



THE CITY OF WINNIPEG

TENDER

TENDER NO. 261-2023

**CONSTRUCTION OF CLAY DIKES AND LOADING OF CLAY BORROW MATERIAL
– 2023 FLOOD EVENT**

TABLE OF CONTENTS

PART A - BID SUBMISSION

- Form A: Bid/Proposal
- Form B: Prices

PART B - BIDDING PROCEDURES

B1. Contract Title	1
B2. Submission Deadline	1
B3. Site Investigation	1
B4. Enquiries	1
B5. Confidentiality	1
B6. Addenda	2
B7. Substitutes	2
B8. Bid Components	3
B9. Bid	3
B10. Prices	4
B11. Disclosure	5
B12. conflict of Interest and Good Faith	5
B13. Qualification	6
B14. Opening of Bids and Release of Information	7
B15. Irrevocable Bid	8
B16. Withdrawal of Bids	8
B17. Evaluation of Bids	8
B18. Award of Contract	9

PART C - GENERAL CONDITIONS

C0. General Conditions	1
------------------------	---

PART D - SUPPLEMENTAL CONDITIONS

General

D1. General Conditions	1
D2. Scope of Work	1
D3. Site Investigation Due Diligence and Risk	2
D4. Contract Administrator	2
D5. Contractor's Supervisor	2
D6. Accessible Customer Service Requirements	2
D7. Unfair Labour Practices	3

Submissions

D8. Authority to Carry on Business	4
D9. Safe Work Plan	4
D10. Insurance	4

Schedule of Work

D11. Commencement	5
D12. Contractor Availability	5
D13. Operator's Competence and Performance	5
D14. Site Specific Equipment and Labour	5
D15. Equipment Standby Time	6
D16. Contractor's Office and Telephone Numbers	6
D17. COVID-19 Schedule Delays	6

Control of Work

D18. Prime Contractor – The Workplace Safety and Health Act (Manitoba)	7
D19. The Workplace Safety and Health Act (Manitoba) – Qualifications	7

Measurement and Payment

D20. Invoices	7
D21. Payment	8

D22. Payment Schedule	8
Dispute Resolution	
D24. Dispute Resolution	8
Third Party Agreements	
D25. Funding and/or Contribution Agreement Obligations	9
PART E - SPECIFICATIONS	
General	
E1. Construction Equipment	1
E2. Construction of Clay Dikes	2
E3. Loading of Clay Borrow Material	3
E4. Truck Weight Limits	4
E5. Traffic Control	4
PART F - SECURITY CLEARANCE	
F1. Security Clearance	1
APPENDIX A - CLAY BORROW SITE	
APPENDIX B – POTENTIAL DIKE LOCATION	

PART B - BIDDING PROCEDURES

B1. CONTRACT TITLE

B1.1 CONSTRUCTION OF CLAY DIKES AND LOADING OF CLAY BORROW MATERIAL – 2023 FLOOD EVENT

B2. SUBMISSION DEADLINE

- B2.1 The Submission Deadline is 4:00 p.m. Winnipeg time, March 30, 2023.
- B2.2 The Contract Administrator or the Manager of Materials may extend the Submission Deadline by issuing an addendum at any time prior to the time and date specified in B2.1.

B3. SITE INVESTIGATION

- B3.1 Further to C3.1, the Bidder may view the Site without making an appointment.
- B3.1 The Bidder is advised that some potential sites scheduled for dike construction may be on private property and that access to the property can be coordinated with the homeowner through the Contract Administrator, if required.

B4. ENQUIRIES

- B4.1 All enquiries shall be directed to the Contract Administrator identified in D4.1.
- B4.2 If the Bidder finds errors, discrepancies or omissions in the Tender, or is unsure of the meaning or intent of any provision therein, the Bidder shall notify the Contract Administrator of the error, discrepancy or omission, or request a clarification as to the meaning or intent of the provision at least five (5) Business Days prior to the Submission Deadline.
- B4.3 Responses to enquiries which, in the sole judgment of the Contract Administrator, require a correction to or a clarification of the Tender will be provided by the Contract Administrator to all Bidders by issuing an addendum.
- B4.4 Responses to enquiries which, in the sole judgment of the Contract Administrator, do not require a correction to or a clarification of the Tender will be provided by the Contract Administrator only to the Bidder who made the enquiry.
- B4.5 The Bidder shall not be entitled to rely on any response or interpretation received pursuant to B4 unless that response or interpretation is provided by the Contract Administrator in writing.
- B4.6 Any enquiries concerning submitting through MERX should be addressed to:
MERX Customer Support
Phone: 1-800-964-6379
Email: merx@merx.com

B5. CONFIDENTIALITY

- B5.1 Information provided to a Bidder by the City or acquired by a Bidder by way of further enquiries or through investigation is confidential. Such information shall not be used or disclosed in any way without the prior written authorization of the Contract Administrator. The use and disclosure of the confidential information shall not apply to information which:
- (a) was known to the Bidder before receipt hereof; or
 - (b) becomes publicly known other than through the Bidder; or
 - (c) is disclosed pursuant to the requirements of a governmental authority or judicial order.

B5.2 The Bidder shall not make any statement of fact or opinion regarding any aspect of the Tender to the media or any member of the public without the prior written authorization of the Contract Administrator.

B6. ADDENDA

B6.1 The Contract Administrator may, at any time prior to the Submission Deadline, issue addenda correcting errors, discrepancies or omissions in the Tender, or clarifying the meaning or intent of any provision therein.

B6.2 The Contract Administrator will issue each addendum at least two (2) Business Days prior to the Submission Deadline, or provide at least two (2) Business Days by extending the Submission Deadline.

B6.3 Addenda will be available on the MERX website at www.merx.com.

B6.4 The Bidder is responsible for ensuring that they have received all addenda and is advised to check the MERX website for addenda regularly and shortly before the Submission Deadline, as may be amended by addendum.

B6.5 The Bidder shall acknowledge receipt of each addendum in Paragraph 10 of Form A: Bid/Proposal. Failure to acknowledge receipt of an addendum may render a Bid non-responsive

B6.6 Notwithstanding B4, enquiries related to an Addendum may be directed to the Contract Administrator indicated in D4.

B7. SUBSTITUTES

B7.1 The Work is based on the Plant, Materials and methods specified in the Tender.

B7.2 Substitutions shall not be allowed unless application has been made to and prior approval has been granted by the Contract Administrator in writing.

B7.3 Requests for approval of a substitute will not be considered unless received in writing by the Contract Administrator at least five (5) Business Days prior to the Submission Deadline.

B7.4 The Bidder shall ensure that any and all requests for approval of a substitute:

- (a) provide sufficient information and details to enable the Contract Administrator to determine the acceptability of the Plant, Material or method as either an approved equal or alternative;
- (b) identify any and all changes required in the applicable Work, and all changes to any other Work, which would become necessary to accommodate the substitute;
- (c) identify any anticipated cost or time savings that may be associated with the substitute;
- (d) certify that, in the case of a request for approval as an approved equal, the substitute will fully perform the functions called for by the general design, be of equal or superior substance to that specified, is suited to the same use and capable of performing the same function as that specified and can be incorporated into the Work, strictly in accordance with the proposed work schedule and the dates specified in the Supplemental Conditions for Substantial Performance and Total Performance;
- (e) certify that, in the case of a request for approval as an approved alternative, the substitute will adequately perform the functions called for by the general design, be similar in substance to that specified, is suited to the same use and capable of performing the same function as that specified and can be incorporated into the Work, strictly in accordance with the proposed work schedule and the dates specified in the Supplemental Conditions for Substantial Performance and Total Performance.

