

PART D

SUPPLEMENTAL CONDITIONS

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GENERAL

D1. GENERAL CONDITIONS

- D1.1 In addition to the *General Conditions for Construction Contracts*, these Supplemental Conditions are applicable to the Work of the Contract.
- D1.2 The General Conditions are amended by striking out "The City of Winnipeg Act" wherever it appears in the General Conditions and substituting "The City of Winnipeg Charter".
- D1.3 The General Conditions are amended by striking out "Tender Package" wherever it appears in the General Conditions and substituting "Bid Opportunity".
- D1.4 The General Conditions are amended by striking out "Tender Submission" wherever it appears in the General Conditions and substituting "Bid Submission".
- D1.5 The General Conditions are amended by deleting GC:6.16 and GC:6.17. The City of Winnipeg is now within the jurisdiction of the Manitoba Ombudsman pursuant to The Ombudsman Act.

D2. SCOPE OF WORK

- D2.1 The major components of the Work to be performed under this Contract shall include the labour, equipment, and materials required to complete the UltraViolet (UV) Disinfection upgrade of the North End Water Pollution Control Centre in Winnipeg, Manitoba, as follows:
- (a) New structure with associated mechanical and electrical systems to house the UV disinfection equipment.
 - (b) New structures to accommodate the five (5) UV influent pumps.
 - (c) New effluent sampling facility to house City of Winnipeg (City) supplied equipment.
 - (d) Tie-in to existing secondary effluent system to feed to, and drain the new pumps and disinfection systems.
 - (e) Installation of City supplied UV disinfection equipment and associated electrical and control systems.
 - (f) Installation of five (5) new City supplied UV influent pumps and associated piping, fittings, variable frequency drives, and electrical systems.
 - (g) Upgrade, additions, and modifications to the electrical supply system and services as detailed in Division 16 Electrical Scope of Work.
 - (h) Upgrade and modifications to the distributed control system (DCS) to control new systems.
 - (i) Modification of existing gate YG12B at the Primary Effluent Bypass Junction Structure, including automatic actuator and any required refurbishment or repair.
 - (j) Supply and installation of flow control gates with associated mounting and operating systems.
 - (k) Modification to existing effluent gate chamber to extend separation of secondary effluent conduits through entire structure.
 - (l) Sitework and Site Utility Work associated with the new facilities and with the general Site.
 - (m) Heating, Ventilation and Cooling systems.
 - (n) All other auxiliary equipment, structures, and systems required to complete the Work.

D3. CONTRACT ADMINISTRATOR

D3.1 The Contract Administrator is Earth Tech (Canada) Inc., represented by:

Eric Hutchison, P. Eng.
Project Manager
850 Pembina Highway, Winnipeg, MB, R3M 2M7
Telephone No. (204) 477-5381
Facsimile No. (204) 284-2040

D3.2 At the pre-construction meeting, The Contract Administrator will identify additional personnel representing the Contract Administrator and their respective roles and responsibilities for the Work.

D4. CONTRACTOR'S SUPERVISOR

D4.1 At the pre-construction meeting, the Contractor shall identify his designated supervisor and any additional personnel representing the Contractor and their respective roles and responsibilities for the Work.

D5. NOTICES

D5.1 Except as provided for in GC:23.2.2, all notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications to the Contractor shall be sent to the address or facsimile number identified by the Contractor in Paragraph 2 of Form A: Bid.

D5.2 All notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications to the City, except as expressly otherwise required in D5.3, D5.4 or elsewhere in the Contract, shall be sent to the attention of the Contract Administrator at the address or facsimile number identified in D2.1(a).1.

