obligation hereunder or other liability of LESSOR to LESSEE.

**8. SECURITY INTEREST:**

As security for LESSEE's covenants and obligations under this Lease, LESSEE grants LESSOR and its assigns a security interest in the equipment and to all attachments, additions, accessions and substitutions to or for the equipment. LESSEE agrees to execute such additional documents, including financing statements, affidavits, notices, or similar instruments in form satisfactory to LESSOR, which LESSOR deems necessary or appropriate to establish and maintain its security interest.

**9. LOSS OR DAMAGE TO EQUIPMENT:**

All risk of loss or damage to the equipment is assumed by LESSEE until it is returned to LESSOR. In the event of total loss of the equipment, LESSEE shall pay LESSOR the Termination Value/Option price shown on Exhibit A for the current lease payment date, less proceeds of insurance and salvage value of the equipment.

10. **INSURANCE:**

- a. LESSEE, at its own expense, will carry Comprehensive General Liability Insurance including Contractual liability with minimum limits of \$500,000 bodily injury each occurrence and \$250,000 property damage each occurrence. LESSEE also agrees to have its insurer include LESSOR and its assigns as Additional Insured.
- b. LESSEE, at its own expenses, shall keep the equipment insured against all risk of physical damage for no less than its actual cash value. Such insurance shall include a loss payable clause made out in favor of the LESSOR, and the proceeds of same insurance, at the option of LESSOR, shall be applied toward the replacement, restoration or repair of said equipment or to the payment of any obligation of LESSEE hereunder. PAYMENT OF ANY INSURANCE PROCEEDS SHALL NOT AFFECT LESSEE'S OBLIGATIONS UNDER SECTION 10, INCLUDING ITS OBLIGATION TO PAY ANY DIFFERENCE BETWEEN TERMINATION VALUE/OPTION PRICE AND INSURANCE PROCEEDS AND SALVAGE PROCEEDS RECEIVED BY LESSOR. Alternatively, upon prior approval by LESSOR, LESSEE may meet this requirement by furnishing LESSOR with satisfactory proof of self-insurance and of LESSEE's ability to meet its obligation hereunder.
- c. LESSEE shall deliver to LESSOR certificates or other evidence satisfactory to LESSOR that insurance is maintained as required under Sections 10a. and 10b. until LESSEE is no longer liable for loss or damage to the equipment as provided in Section 9 hereof. Such insurance shall be effective from the date of the Lease and shall include a clause obligating the insurer to give LESSOR not less than fifteen (15) days prior written notice of any material change in or cancellation of the insurance. If LESSEE fails to deliver evidence of physical damage insurance or to maintain such insurance in force until LESSEE is no longer liable for loss or damage to the equipment under Section 9, it is understood that LESSOR may, but shall not be obligated to purchase such insurance, LESSEE agrees to pay the cost thereof at such time as LESSOR demands or to have the cost therefore added to the lease payments due hereunder, at the sole discretion of LESSOR.

11. **SOVEREIGN IMMUNITY:**

LESSOR does not by this agreement, require the LESSEE to waive its sovereign immunity by entering into this agreement. The LESSEE fully retains all immunities and defenses provided by law with regard to any action based on this agreement.

11. **SOVEREIGN IMMUNITY:** (continued)

The LESSEE, it's officers, employees, appointees and representatives, do hereby reserve governmental or sovereign immunity from tort liability of any kind or nature and nothing herein shall be considered a waiver of immunity as provided by law. LESSEE specifically retains all immunities and defenses available to it as a sovereign governmental entity pursuant to state law, including Wyoming Statute 1-39-101, et seq.

LESSOR: \_\_\_\_\_

By: \_\_\_\_\_

Attest: \_\_\_\_\_

LESSEE: City of Powell

By: \_\_\_\_\_  
Scott Mangold, Mayor

Attest: \_\_\_\_\_  
Ardyce R. Busboom, City Clerk

# CITY OF POWELL

## Bid Checklist

The following items will be required for a qualified bid on the financing of a wheel loader for the City of Powell Street Department. **Bid opening date of Tuesday, February 14, 2012 at 10:00 AM**, City of Powell, 270 North Clark, Powell, Wyoming.

- \_\_\_\_\_ Properly executed Bid Proposal
- \_\_\_\_\_ Properly executed Bid Sheets(s)
- \_\_\_\_\_ Properly executed Bid Checklist.

I have submitted the above referenced forms, as required, with my bid submittal package.

By: \_\_\_\_\_  
Authorized Signature

The City of Powell appreciates the time and effort which you have devoted to this bid.