- B7.5 The Contract Administrator, after assessing the request for approval of a substitute, may in their sole discretion grant approval for the use of a substitute as an “approved equal” or as an “approved alternative”, or may refuse to grant approval of the substitute.
- B7.6 The Contract Administrator will provide a response in writing, at least two (2) Business Days prior to the Submission Deadline, to the Bidder who requested approval of the substitute.
- B7.6.1 The Contract Administrator will issue an Addendum, disclosing the approved materials, equipment, methods and products to all potential Bidders. The Bidder requesting and obtaining the approval of a substitute shall be responsible for disseminating information regarding the approval to any person or persons they wish to inform.
- B7.7 If the Contract Administrator approves a substitute as an “approved equal”, any Bidder may use the approved equal in place of the specified item.
- B7.8 If the Contract Administrator approves a substitute as an “approved alternative”, any Bidder bidding that approved alternative may base their Total Bid Price upon the specified item but may also indicate an alternative price based upon the approved alternative. Such alternatives will be evaluated in accordance with B17.
- B7.9 No later claim by the Contractor for an addition to the Total Bid Price because of any other changes in the Work necessitated by the use of an approved equal or an approved alternative will be considered.

B8. BID COMPONENTS

- B8.1 The Bid shall consist of the following components:
- (a) Form A: Bid/Proposal;
 - (b) Form B: Prices.
- B8.2 All components of the Bid shall be fully completed or provided, and submitted by the Bidder no later than the Submission Deadline, with all required entries made clearly and completely.
- B8.3 The Bid shall be submitted electronically through MERX at www.merx.com.
- B8.3.1 Bids will **only** be accepted electronically through MERX.
- B8.4 Bidders are advised that inclusion of terms and conditions inconsistent with the Tender document, including the General Conditions, will be evaluated in accordance with B17.1(a).

B9. BID

- B9.1 The Bidder shall complete Form A: Bid/Proposal, making all required entries.
- B9.2 Paragraph 2 of Form A: Bid/Proposal shall be completed in accordance with the following requirements:
- (a) if the Bidder is a sole proprietor carrying on business in their own name, their name shall be inserted;
 - (b) if the Bidder is a partnership, the full name of the partnership shall be inserted;
 - (c) if the Bidder is a corporation, the full name of the corporation shall be inserted;
 - (d) if the Bidder is carrying on business under a name other than their own, the business name and the name of every partner or corporation who is the owner of such business name shall be inserted.
- B9.2.1 If a Bid is submitted jointly by two or more persons, each and all such persons shall identify themselves in accordance with B9.2.
- B9.3 In Paragraph 3 of Form A: Bid/Proposal, the Bidder shall identify a contact person who is authorized to represent the Bidder for purposes of the Bid.

- B9.4 Paragraph 13 of Form A: Bid/Proposal shall be signed in accordance with the following requirements:
- (a) if the Bidder is a sole proprietor carrying on business in their own name, it shall be signed by the Bidder;
 - (b) if the Bidder is a partnership, it shall be signed by the partner or partners who have authority to sign for the partnership;
 - (c) if the Bidder is a corporation, it shall be signed by their duly authorized officer or officers;
 - (d) if the Bidder is carrying on business under a name other than their own, it shall be signed by the registered owner of the business name, or by the registered owner's authorized officials if the owner is a partnership or a corporation.
- B9.4.1 The name and official capacity of all individuals signing Form A: Bid/Proposal should be entered below such signatures.
- B9.4.2 All signatures shall be original.
- B9.5 If a Bid is submitted jointly by two or more persons, the word "Bidder" shall mean each and all such persons, and the undertakings, covenants and obligations of such joint Bidders in the Bid and the Contract, when awarded, shall be both joint and several.

B10. PRICES

- B10.1 The Bidder shall state a price in Canadian funds for each item of the Work identified on Form B: Prices.
- B10.1.1 Prices stated on Form B: Prices shall not include any costs which may be incurred by the Contractor with respect to any applicable funding agreement obligations as outlined in D25. Any such costs shall be determined in accordance with D25.
- B10.2 The quantities listed on Form B: Prices are to be considered approximate only. The City will use said quantities for the purpose of comparing Bids.
- B10.3 The quantities for which payment will be made to the Contractor are to be determined by the Work actually performed and completed by the Contractor, to be measured as specified in the applicable Specifications.
- B10.4 Payments to Non-Resident Contractors are subject to Non-Resident Withholding Tax pursuant to the Income Tax Act (Canada).
- B10.5 The Bidder shall enter the Total Bid Price from Form B: Prices into the Total Bid Price field in MERX.
- B10.5.1 Bidders are advised that the calculation indicated in B17.4 will prevail over the Total Bid Price entered in MERX.
- B10.6 Bid Prices shall include all costs of any nature whatsoever including but not limited to:
- (a) Supply and Operation of Equipment
 - (i) Qualified operators;
 - (ii) Fuel, oil, lubrication and all maintenance;
 - (iii) Any and all overtime (i.e.: no special or additional rates will be accepted);
 - (iv) Any and all travel time to and from the Work site;
 - (v) All insurance and all other costs.
 - (b) Labour
 - (i) Site coordination;
 - (ii) Site supervision;
 - (iii) Labourers;

- (iv) Any and all travel time to and from the Work site;
- (c) Miscellaneous Equipment
 - (i) Light towers;
 - (ii) Pumps and hoses;
 - (iii) Laser levels;
 - (iv) Generators and fuel;
 - (v) Portable toilets.

B10.7 Light trucks - ½ Ton, ¾ Ton, and 1 Ton, to be incidental to the work.

B10.8 The Bidder shall not be compensated for rest/meal breaks or equipment maintenance work stoppages.

B11. DISCLOSURE

B11.1 Various Persons provided information or services with respect to this Work. In the City's opinion, this relationship or association does not create a conflict of interest because of this full disclosure. Where applicable, additional material available as a result of contact with these Persons is listed below.

B11.2 The Persons are:

- (a) N/A

B12. CONFLICT OF INTEREST AND GOOD FAITH

B12.1 Further to C3.2, Bidders, by responding to this Tender, declare that no Conflict of Interest currently exists, or is reasonably expected to exist in the future.

B12.2 Conflict of Interest means any situation or circumstance where a Bidder or employee of the Bidder proposed for the Work has:

- (a) other commitments;
- (b) relationships;
- (c) financial interests; or
- (d) involvement in ongoing litigation;

that could or would be seen to:

- (i) exercise an improper influence over the objective, unbiased and impartial exercise of the independent judgment of the City with respect to the evaluation of Bids or award of the Contract; or
- (ii) compromise, impair or be incompatible with the effective performance of a Bidder's obligations under the Contract.
- (e) has contractual or other obligations to the City that could or would be seen to have been compromised or impaired as a result of their participation in the Tender process or the Work; or
- (f) has knowledge of confidential information (other than confidential information disclosed by the City in the normal course of the Tender process) of strategic and/or material relevance to the Tender process or to the Work that is not available to other bidders and that could or would be seen to give that Bidder an unfair competitive advantage.

B12.3 In connection with their Bid, each entity identified in B12.2 shall:

- (a) avoid any perceived, potential or actual Conflict of Interest in relation to the procurement process and the Work;

- (b) upon discovering any perceived, potential or actual Conflict of Interest at any time during the Tender process, promptly disclose a detailed description of the Conflict of Interest to the City in a written statement to the Contract Administrator; and
- (c) provide the City with the proposed means to avoid or mitigate, to the greatest extent practicable, any perceived, potential or actual Conflict of Interest and shall submit any additional information to the City that the City considers necessary to properly assess the perceived, potential or actual Conflict of Interest.

B12.4 Without limiting B12.3, the City may, in their sole discretion, waive any and all perceived, potential or actual Conflicts of Interest. The City's waiver may be based upon such terms and conditions as the City, in their sole discretion, requires to satisfy itself that the Conflict of Interest has been appropriately avoided or mitigated, including requiring the Bidder to put into place such policies, procedures, measures and other safeguards as may be required by and be acceptable to the City, in their sole discretion, to avoid or mitigate the impact of such Conflict of Interest.