D5.3 All notices of appeal to the Chief Administrative Officer shall be sent to the attention of the Chief Financial Officer at the following address or facsimile number:

The City of Winnipeg
Chief Administrative Officer Secretariat
Administration Building, 3rd Floor
510 Main Street
Winnipeg MB R3B 1B9
Facsimile No.: (204) 949-1174

D5.4 All notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications required to be submitted or returned to the City Solicitor shall be sent to the following address or facsimile number:

The City of Winnipeg
Corporate Services Department
Legal Services Division
185 King Street, 3rd Floor
Winnipeg MB R3B 1J1
Facsimile No.: (204) 947-9155

D6. FURNISHING OF DOCUMENTS

- D6.1 Upon award of the Contract, the Contractor will be provided with five (5) complete sets of the Bid Opportunity. If the Contractor requires additional sets of the Bid Opportunity, they will be supplied to him at cost.

SUBMISSIONS

D7. SAFE WORK PLAN

- D7.1 The Contractor shall provide the Contract Administrator with a Safe Work Plan at least five (5) Business Days prior to the commencement of any Work on the Site but in no event later than the date specified in GC:4.1 for the return of the executed Contract.
- D7.2 The Safe Work Plan shall be prepared and submitted in the format shown in the City's template which is available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division internet site at <http://www.winnipeg.ca/matmgt>

D8. INSURANCE

- D8.1 The Contractor shall provide and maintain the following insurance coverage:
- (a) commercial general liability insurance, in the amount of at least two million dollars (\$2,000,000.00) all inclusive, with The City of Winnipeg being added as an additional insured, with a cross-liability clause, such liability policy to also contain a contractual liability, an unlicensed motor vehicle liability and a products and completed operations endorsement to remain in place at all times during the performance of the Work and throughout the warranty period;
 - (b) automobile liability insurance for owned and non-owned automobiles used for or in connection with the Work in the amount of at least two million dollars (\$2,000,000.00) at all times during the performance of the Work and until the date of Total Performance;
 - (c) all risks course of construction insurance in the amount of one hundred percent (100%) of the total Contract Price, written in the name of the Contractor and The City of Winnipeg, at all times during the performance of the Work and until the date of Total Performance.
- D8.2 Deductibles shall be borne by the Contractor.
- D8.3 The Contractor shall provide the City Solicitor with a certified true copy or a certificate of insurance of each policy, in a form satisfactory to the City Solicitor, at least two (2) Business Days prior to the commencement of any Work on the Site but in no event later than the date specified in GC:4.1 for the return of the executed Contract.
- D8.3.1 The certificate of insurance for the commercial general liability insurance must clearly state "operations to include demolition work".
- D8.4 The Contractor shall not cancel, materially alter, or cause each policy to lapse without providing at least fifteen (15) Calendar Days prior written notice to the Contract Administrator.

D9. PERFORMANCE SECURITY

- D9.1 The Contractor shall provide and maintain performance security until the expiration of the warranty period in the form of:
- (a) a performance bond of a company registered to conduct the business of a surety in Manitoba, in the form attached to these Supplemental Conditions (Form H1: Performance Bond), in the amount of fifty percent (50%) of the Contract Price; or

- (b) an irrevocable standby letter of credit issued by a bank or other financial institution registered to conduct business in Manitoba and drawn on a branch located in Manitoba, in the form attached to these Supplemental Conditions (Form H2: Irrevocable Standby Letter of Credit), in the amount of fifty percent (50%) of the Contract Price; or
- (c) a certified cheque or draft payable to "The City of Winnipeg", drawn on a bank or other financial institution registered to conduct business in Manitoba, in the amount of fifty percent (50%) of the Contract Price.

D9.2 If the bid security provided in his Bid Submission was not a certified cheque or draft pursuant to B11.1(c), the Contractor shall provide the City Solicitor with the required performance security within seven (7) Calendar Days of notification of the award of the Contract by way of letter of intent and prior to the commencement of any Work on the Site but in no event later than the date specified in GC:4.1 for the return of the executed Contract.

D10. DETAILED WORK SCHEDULE

D10.1 The Contractor shall provide the Contract Administrator with a detailed work schedule at least two (2) Business Days prior to the commencement of any Work on the Site but in no event later than the date specified in GC:4.1 for the return of the executed Contract.