B12.5 Without limiting B12.3, and in addition to all contractual or other rights or rights at law or in equity or legislation that may be available to the City, the City may, in their sole discretion:

- (a) disqualify a Bidder that fails to disclose a perceived, potential or actual Conflict of Interest of the Bidder or any of their employees proposed for the Work;
- (b) require the removal or replacement of any employees proposed for the Work that has a perceived, actual or potential Conflict of Interest that the City, in their sole discretion, determines cannot be avoided or mitigated;
- (c) disqualify a Bidder or employees proposed for the Work that fails to comply with any requirements prescribed by the City pursuant to B12.4 to avoid or mitigate a Conflict of Interest; and
- (d) disqualify a Bidder if the Bidder, or one of their employees proposed for the Work, has a perceived, potential or actual Conflict of Interest that, in the City's sole discretion, cannot be avoided or mitigated, or otherwise resolved.

B12.6 The final determination of whether a perceived, potential or actual Conflict of Interest exists shall be made by the City, in their sole discretion.

B13. QUALIFICATION

B13.1 The Bidder shall:

- (a) undertake to be 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; and
- (b) be financially capable of carrying out the terms of the Contract; and
- (c) have all the necessary experience, capital, organization, and equipment to perform the Work in strict accordance with the terms and provisions of the Contract.

B13.2 The Bidder and any proposed Subcontractor (for the portion of the Work proposed to be subcontracted to them) shall:

- (a) be responsible and not be suspended, debarred or in default of any obligations to the City. A list of suspended or debarred individuals and companies is available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <https://www.winnipeg.ca/matmgt/Templates/files/debar.pdf>

B13.3 The Bidder and/or any proposed Subcontractor (for the portion of the Work proposed to be subcontracted to them) shall:

- (a) have successfully carried out work similar in nature, scope and value to the Work; and
- (b) be fully capable of performing the Work required to be in strict accordance with the terms and provisions of the Contract; and

- (c) have a written workplace safety and health program if required pursuant to The Workplace Safety and Health Act (Manitoba);
- (d) have completed the Accessible Customer Service online training required by the Accessibility for Manitobans Act (AMA) (see B13.5 and D6);
- (e) have experience in building clay dikes on and around riverbank areas; and
- (f) upon request of the Contract Administrator, provide the Security Clearances in accordance with PART F - Security Clearance.

B13.4 Further to B13.3(c), the Bidder shall, within five (5) Business Days of a request by the Contract Administrator, provide proof satisfactory to the Contract Administrator that the Bidder/Subcontractor has a workplace safety and health program meeting the requirements of The Workplace Safety and Health Act (Manitoba), by providing:

- (a) Written confirmation of a safety and health certification meeting SAFE Work Manitoba's SAFE Work Certified Standard (e.g., COR™ and SECOR™) or
 - (i) a copy of their valid Manitoba COR certificate and Letter of Good Standing (or Manitoba equivalency) as issued under the Certificate of Recognition (COR) Program administered by the Construction Safety Association of Manitoba or by the Manitoba Heavy Construction Association's WORKSAFELY™ COR™ Program; or
 - (ii) a copy of their valid Manitoba SECOR™ certificate and Letter of Good Standing (or Manitoba equivalency) as issued under the Small Employer Certificate of Recognition Program (SECOR™) administered by the Construction Safety Association of Manitoba or by the Manitoba Heavy Construction Association's WORKSAFELY™ COR™ Program; or
- (b) a report or letter to that effect from an independent reviewer acceptable to the City. (A list of acceptable reviewers and the review template are available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at <http://www.winnipeg.ca/matmgt/>).

B13.5 Further to B13.3(d), the Bidder acknowledges they and all Subcontractors have obtained training required by the Accessibility for Manitobans Act (AMA) available at <http://www.accessibilitymb.ca/training.html> for anyone that may have any interaction with the public on behalf of the City of Winnipeg.

B13.6 The Bidder shall submit, within three (3) Business Days of a request by the Contract Administrator, proof satisfactory to the Contract Administrator of the qualifications of the Bidder and of any proposed Subcontractor for the following:

- (a) The Bidder will be required to submit the Make, Model, Unit, Year and Serial Number to identify all equipment, prior to award. Failure to provide the requested information will be cause for rejection of the equipment. Only original equipment manufactured (O.E.M.) serial numbers to be used; and
- (b) The Bidder may be required to submit a copy of the vehicle registration after the submission deadline. Failure to provide the requested information will be cause for rejection of the equipment.

B13.7 The Bidder shall provide, on the request of the Contract Administrator, full access to any of the Bidder's equipment and facilities to confirm, to the Contract Administrator's satisfaction, that the Bidder's equipment and facilities are adequate to perform the Work.

B14. OPENING OF BIDS AND RELEASE OF INFORMATION

B14.1 Bids will not be opened publicly.

B14.2 Following the submission deadline, the names of the Bidders and their Total Bid Prices (unevaluated, and pending review and verification of conformance with requirements) will be available on the MERX website at www.merx.com.

- B14.3 After award of Contract, the name(s) of the successful Bidder(s) and their Contract amount(s) will be available on the MERX website at www.merx.com.
- B14.4 The Bidder is advised that any information contained in any Bid may be released if required by The Freedom of Information and Protection of Privacy Act (Manitoba), by other authorities having jurisdiction, or by law or by City policy or procedures (which may include access by members of City Council).
- B14.4.1 To the extent permitted, the City shall treat as confidential information, those aspects of a Bid Submission identified by the Bidder as such in accordance with and by reference to Part 2, Section 17 or Section 18 or Section 26 of The Freedom of Information and Protection of Privacy Act (Manitoba), as amended.

B15. IRREVOCABLE BID

- B15.1 The Bid(s) submitted by the Bidder shall be irrevocable for the time period specified in Paragraph 11 of Form A: Bid/Proposal.
- B15.2 The acceptance by the City of any Bid shall not release the Bids of the next two lowest evaluated responsive Bidders and these Bidders shall be bound by their Bids on such Work for the time period specified in Paragraph 11 of Form A: Bid/Proposal.

B16. WITHDRAWAL OF BIDS

- B16.1 A Bidder may withdraw their Bid without penalty prior to the Submission Deadline.

B17. EVALUATION OF BIDS

- B17.1 Award of the Contract shall be based on the following bid evaluation criteria:
- (a) compliance by the Bidder with the requirements of the Tender or acceptable deviation there from (pass/fail);
 - (b) qualifications of the Bidder and the Subcontractors, if any, pursuant to B13 (pass/fail);
 - (c) Bid Price;
 - (d) economic analysis of any approved alternative pursuant to B7;
 - (e) Cost to the City of administering multiple contracts.
- B17.2 Further to B17.1(a), the Award Authority may reject a Bid as being non-responsive if the Bid is incomplete, obscure or conditional, or contains additions, deletions, alterations or other irregularities. The Award Authority may reject all or any part of any Bid, or waive technical requirements or minor informalities or irregularities, if the interests of the City so require.
- B17.3 Further to B17.1(b), the Award Authority shall reject any Bid submitted by a Bidder who does not demonstrate, in their Bid or in other information required to be submitted, that they are qualified.
- B17.4 Further to B17.1(c), the Bid Price shall be the sum of the quantities multiplied by the unit prices for each item shown on Form B: Prices.
- B17.4.1 Further to B17.1(a), in the event that a unit price is not provided on Form B: Prices, the City may determine the unit price by dividing the Amount (extended price) by the approximate quantity, for the purposes of evaluation and payment.
- B17.4.2 Bidders are advised that the calculation indicated in B17.4 will prevail over the Bid Price entered in MERX.
- B17.5 This Contract may be awarded separately in sections.
- B17.5.1 Notwithstanding B17.5, the Bidder may, but is not required to, bid on all sections.

B17.5.2 Notwithstanding B18.4, the City shall not be obligated to award any of Construction of Clay Dikes or Loading of Clay Borrow Material to the responsible Bidder submitting the lowest evaluated responsive Bid and shall have the right to choose the alternative which is in its best interests. If the Bidder has not bid on all sections, they shall have no claim against the City if their partial Bid is rejected for any reason.

B18. AWARD OF CONTRACT

B18.1 The City will give notice of the award of the Contract or will give notice that no award will be made.

B18.2 The City will have no obligation to award a Contract to a Bidder, even though one or all of the Bidders are determined to be qualified, and the Bids are determined to be responsive.

B18.2.1 Without limiting the generality of B18.2, the City will have no obligation to award a Contract where:

- (a) the prices exceed the available City funds for the Work;
- (b) the prices are materially in excess of the prices received for similar work in the past;
- (c) the prices are materially in excess of the City's cost to perform the Work, or a significant portion thereof, with their own forces;
- (d) only one Bid is received; or
- (e) in the judgment of the Award Authority, the interests of the City would best be served by not awarding a Contract.

B18.3 If funding for the Work is provided to the City of Winnipeg by the Government of Manitoba and/or the Government of Canada, Bidders are advised that the terms of D25 shall immediately take effect upon confirmation of such funding, regardless of when funding is confirmed.

B18.4 Where an award of Contract is made by the City, the award shall be made to the qualified Bidder submitting the lowest evaluated responsive Bid, in accordance with B17.

B18.5 Further to Paragraph 7 of Form A: Bid/Proposal and C4, the City may issue a purchase order to the successful Bidder in lieu of the execution of a Contract.

B18.5.1 The Contract Documents, as defined in C1.1(p), in their entirety shall be deemed to be incorporated in and to form a part of the purchase order notwithstanding that they are not necessarily attached to or accompany said purchase order.

B18.6 Following the award of contract, a Bidder will be provided with information related to the evaluation of their Bid upon written request to the Contract Administrator.

PART C - GENERAL CONDITIONS

C0. GENERAL CONDITIONS

- C0.1 The *General Conditions for Construction* (Revision 2020-01-31) are applicable to the Work of the Contract.
- C0.1.1 The *General Conditions for Construction* are available on the Information Connection page at The City of Winnipeg, Corporate Finance, Materials Management Division website at http://www.winnipeg.ca/matmgt/gen_cond.stm
- C0.2 A reference in the Tender to a section, clause or subclause with the prefix “**C**” designates a section, clause or subclause in the *General Conditions for Construction*.

PART D - SUPPLEMENTAL CONDITIONS

GENERAL

D1. GENERAL CONDITIONS

D1.1 In addition to the *General Conditions for Construction*, these Supplemental Conditions are applicable to the Work of the Contract.

D2. SCOPE OF WORK

D2.1 The Work to be done under the Contract shall consist of the construction of clay dikes along the Primary and Secondary Dikes within the City of Winnipeg and loading of clay borrow material from the borrow site.

D2.2 Depending on site specific river levels, clay dike locations and sizes will be determined by the Contract Administrator as required. The Contract Administrator reserves the right to add or remove clay dike locations.

D2.3 The most current flood forecast is projecting a minor to moderate flood event. Approximate quantities of clay dike for the moderate event under this forecast is shown on Form B. As the flood forecast becomes more defined, actual quantities will increase or decrease, or be cancelled as a result. The following shows clay dike quantities:

- (a) Minor to Moderate Flood Event
 - (i) Turnbull Drive - 1000m³

D2.4 Locations shown in Appendix B include:

- (a) Turnbull Drive

D2.5 For any additional dike locations added, the Contract Administrator will provide the Contractor(s) with approximate clay material required and location sketches.

D2.6 The major components of the Work are as follows:

- (a) transportation of clay dike material from the designated borrow area shown in Appendix A to the site of the required clay dike as directed by the Contract Administrator;
- (b) removal of any obstructions which interfere with construction of the clay dike, such as fences, tree, brush, etc., as directed by the Contract Administrator;
- (c) construction of clay dikes;
- (d) removal of clay dikes; and
- (e) rough grade the areas disturbed by the dike construction as directed by the Contract Administrator.

D2.7 The major components of the Work for loading of clay borrow material are as follows:

- (a) prepare loading area with 150mm limestone and filter fabric;
- (b) maintain and clean any roads travelled on for the duration of the work;
- (c) coordination and loading of trucks with clay material;
- (d) removal of granular material and filter fabric;
- (e) placement of the returned borrow material after the flood event as directed by the Contract Administrator; and
- (f) rough grade the areas disturbed by the loading of clay borrow material as directed by the Contract Administrator.

D3. SITE INVESTIGATION DUE DILIGENCE AND RISK

D3.1 Notwithstanding C3.1, the Contractor acknowledges that the site investigation reports and other site information included in this Tender have been provided to it and may be relied upon by the Contractor to the extent that the Contractor uses Good Industry Practice in interpreting such report(s) and site information and carries out the Work in accordance with Good Industry Practice based upon such report(s) and the information contained in them and such other site information. In the event that a site condition related to:

- (a) the location of any utility which can be determined from the records or other information available at the offices of any public authority or person, including a municipal corporation and any board or commission thereof, having jurisdiction or control over the utility;
- (b) the Site conditions, including but not limited to subsurface hazardous materials or other concealed physical conditions;
- (c) the location, nature, quality or quantity of the materials to be removed or to be employed in the performance of the Work;
- (d) the nature, quality or quantity of the Plant needed to perform the Work;
- (e) all matters concerning access to the Site, power supplies, location of existing services, utilities or materials necessary for the completion of the Work; and
- (f) all other matters which could in any way affect the performance of the Work;

that could not have been “properly inferable”, “readily apparent” and readily discoverable” using Good Industry Practice by the Contractor, results in additional Work which is a direct result of this newly discovered site condition, such additional Work will be considered by the City under Changes in Work.

D4. CONTRACT ADMINISTRATOR

D4.1 The Contract Administrator is:

Duane Baker, C.E.T.
Construction Services Coordinator

Telephone No. 204 986-4289

Email Address duanebaker@winnipeg.ca

D4.2 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.

D5. CONTRACTOR'S SUPERVISOR

D5.1 At the pre-construction meeting, the Contractor shall identify their designated supervisor and any additional personnel representing the Contractor and their respective roles and responsibilities for the Work.

D6. ACCESSIBLE CUSTOMER SERVICE REQUIREMENTS

D6.1 The Accessibility for Manitobans Act (AMA) imposes obligations on The City of Winnipeg to provide accessible customer service to all persons in accordance with the Customer Service Standard Regulation (“CSSR”) to ensure inclusive access and participation for all people who live, work or visit Winnipeg regardless of their abilities.

D6.1.1 The Contractor agrees to comply with the accessible customer service obligations under the CSSR and further agrees that when providing the Goods or Services or otherwise acting on the City of Winnipeg’s behalf, shall comply with all obligations under the AMA applicable to public sector bodies.

D6.1.2 The accessible customer service obligations include, but are not limited to:

- (a) providing barrier-free access to goods and services;
- (b) providing reasonable accommodations;
- (c) reasonably accommodating assistive devices, support persons, and support animals;
- (d) providing accessibility features e.g. ramps, wide aisles, accessible washrooms, power doors and elevators;
- (e) inform the public when accessibility features are not available;
- (f) providing a mechanism or process for receiving and responding to public feedback on the accessibility of all goods and services; and
- (g) providing adequate training of staff and documentation of same.

D7. UNFAIR LABOUR PRACTICES

- D7.1 Further to C3.2, the Contractor declares that in bidding for the Work and in entering into this Contract, the Contractor and any proposed Subcontractor(s) conduct their respective business in accordance with established international codes embodied in United Nations Universal Declaration of Human Rights (UDHR) <https://www.un.org/en/about-us/universal-declaration-of-human-rights> International Labour Organization (ILO) [https://www.ilo.org/global/lang--en/index.htm](https://www.ilo.org/global/lang-en/index.htm) conventions as ratified by Canada.
- D7.2 The City of Winnipeg is committed and requires its Contractors and their Subcontractors, to be committed to upholding and promoting international human and labour rights, including fundamental principles and rights at work covered by ILO eight (8) fundamental conventions and the United Nations Universal Declaration of Human Rights which includes child and forced labour.
- D7.3 Upon request from the Contract Administrator, the Contractor shall provide disclosure of the sources (by company and country) of the raw materials used in the Work and a description of the manufacturing environment or processes (labour unions, minimum wages, safety, etc.).
- D7.4 Failure to provide the evidence required under D7.3, may be determined to be an event of default in accordance with C18.
- D7.5 In the event that the City, in its sole discretion, determines the Contractor to have violated the requirements of this section, it will be considered a fundamental breach of the Contract and the Contractor shall pay to the City a sum specified by the Contract Administrator in writing ("Unfair Labour Practice Penalty"). Such a violation shall also be considered an Event of Default, and shall entitle the City to pursue all other remedies it is entitled to in connection with same pursuant to the Contract.
- D7.5.1 The Unfair Labour Practice Penalty shall be such a sum as determined appropriate by the City, having due regard to the gravity of the Contractor's violation of the above requirements, any cost of obtaining replacement goods/ services or rectification of the breach, and the impact upon the City's reputation in the eyes of the public as a result of same.
- D7.5.2 The Contractor shall pay the Unfair Labour Practice Penalty to the City within thirty (30) Calendar Days of receiving a demand for same in accordance with clause D7.5. The City may also hold back the amount of the Unfair Labour Practice Penalty from payment for any amount it owes the Contractor.
- D7.5.3 The obligations and rights conveyed by this clause survive the expiry or termination of this Contract, and may be exercised by the City following the performance of the Work, should the City determine, that a violation by the Contractor of the above clauses has occurred following same. In no instance shall the Unfair Labour Practice Penalty exceed the total of twice the Contract value.