D10.2 The detailed work schedule shall consist of the following:

- (a) a critical path method (C.P.M.) schedule for the Work;
 - (b) a Gantt chart for the Work based on the C.P.M. schedule; and
- all acceptable to the Contract Administrator.

D10.3 Further to D10.2(a), the C.P.M. schedule shall clearly identify the start and completion dates of all of the following activities/tasks making up the Work as well as showing those activities/tasks on the critical path:

D10.4 Further to D10.2(b), the Gantt chart shall show the time on a weekly basis, required to carry out the Work of each trade, or specification division. The time shall be on the horizontal axis, and the type of trade shall be on the vertical axis.

D11. COMMENCEMENT

D11.1 The Contractor shall not commence any Work until he is in receipt of a letter of intent from the Award Authority authorizing the commencement of the Work.

D11.2 For this Contract, the City anticipated an award date no later than May 13, 2005.

D11.3 The Contractor shall not commence any Work on the Site until:

- (a) the Contract Administrator has confirmed receipt and approval of:
 - (i) evidence that the Contractor is in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba;
 - (ii) evidence of the workers compensation coverage specified in GC:6.14;
 - (iii) the Safe Work Plan specified in D7;
 - (iv) evidence of the insurance specified in D8;
 - (v) the performance security specified in D9;
 - (vi) the detailed work schedule specified in D10; and

- (b) the Contractor has attended a pre-construction meeting with the Contract Administrator, or the Contract Administrator has waived the requirement for a pre-construction meeting.

D12. SUBSTANTIAL PERFORMANCE

- D12.1 The Contractor shall achieve Substantial Performance by June 8, 2006.
- D12.2 When the Contractor considers the Work to be substantially performed, the Contractor shall arrange, attend and assist in the inspection of the Work with the Contract Administrator for purposes of verifying Substantial Performance. Any defects or deficiencies in the Work noted during that inspection shall be remedied by the Contractor at the earliest possible instance and the Contract Administrator notified so that the Work can be reinspected.
- D12.3 The date on which the Work has been certified by the Contract Administrator as being substantially performed to the requirements of the Contract through the issue of a certificate of Substantial Performance is the date on which Substantial Performance has been achieved.

D13. TOTAL PERFORMANCE

- D13.1 The Contractor shall achieve Total Performance by June 30, 2006.
- D13.2 When the Contractor or the Contract Administrator considers the Work to be totally performed, the Contractor shall arrange, attend and assist in the inspection of the Work with the Contract Administrator for purposes of verifying Total Performance. Any defects or deficiencies in the Work noted during that inspection shall be remedied by the Contractor at the earliest possible instance and the Contract Administrator notified so that the Work can be reinspected.
- D13.3 The date on which the Work has been certified by the Contract Administrator as being totally performed to the requirements of the Contract through the issue of a certificate of Total Performance is the date on which Total Performance has been achieved.

D14. LIQUIDATED DAMAGES

- D14.1 If the Contractor fails to achieve Substantial Performance in accordance with the Contract by the day fixed herein for Substantial Performance, the Contractor shall pay the City twelve hundred dollars (\$1,200) per Working Day for each and every Working Day following the day fixed herein for Substantial Performance during which such failure continues.
- D14.2 The amount specified for liquidated damages in D14.1 is based on a genuine pre-estimate of the City's losses in the event that the Contractor does not achieve Substantial Performance by the day fixed herein for same.
- D14.3 The City may reduce any payment to the Contractor by the amount of any liquidated damages assessed.

D15. JOB MEETINGS

- D15.1 Regular weekly job meetings will be held at the Site. These meetings shall be attended by a minimum of one representative of the Contract Administrator, one representative of the City and one representative of the Contractor. Each representative shall be a responsible person capable of expressing the position of the Contract Administrator, the City and the Contractor respectively on any matter discussed at the meeting including the Work schedule and the need to make any revisions to the Work schedule. The progress of the Work will be reviewed at each of these meetings.