SUBMISSIONS

D8. AUTHORITY TO CARRY ON BUSINESS

D8.1 The Contractor shall be 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, or if the Contractor does not carry on business in Manitoba, in the jurisdiction where the Contractor does carry on business, throughout the term of the Contract, and shall provide the Contract Administrator with evidence thereof upon request.

D9. SAFE WORK PLAN

D9.1 The Contractor shall provide the Contract Administrator with a Safe Work Plan at least two (2) Calendar Days upon being called out to complete any Work on the Site.

D9.2 The Safe Work Plan should 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 website at <http://www.winnipeg.ca/matmgt/Safety/default.stm>

D9.3 Notwithstanding B13.4 at any time during the term of the Contract, the City may, at their sole discretion and acting reasonably, require an updated COR Certificate or Annual Letter of good Standing. A Contractor, who fails to provide a satisfactory COR Certificate or Annual Letter of good Standing, will not be permitted to continue to perform any Work.

D10. INSURANCE

D10.1 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) inclusive, with The City of Winnipeg added as an additional insured, with a cross-liability clause, such liability policy to also contain contractual liability, unlicensed motor vehicle liability, non-owned automobile liability and products and completed operations, to remain in place at all times during the performance of the Work and throughout the warranty period;
- (b) if applicable, Automobile Liability Insurance covering all motor vehicles, owned and operated and used or to be used by the Contractor directly or indirectly in the performance of the Work. The Limit of Liability shall not be less than \$2,000,000 inclusive for loss or damage including personal injuries and death resulting from any one accident or occurrence;
- (c) all risks installation floater, carrying adequate limits to cover all machinery, equipment, supplies and/or materials intended to enter into and form part of any installation.
- (d) 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

D10.2 Deductibles shall be borne by the Contractor.

D10.3 The Contractor shall provide the Contract Administrator with a certificate(s) of insurance, in a form satisfactory to the City Solicitor, at least two (2) Business Days prior to the commencement of any Work but in no event later than seven (7) Calendar Days from notification of the award of Contract by Purchase Order.

D10.4 The Contractor shall not cancel, materially alter, or cause each policy to lapse without providing at least thirty (30) Calendar Days prior written notice to the Contract Administrator.

SCHEDULE OF WORK

D11. COMMENCEMENT

- D11.1 The Contractor shall not commence any Work until they are in receipt of a Purchase Order from the Award Authority authorizing the commencement of the Work.
- D11.2 The Contractor shall not commence any Work on the Site until:
- (a) the Contract Administrator has confirmed receipt and approval of:
 - (i) evidence of authority to carry on business specified in D8;
 - (ii) evidence of the workers compensation coverage specified in C6.15;
 - (iii) the Safe Work Plan specified in D9;
 - (iv) evidence of the insurance specified in D10 and
 - (v) the direct deposit application form specified in D21.
 - (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.
- D11.3 The Work for this contract is expected to start the week of April 10, 2023. The actual start date will be dependent on river level projections.

D12. CONTRACTOR AVAILABILITY

- D12.1 Notwithstanding D11, if required, the Contractor must be able to mobilize and be on-site prepared to commence the Work within twenty-four (24) hours of being called out by the Contract Administrator. Should the Contractor be unavailable or unable to be on-site within the aforementioned time, the Contract Administrator reserves the right to retain another Contractor from the Callout List.

D13. OPERATOR'S COMPETENCE AND PERFORMANCE

- D13.1 The Contractor's operator shall maintain all equipment in good working order and shall perform all obligations expressed and implied in this Tender in good, safe and workmanlike manner. Where, in the opinion of the Contract Administrator, an operator fails to meet the obligations expressed or implied in this Tender, and without limiting the generality of the foregoing, the operator is:
- (a) unqualified, or
 - (b) operating in an unsafe manner, or
 - (c) not performing a satisfactory amount of Work, or
 - (d) engaged in activity outside the City's interests.
- D13.2 The equipment and operator may be dismissed immediately and shall not be re-engaged until such time as the inadequacies that resulted in the dismissal have been remedied to the sole satisfaction of the Contract Administrator.
- D13.3 Individuals under the age of 18 years are not permitted by the City of Winnipeg to operate any equipment used in snow clearing and ice control activities.

D14. SITE SPECIFIC EQUIPMENT AND LABOUR

- D14.1 Each dike construction site shall have the following equipment and labour supplied by an individual Contractor to perform the dike building operation;
- (a) one hydraulic excavator from the allowable equipment list as specified in E1;
 - (b) one crawler tractor from the allowable equipment list as specified in E1;
 - (c) one rubber tired loader from the allowable equipment list as specified in E1;

- (d) one skid steer – rubber tire or compact track from the allowable equipment list as specified in E1;
- (e) dump trucks from the allowable equipment list as specified in E1. The Contractor shall provide the required number of dump trucks to ensure a continuous supply of clay material is delivered to the dike construction site;
- (f) supervisor; and
- (g) labourers as required.

D14.2 The loading of clay borrow material shall have the following equipment and labour by an individual Contractor to perform the loading of clay material;

- (a) one hydraulic excavator from the allowable equipment list as specified in E1;
- (b) one crawler tractor from the allowable equipment list as specified in E1;
- (c) one rubber tired loader from the allowable equipment list as specified in E1;
- (d) supervisor; and
- (e) site coordinator.

D14.3 The City reserves the right to request extra equipment and labour to be deployed to complete the Work required at a clay dikes construction Site and to load clay material if deemed necessary.

D14.4 The City reserves the right to request excess equipment and labour be removed from a clay dike construction Site and the loading of clay material Site if deemed necessary.

D15. EQUIPMENT STANDBY TIME

D15.1 The Contract Administrator will only call out for equipment to be delivered to the Dike Construction Site(s) and the Clay Borrow Site as close to the commencement of the work as possible.

D15.2 It is possible that the Contract Administrator will call out for equipment and it may not be used if river elevations trend downward.

D15.3 Equipment called out shall remain at the respective sites until the Contract Administrator determines that the threat of flooding has passed.

D15.4 No payment shall be made for any duration of equipment standby time.

D16. CONTRACTOR'S OFFICE AND TELEPHONE NUMBERS

D16.1 Each Contractor shall provide and maintain a valid 24-hour call-out telephone number with a person answering. If the person answering cannot give a firm commitment, the City will consider that the equipment and labour forces are not available and will go to the next on the list.

D17. COVID-19 SCHEDULE DELAYS

D17.1 The City acknowledges that the schedule for this Contract may be impacted by the COVID-19 pandemic. Commencement and progress of the Work shall be performed by the Contractor with due consideration to the health and safety of workers and the public, directives from health authorities and various levels of government and in close consultation with the Contract Administrator.

D17.2 If the Contractor is delayed in the performance of the Work by reason of the COVID-19 pandemic, the Work schedule may be adjusted by a period of time equal to the time lost due to such delay and costs related to such delay will be determined as identified herein.

- D17.3 A minimum of seven (7) Calendar Days prior to the commencement of Work, the Contractor shall declare whether COVID-19 will affect the start date. The Contractor shall provide sufficient evidence that the delay is directly related to COVID-19, including but not limited to evidence related to availability of staff, availability of Material or work by others.
- D17.4 For any delay related to COVID-19 and identified after Work has commenced, the Contractor shall within seven (7) Calendar Days of becoming aware of the anticipated delay declare the additional delay and shall provide sufficient evidence as indicated in D17.3. Failure to provide this notice will result in no additional time delays being considered by the City.
- D17.5 The Work schedule, including the durations identified in D12 where applicable, will be adjusted to reflect delays accepted by the Contract Administrator. No additional payment will be made for adjustment of schedules except where seasonal work, not previously identified in the Contract, is carried over to the following construction season.
- D17.6 Where Work not previously identified is being carried over solely as a result of delays related to COVID-19, as confirmed by the Contract Administrator, the cost of temporary works to maintain the Work in a safe manner until Work recommences, will be considered by the Contract Administrator. Where the Work is carried over only partially due to COVID-19, a partial consideration of the cost of temporary works will be considered by the Contract Administrator.
- D17.7 Any time or cost implications as a result of COVID-19 and in accordance with the above, as confirmed by the Contract Administrator, shall be documented in accordance with C7.

CONTROL OF WORK

D18. PRIME CONTRACTOR – THE WORKPLACE SAFETY AND HEALTH ACT (MANITOBA)

- D18.1 Further to C6.26, 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).

D19. THE WORKPLACE SAFETY AND HEALTH ACT (MANITOBA) – QUALIFICATIONS

- D19.1 Further to B13.4, the Contractor/Subcontractor must, throughout the term of the Contract, have a Workplace Safety and Health Program meeting the requirements of The Workplace Safety and Health Act (Manitoba). At any time during the term of the Contract, the City may, at their sole discretion and acting reasonably, require updated proof of compliance, as set out in B13.4.

MEASUREMENT AND PAYMENT

D20. INVOICES

- D20.1 Further to C12, the Contractor shall submit an invoice for each portion of Work performed. to:

The City of Winnipeg
Corporate Finance - Accounts Payable
4th Floor, Administration Building, 510 Main Street
Winnipeg MB R3B 1B9
Facsimile No.: 204-949-0864
Send Invoices to CityWpgAP-INVOICES@winnipeg.ca
Send Invoice Inquiries to CityWpgAP-INQUIRIES@winnipeg.ca

- D20.2 Invoices must clearly indicate, as a minimum:

- (a) the City's purchase order number;
- (b) date of delivery;
- (c) delivery address;

- (d) type and quantity of work performed;
- (e) the amount payable with GST and MRST shown as separate amounts; and
- (f) the Contractor's GST registration number.

D20.3 The City will bear no responsibility for delays in approval of invoices which are improperly submitted.

D21. PAYMENT

D21.1 Further to C12, the City shall make payments to the Contractor by direct deposit to the Contractor's banking institution, and by no other means. Payments will not be made until the Contractor has made satisfactory direct deposit arrangements with the City. Direct deposit application forms are at https://winnipeg.ca/finance/files/Direct_Deposit_Form.pdf

D22. PAYMENT SCHEDULE

D22.1 Further to C12, payment for hourly hired equipment and labour shall be processed through the City of Winnipeg PeopleSoft Accounts Payable system. Payment shall be made bi-weekly subject to, but not limited to,

- (a) proper documentation of Work Tickets by the Contractor,
- (b) the correct equipment and labour responding to a callout.
- (c) daily time sheets recording all equipment and time spent at each location and agreed upon by the Contract Administrator and the Contractor; and
- (d) all payments are subject to approval by the Contract Administrator.

D23. WARRANTY

D23.1 Warranty is as stated in C13 does not apply to this contract.

DISPUTE RESOLUTION

D24. DISPUTE RESOLUTION

D24.1 If the Contractor disagrees with any opinion, determination, or decision of the Contract Administrator, the Contractor shall act in accordance with the Contract Administrator's opinion, determination, or decision unless and until same is modified by the process followed by the parties pursuant to D24.

D24.2 The entire text of C21.4 is deleted, and amended to read: "Intentionally Deleted"

D24.3 The entire text of C21.5 is deleted, and amended to read:

- (a) If Legal Services has determined that the Disputed Matter may proceed in the Appeal Process, the Contractor must, within ten (10) Business Days of the date of the Legal Services Response Letter, submit their written Appeal Form, in the manner and format set out on the City's Materials Management Website, to the Chief Administrative Officer, and to the Contract Administrator. The Contractor may not raise any other disputes other than the Disputed Matter in their Appeal Form.

D24.4 Further to C21, prior to the Contract Administrator's issuance of a Final Determination, the following informal dispute resolution process shall be followed where the Contractor disagrees with any opinion, determination, or decision of the Contract Administrator ("Dispute"):

- (a) In the event of a Dispute, attempts shall be made by the Contract Administrator and the Contractor's equivalent representative to resolve Disputes within the normal course of project dealings between the Contract Administrator and the Contractor's equivalent representative.

- (b) Disputes which in the reasonable opinion of the Contract Administrator or the Contractor's equivalent representative cannot be resolved within the normal course of project dealings as described above shall be referred to a without prejudice escalating negotiation process consisting of, at a minimum, the position levels as shown below and the equivalent Contractor representative levels:
- (i) The Contract Administrator;
 - (ii) Supervisory level between the Contract Administrator and applicable Department Head;
 - (iii) Department Head.

- D24.4.1 Names and positions of Contractor representatives equivalent to the above City position levels shall be determined by the Contractor and communicated to the City at the pre-commencement or kick off meeting.
- D24.4.2 As these negotiations are not an adjudicative hearing, neither party may have legal counsel present during the negotiations.
- D24.4.3 Both the City and the Contractor agree to make all reasonable efforts to conduct the above escalating negotiation process within twenty (20) Business Days, unless both parties agree, in writing, to extend that period of time.
- D24.4.4 If the Dispute is not resolved to the City and Contractor's mutual satisfaction after discussions have occurred at the final escalated level as described above, or the time period set out in D24.4.3, as extended if applicable, has elapsed, the Contract Administrator will issue a Final Determination as defined in C1.1(v), at which point the parties will be governed by the Dispute Resolution process set out in C21.

THIRD PARTY AGREEMENTS

D25. FUNDING AND/OR CONTRIBUTION AGREEMENT OBLIGATIONS

- D25.1 In the event that funding for the Work of the Contract is provided to the City of Winnipeg by the Government of Manitoba and/or the Government of Canada, the following terms and conditions shall apply, as required by the applicable funding agreements.
- D25.2 Further to D25.1, in the event that the obligations in D25 apply, actual costs legitimately incurred by the Contractor as a direct result of these obligations ("Funding Costs") shall be determined by the actual cost to the Contractor and not by the valuation method(s) outlined in C7.4. In all other respects Funding Costs will be processed in accordance with Changes in Work under C7.
- D25.3 For the purposes of D25:
- (a) "**Government of Canada**" includes the authorized officials, auditors, and representatives of the Government of Canada; and
 - (b) "**Government of Manitoba**" includes the authorized officials, auditors, and representatives of the Government of Manitoba.
- D25.4 Modified Insurance Requirements
- D25.4.1 If not already required under the insurance requirements identified in D10, the Contractor will be required to provide wrap-up liability insurance in an amount of no less than two million dollars (\$2,000,000) inclusive per occurrence. Such policy will be written in the joint names of the City, Contractor, Consultants and all sub-contractors and sub-consultants and include twelve (12) months completed operations. The Government of Manitoba and their Ministers, officers, employees, and agents shall be added as additional insureds.
- D25.4.2 If not already required under the insurance requirements identified in D10, the Contractor will be required to provide builders' risk insurance (including boiler and machinery insurance, as applicable) providing all risks coverage at full replacement cost, or such

lower level of insurance that the City may identify on a case-by-case basis, such as an installation floater.