D15.2 The Contract Administrator reserves the right to cancel any job meeting or call additional job meetings whenever he deems it necessary.

D16. PRIME CONTRACTOR – THE WORKPLACE SAFETY AND HEALTH ACT (MANITOBA)

D16.1 Further to GC:6.26, the Contractor shall be the Prime Contractor and shall serve as, and have the duties of the Prime Contractor in accordance with The Workplace Safety and Health Act (Manitoba) in the areas of newly constructed facilities of this Contract, the limits of which are delineated on Drawing 66303D-CU1.01 and described as "CONSTRUCTION LIMITS".

D16.2 Further to GC:6.26, the City of Winnipeg shall be the Prime Contractor and shall serve as, and have the duties of the Prime Contractor in accordance with The Workplace Safety and Health Act (Manitoba) in the areas of this Contract which take place in the existing plant, the limits of which are described as

- (a) Work related to modifications and additions to the electrical distribution system, encompassing the Pre-aeration and Grit Removal Building Electrical Room, The Pre-aeration and Grit Removal Building and its environs, Gallery No 1, the Administration Building and its environs, Electrical Manhole No 2, and intermediate points through which the Work must be performed.
- (b) Work related to refurbishment and automation of Gate YG12B, encompassing the Primary Effluent Bypass Structure, the Pre-aeration and Grit Removal Building and its environs, the Pre-aeration and Grit Removal Building Electrical Room, and intermediate points the through which the Work must be performed.

D17. WARRANTY

D17.1 Notwithstanding GC:13.2, the warranty period shall begin on the date of Total Performance and shall expire one (1) year thereafter, except where longer warranty periods are specified in the respective Specification sections, unless extended pursuant to GC:13.2.1 or GC:13.2.2, in which case it shall expire when provided for thereunder.

D17.1.1 For the purpose of Performance Security, the warranty period shall be one (1) year.

D17.2 Notwithstanding GC:13.2, the Contract Administrator may permit the warranty period for a portion or portions of the Work to begin prior to the date of Total Performance if a portion of the Work cannot be completed because of unseasonable weather or other conditions reasonably beyond the control of the Contractor but that portion does not prevent the balance of the Work from being put to its intended use.

D17.2.1 In such case, the date specified by the Contract Administrator for the warranty period to begin shall be substituted for the date specified in GC:13.2 for the warranty period to begin.

D18. PARTNERING

D18.1 In order to effectively and efficiently accomplish the Work of this Contract, the City of Winnipeg, Water and Waste Department is encouraging the formation of a cohesive, mutually beneficial working relationship, a Partnering relationship, with the Contractor and his main Subcontractors. This working relationship will endeavour to draw on individual and corporate strengths, skills and knowledge to achieve a quality project to the mutual benefit of all participants. The objective of a Partnering relationship is to build cooperative relationships, avoid or minimize disputes, and actively pursue the attainment of common goals. Success will depend upon teamwork with open and effective communication while adhering to the highest professional standards.

D18.2 Participation in Partnering shall not in any way affect the application or legal obligation of the Contract.

D18.3 The Partnering Initiation Workshop is typically a one day session for a project of this magnitude, which would be held in conjunction with and immediately following the pre-construction meeting. The Partnering Initiation Workshop will be scheduled to coincide with the pre-construction meeting.

D18.4 The Partnering Initiation Workshop shall be carried out at no cost to the Contractor nor shall any payment be made for time and travel expenses incurred by the Contractor associated with participation in the Partnering Initiation Workshop. It shall be considered incidental to the Work included in this project.

D19. SAFETY PRECAUTIONS

D19.1 The Contractor shall ensure that any trenches or structural excavations left open or exposed overnight, over a weekend, or for any length of time shall have full and adequate safety precautions provided. These precautions shall include but are not limited to covering open excavations with timber planks or steel plates and erecting a barricade completely around the excavation in accordance with the City of Winnipeg Manual of Temporary Traffic Control and Manitoba Highways and Transportation Traffic Control.