- D25.4.3 The Contractor shall obtain and maintain third party liability insurance with minimum coverage of two million dollars (\$2,000,000.00) per occurrence on all licensed vehicles operated at the Site. In the event that this requirement conflicts with another licensed vehicle insurance requirement in this Contract, then the requirement that provides the higher level of insurance shall apply.
- D25.4.4 Further to D10.3, insurers shall provide satisfactory Certificates of Insurance to the Government of Manitoba prior to commencement of Work as written evidence of the insurance required. The Certificates of Insurance must provide for a minimum of thirty (30) days' prior written notice to the Government of Manitoba in case of insurance cancellation.
- D25.4.5 All policies must be taken out with insurers licensed to carry on business in the Province of Manitoba.

D25.5 Indemnification By Contractor

- D25.5.1 In addition to the indemnity obligations outlined in C17 of the General Conditions for Construction, the Contractor agrees to indemnify and save harmless the Government of Canada and the Government of Manitoba and each of their respective Ministers, officers, servants, employees, and agents from and against all claims and demands, losses, costs, damages, actions, suit or other proceedings brought or pursued in any manner in respect of any matter caused by the Contractor or arising from this Contract or the Work, or from the goods or services provided or required to be provided by the Contractor, except those resulting from the negligence of any of the Government of Canada's or the Government of Manitoba's Ministers, officers, servants, employees, or agents, as the case may be.
- D25.5.2 The Contractor agrees that in no event will Canada or Manitoba, their respective officers, servants, employees or agents be held liable for any damages in contract, tort (including negligence) or otherwise, for:
- (a) any injury to any person, including, but not limited to, death, economic loss or infringement of rights;
 - (b) any damage to or loss or destruction of property of any person; or
 - (c) any obligation of any person, including, but not limited to, any obligation arising from a loan, capital lease or other long term obligation;
- in relation to this Contract or the Work.

D25.6 Records Retention and Audits

- D25.6.1 The Contractor shall maintain and preserve accurate and complete records in respect of this Contract and the Work, including all accounting records, financial documents, copies of contracts with other parties and other records relating to this Contract and the Work during the term of the Contract and for at least six (6) years after Total Performance. Those records bearing original signatures or professional seals or stamps must be preserved in paper form; other records may be retained in electronic form.
- D25.6.2 In addition to the record keeping and inspection obligations outlined in C6 of the General Conditions for Construction, the Contractor shall keep available for inspection and audit at all reasonable times while this Contract is in effect and until at least six (6) years after Total Performance, all records, documents, and contracts referred to in D25.6.1 for inspection, copying and audit by the City of Winnipeg, the Government of Manitoba and/or the Government of Canada and their respective representatives and auditors, and to produce them on demand; to provide reasonable facilities for such inspections, copying and audits, to provide copies of and extracts from such records, documents, or contracts upon request by the City of Winnipeg, the Government of Manitoba, and/or the Government of Canada and their respective representatives and auditors, and to promptly provide such other information and explanations as may be reasonably requested by the City of Winnipeg, the Government of Manitoba, and/or the Government of Canada from time-to-time.

D25.7 Other Obligations

- D25.7.1 The Contractor consents to the City providing a copy of the Contract Documents to the Government of Manitoba and/or the Government of Canada upon request from either entity.
- D25.7.2 If the Lobbyists Registration Act (Manitoba) applies to the Contractor, the Contractor represents and warrants that it has filed a return and is registered and in full compliance with the obligations of that Act, and covenants that it will continue to comply for the duration of this Contract.
- D25.7.3 The Contractor shall comply with all applicable legislation and standards, whether federal, provincial, or municipal, including (without limitation) labour, environmental, and human rights laws, in the course of providing the Work.
- D25.7.4 The Contractor shall properly account for the Work provided under this Contract and payment received in this respect, prepared in accordance with generally accepted accounting principles in effect in Canada, including those principles and standards approved or recommended from time-to-time by the Chartered Professional Accountants of Canada or the Public Sector Accounting Board, as applicable, applied on a consistent basis.
- D25.7.5 The Contractor represents and warrants that no current or former public servant or public office holder, to whom the Value and Ethics Code for the Public Sector, the Policy on Conflict of Interest and Post Employment, or the Conflict of Interest Act applies, shall derive direct benefit from this Contract, including any employment, payments, or gifts, unless the provision or receipt of such benefits is in compliance with such codes and the legislation.
- D25.7.6 The Contractor represents and warrants that no member of the House of Commons or of the Senate of Canada or of the Legislative Assembly of Manitoba is a shareholder, director or officer of the Contractor or of a Subcontractor, and that no such member is entitled to any benefits arising from this Contract or from a contract with the Contractor or a Subcontractor concerning the Work.

PART E - SPECIFICATIONS

GENERAL

E1. CONSTRUCTION EQUIPMENT

E1.1 Further to D14, construction equipment considered suitable for the proposed dike construction work is based on the group classifications noted in the Manitoba Heavy Construction Annual Directory. Allowable heavy equipment for the Work is as follows:

- (a) Hydraulic Excavators – Construction of Clay Dikes
 - (i) Group 9 – CAT 320 or similar class with twist bucket
 - (ii) Group 11 (with twister bucket) – CAT 325 or similar class with twister bucket
 - (iii) Group 13 – CAT 330 or similar class
 - (iv) Group 14 – CAT 345 or similar class
- (b) Crawler Tractors – Construction of Clay Dikes
 - (i) Group 2 (with 6-way blade) – CAT D4 or similar class
 - (ii) Group 3 (with 6-way blade) – CAT D5 or similar class
 - (iii) Group 6 – CAT D6 or similar class
- (c) Loaders – Rubber Tired – Construction of Clay Dikes
 - (i) Group 4 – CAT 930 or similar class
 - (ii) Group 5 – CAT 938 or similar class
- (d) Loaders – Skid Steer – any Group
- (e) Loaders – Compact Track – any Group
- (f) Dump Trucks
 - (i) Single Axle
 - (ii) Tandem Axle
 - (iii) Semi w/Tandem Trailer
 - (iv) Semi w/Triaxle Trailer
- (g) Light trucks - ½ Ton, ¾ Ton, and 1 Ton, to be incidental to the construction of clay dikes
- (h) Miscellaneous equipment – light towers, pumps and hoses, laser levels, generators and fuel, portable toilets etc. to be incidental to the construction of the clay dikes.

E1.2 Further to D14, construction equipment considered suitable for the proposed loading of clay borrow material work is based on the group classifications noted in the Manitoba Heavy Construction Annual Directory. Allowable heavy equipment for the Work is as follows:

- (a) Hydraulic Excavators – Loading of Clay Borrow Material
 - (i) Group 13 – CAT 330 or similar class with 60” digging bucket
 - (ii) Group 14 – CAT 345 or similar class with 60” digging bucket
- (b) Crawler Tractors – Loading of Clay Borrow Material
 - (i) Group 8 – CAT D7 or similar class
 - (ii) Group 9 – CAT D8 or similar class
- (c) Loaders – Rubber Tired – Loading of Clay Borrow Material
 - (i) Group 6 – CAT 950 or similar class
- (d) Loaders – Skid Steer – any Group
- (e) Loaders – Compact Track – any Group
- (f) Light trucks - ½ Ton, ¾ Ton, and 1 Ton, to be incidental to the loading of clay borrow material

- (g) Miscellaneous equipment – light towers, pumps and hoses, laser levels, generators and fuel, portable toilets, etc. to be incidental to the loading of clay borrow material.

E1.3 Any equipment not meeting these classifications will not be considered when determining the Call Out list.

E1.4 All heavy construction equipment such as excavators, crawler tractors, and loaders are to be in good working order and less than ten (10) years in age. Any heavy construction equipment older than ten (10) years old will not be considered when determining the Call Out list.

E1.5 Where, in the opinion of the Contract Administrator, the equipment being used is not in good working condition, the Contract Administrator reserves the right to dismiss the equipment and not reengage the equipment until the Contractor has repaired the equipment.

E1.6 Should the equipment removal impact the production of the clay dike negatively or the Contractor is unable to find a suitable replacement for the removed equipment, the Contract Administrator can remove the Contractor from the site and call an alternate Contractor to complete the Work.