D19.2 The Contractor shall be aware that connections to existing channels and outfall will entail exposure to treated municipal wastewater and the Contractor shall take all precautions necessary for protection to gases such as hydrogen sulphide, which may be present.

D19.3 Smoking inside the outfall channel, outfall chamber, interceptor line, & effluent gate chamber is prohibited.

D19.4 Should the Contractor, or a worker, be harassed, threatened, or have property vandalized, such incidents shall be reported.

D20. MEDICAL SERVICES

D20.1 Further to GC:6.28(e), the Contractor shall provide and maintain on the site in a clean and orderly condition, a completely equipped first aid facility and first aid kits, which shall be readily accessible at all times to all their employees and the Contract Administrator and their staff. The Contractor shall designate certain employees who are properly instructed to be in charge of first aid. At least one such employee shall always be available on the site while Work is being carried out. A telephone call list for summoning aid from outside sources shall be conspicuously posted.

D20.2 In the event of an emergency on site, the Contractor shall contact McPhillips Control Centre at (204) 986-4781 or the shift operator at (204) 794-4468.

D21. ON-SITE SANITATION

D21.1 Further to GC:6.28(f), the Contractor shall provide additional on-site sanitation facilities utilizing holding tank(s) as required for their workforce in a manner and in locations acceptable to the Contract Administrator.

D21.2 Urinating or defecating on the site is strictly prohibited. Further to GC:5.6, such acts will be grounds for the removal of the responsible party from the work site.

D22. DAMAGE TO EXISTING STRUCTURES AND PROPERTY

D22.1 Further to GC:6.28(a), the NEWPCC facilities must remain in operation at all times, and adequate care shall be taken to avoid damage to the outfall pipel, outfall chamber, interceptor line, & effluent gate chamber, adjacent structures, or properties during the course of the Work.

D22.2 Any damage to the outfall pipe, outfall chamber, interceptor line, & effluent gate chamber, adjacent structures, or properties caused by the negligence of the Contractor or their Subcontractors must be immediately repaired by the Contractor at their own expense. The City reserves the right to choose to handle all engineering and carry out the necessary repairs at the Contractor's expense.

D23. SITE AND PERSONNEL SECURITY

D23.1 Further to GC:6.27 and GC:6.28, all work sites shall be secured to ensure that materials and equipment are adequately protected from vandalism and theft during the construction period. Access to the sites shall be restricted to the Contractor's, Subcontractor's and Contract Administrator's authorized work force and supervisory staff.

D24. EXISTING SERVICES AND UTILITIES

D24.1 Further to GC:3.1, no responsibility will be assumed by the City for the correctness or completeness of any information shown on the Drawings regarding existing services, utilities, pipes or other objects either underground or on the surface. It shall be the responsibility of the Contractor to determine the location of all existing services, utilities, pipes and other objects prior to construction. Any damage done to existing services, utilities, pipes and other objects by the Contractor shall be repaired as directed by the authority have jurisdiction at the Contractor's expense.

D25. DEFINITION OF TRADES/JURISDICTION

D25.1 For convenience of reference only, the Specifications are separated into and identified by titled and numbered sections (see Table of Contents).

D25.2 In the case of a dispute, the Contractor shall decide which Subcontractor supplies and installs required materials or equipment. Extras will not be considered on the grounds of differences in interpretation of the Specifications as to which Subcontractor does what work.

FORM H1: PERFORMANCE BOND
(See D9)

KNOW ALL MEN BY THESE PRESENTS THAT

_____ ,
(hereinafter called the "Principal"), and

_____ ,
(hereinafter called the "Surety"), are held and firmly bound unto **THE CITY OF WINNIPEG** (hereinafter called the "Obligee"), in the sum of

_____ dollars (\$_____)

of lawful money of Canada to be paid to the Obligee, or its successors or assigns, for the payment of which sum the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has entered into a written contract with the Obligee dated the

_____ day of _____, 20____, for:

BID OPPORTUNITY NO. 74-2005

NEWPCC SECONDARY EFFLUENT UV DISINFECTION FACILITY

which is by reference made part hereof and is hereinafter referred to as the "Contract".

NOW THEREFORE the condition of the above obligation is such that if the Principal shall:

- (a) carry out and perform the Contract and every part thereof in the manner and within the times set forth in the Contract and in accordance with the terms and conditions specified in the Contract;
- (b) perform the Work in a good, proper, workmanlike manner;
- (c) make all the payments whether to the Obligee or to others as therein provided;
- (d) in every other respect comply with the conditions and perform the covenants contained in the Contract; and
- (e) indemnify and save harmless the Obligee against and from all loss, costs, damages, claims, and demands of every description as set forth in the Contract, and from all penalties, assessments, claims, actions for loss, damages or compensation whether arising under "The Workers Compensation Act", or any other Act or otherwise arising out of or in any way connected with the performance or non-performance of the Contract or any part thereof during the term of the Contract and the warranty period provided for therein;

THEN THIS OBLIGATION SHALL BE VOID, but otherwise shall remain in full force and effect. The Surety shall not, however, be liable for a greater sum than the sum specified above.

AND IT IS HEREBY DECLARED AND AGREED that the Surety shall be liable as Principal, and that nothing of any kind or matter whatsoever that will not discharge the Principal shall operate as a discharge or release of liability of the Surety, any law or usage relating to the liability of Sureties to the contrary notwithstanding.

IN WITNESS WHEREOF the Principal and Surety have signed and sealed this bond the

_____ day of _____, 20____ .

SIGNED AND SEALED
in the presence of:

(Witness)

(Name of Principal)

Per: _____ (Seal)

Per: _____

(Name of Surety)

By: _____ (Seal)
(Attorney-in-Fact)

**FORM H2: IRREVOCABLE STANDBY LETTER OF CREDIT
(PERFORMANCE SECURITY)**
(See D9)

(Date)

The City of Winnipeg
Corporate Services Department
Legal Services Division
185 King Street, 3rd Floor
Winnipeg MB R3B 1J1

RE: PERFORMANCE SECURITY - 74-2005

NEWPCC SECONDARY EFFLUENT UV DISINFECTION FACILITY

Pursuant to the request of and for the account of our customer,

(Name of Contractor)

(Address of Contractor)

WE HEREBY ESTABLISH in your favour our irrevocable Standby Letter of Credit for a sum not exceeding in the aggregate

_____ Canadian dollars.

This Standby Letter of Credit may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you. It is understood that we are obligated under this Standby Letter of Credit for the payment of monies only and we hereby agree that we shall honour your demand for payment without inquiring whether you have a right as between yourself and our customer to make such demand and without recognizing any claim of our customer or objection by the customer to payment by us.

The amount of this Standby Letter of Credit may be reduced from time to time only by amounts drawn upon it by you or by formal notice in writing given to us by you if you desire such reduction or are willing that it be made.

Partial drawings are permitted.

We engage with you that all demands for payment made within the terms and currency of this Standby Letter of Credit will be duly honoured if presented to us at:

(Address)

and we confirm and hereby undertake to ensure that all demands for payment will be duly honoured by us.

All demands for payment shall specifically state that they are drawn under this Standby Letter of Credit.

Subject to the condition hereinafter set forth, this Standby Letter of Credit will expire on

(Date)

It is a condition of this Standby Letter of Credit that it shall be deemed to be automatically extended from year to year without amendment from the present or any future expiry date, unless at least 30 days prior to the present or any future expiry date, we notify you in writing that we elect not to consider this Standby Letter of Credit to be renewable for any additional period.

This Standby Letter of Credit may not be revoked or amended without your prior written approval.

This credit is subject to the Uniform Customs and Practice for Documentary Credit (1993 Revision), International Chamber of Commerce Publication Number 500.

(Name of bank or financial institution)

Per: _____
(Authorized Signing Officer)

Per: _____
(Authorized Signing Officer)