E2. CONSTRUCTION OF CLAY DIKES

E2.1 Description

E2.1.1 This Specification shall cover the construction of temporary clay dikes at various sites along the Primary and Secondary Dikes within the City of Winnipeg.

E2.2 Construction Methods

E2.2.1 Provide Trucks to be loaded with clay at the designated borrow area shown in Appendix A.

E2.2.2 Deliver clay to Site as directed by Contract Administrator.

E2.2.3 The Contract Administrator will provide line and elevation to which the clay dike is to be constructed.

E2.2.4 Carefully remove any fencing which obstructs the construction of the clay dike and place it outside the construction limits such that it can be reconstructed at a future date.

E2.2.5 Clear the construction area of any snow, brush, and trees as directed by the Contract Administrator.

E2.2.6 Prepare access to the dike location with 150mm down limestone, 450mm thick, placed on filter fabric material. Access will be from Red River Drive and along the top of the existing dike

E2.2.7 Construct clay dike located on the Primary Line of Defense to the line and elevation as directed by the Contract Administrator and as follows:

- (a) Top width of dike – minimum 3.5 metres wide
- (b) Side slopes of dike – 2.5:1
- (c) Keyed in section below subgrade – minimum 1.0 metre wide by 0.6 metres deep

E2.2.8 Construct clay dike located on the Secondary Line of Defense to the line and elevation as directed by the Contract Administrator and as follows:

- (a) Top width of dike – 2.5 metres wide
- (b) Side slopes of dike – 2.5:1
- (c) Keyed in section below subgrade – minimum 1.0 metre wide by 0.6 metres deep

E2.2.9 During construction, the Contractor shall take all the appropriate safety precautions and use the appropriate equipment when required to work under the following site conditions:

- (a) on private property;

- (b) in close proximity to buildings;
- (c) on or near a riverbank; and
- (d) at night.

- E2.2.10 If directed by the Contract Administrator, the Contractor may be required to remove existing permanent dike material to allow the construction of the proposed dike. All material removed is to be hauled to the Brady Landfill.
- E2.2.11 Coordinate and organize the Work such that the delivery of the clay material coincides with the placement and compaction of the clay for the dike. Should the Contract Administrator feel that the Contractor is not maintaining a suitable pace for the construction of the dike, the City can remove the Contractor from the site and find an alternate Contractor to complete the Work.
- E2.2.12 If requested by the Contract Administrator, the Contractor shall work continuously until the construction of the clay dike is completed.
- E2.2.13 At direction of the Contract Administrator, the Contractor shall remove the temporary clay dike and deliver the clay to the Brady Road Resource Management Facility (Brady Landfill). This is only to be done once the flood threat has passed and the Contract Administrator has deemed it safe to remove the dike.
- E2.2.14 At direction of the Contract Administrator, the Contractor shall remove the crushed limestone and filter fabric and deliver the materials to the Brady Road Resource Management Facility (Brady Landfill). This is only to be done once the flood threat has passed and the Contract Administrator has deemed it safe to remove the limestone and filter fabric.
- E2.3 Measurement and Payment
- E2.3.1 Construction and removal of clay dikes shall be measured and paid for based on a cubic meter basis for "Construction of Clay Dikes" in Form B of the Bid Submission.
- E2.3.2 Payment for 150mm down limestone shall be based on the actual cost of the material delivered to the site verified by scale tickets.
- E2.3.3 Payment of filter fabric shall be incidental to the 150mm down limestone.

E3. LOADING OF CLAY BORROW MATERIAL

- E3.1 Description
- E3.1.1 This Specification shall cover the loading of clay borrow material from the South End Water Pollution Control Center (SEWPCC), Clay Stockpile for the construction of clay dikes along the Primary and Secondary Dikes within the City of Winnipeg.
- E3.2 Construction Methods
- E3.2.1 Prepare borrow loading area with 150mm down limestone, 450mm thick, placed on filter fabric material.
- E3.2.2 Select unfrozen and suitable clay material for dike construction from the borrow area for loading.
- E3.2.3 Load all trucks hauling from the borrow site to clay dike construction sites.
- E3.2.4 Coordinate and organize the loading of trucks with clay material to coincide with the arrival of empty trucks such that waiting time for truck loading is minimized. Should the Contractor Administrator determine that the Contractor is not maintaining a suitable pace for the loading of clay material; the Contract Administrator can remove the Contractor from the site and find an alternate Contractor to complete the Work.
- E3.2.5 Provide site traffic/loading co-ordinator to ensure safe and efficient loading of trucks.

E3.2.6 If requested by the Contract Administrator, the Contractor shall load trucks continuously until the construction of all clay dikes is completed.

E3.2.7 If requested by the Contract Administrator, the Contractor shall regrade and restore the borrow site upon completion of dike construction.

E3.3 Measurement and Payment

E3.3.1 Loading of Clay Borrow Material shall be measured and paid for based on a per hour basis for "Loading of Clay Borrow Material" in Form B of the Bid Submission. Hours billed for will be considered from when the Contractor arrives at the borrow site until the Contractor leaves the site each day.

E3.3.2 Payment for 150mm down limestone shall be based on the actual cost of the material delivered to the site verified by scale tickets.

E3.3.3 Payment of filter fabric shall be incidental to the 150mm down limestone.

E4. TRUCK WEIGHT LIMITS

E4.1 This specification will amend Clause 3.17 of CW 1130 of the Standard Construction Specifications.

E4.1.1 Special permits will be provided for trucks hauling clay to be used for flood dikes and limestone to be used for flood preparation, on roads which fall under the City of Winnipeg Traffic Bylaw for weight restrictions. The weight restriction will be waived for the duration of the clay dike construction and flood preparation.

E4.1.2 Once the flood threat has passed and the Contract Administrator has directed the Contractor to remove the dike, the Contractor must once again adhere to the weight restrictions outlined under the City of Winnipeg Traffic Bylaw.

E5. TRAFFIC CONTROL

E5.1 In accordance with the Manual of Temporary Traffic Control on City Streets (MTTC), the Contract Administrator shall make arrangements with the Traffic Services Branch of the City of Winnipeg to place, maintain, and remove all regulatory signs and traffic control devices authorized and/or required by the Traffic Management Branch in the following situations:

- (a) Parking restrictions,
- (b) Stopping restrictions,
- (c) Turn restrictions,
- (d) Diamond lane removal,
- (e) Full or directional closures on a Regional Street,
- (f) Traffic routed across a median,
- (g) Full or directional closure of a non-regional street where there is a requirement for regulatory signs (turn restrictions, bus stop relocations, etc.) to implement the closure.
- (h) Approved Designated Construction Zones with a temporary posted speed limit reduction. Traffic Services will be responsible for placing all of the advance signs and 'Construction Ends' (TC-4) signs. The Contractor is still responsible for all other temporary traffic control including but not limited to barricades, barrels and tall cones.

E5.2 Further to E5.1(c), the Contractor shall make arrangement with the Traffic Services Branch of the City of Winnipeg to supply regulatory signs as required.

E5.3 Upon request from the Contract Administrator, the Contractor shall provide records demonstrating that the Site has been maintained.

- E5.4 Further to E5.1(c) and E5.1(d) the Contractor shall make arrangements with the Traffic Services Branch of the City of Winnipeg to reinstall the permanent regulatory signs after the Contract Work is complete. At this time the Contractor shall make arrangements to drop off the stockpiled materials to Traffic Services at 495 Archibald Street.
- E5.5 Any changes to the approved traffic management plan must be submitted to the Contract Administrator a minimum of (five) 5 Working Days prior to the required change for approval.
- E5.6 If the Contract Administrator determines that the Contractor is not performing Traffic Control in accordance with this specification, Traffic Services Branch may be engaged to perform the Traffic Control. In this event the Contractor shall bear the costs associated charged to the project by the Traffic Services Branch of the City of Winnipeg in connection with the required Works undertaken by the Contractor.

PART F - SECURITY CLEARANCE

F1. SECURITY CLEARANCE

- F1.1 Each individual proposed to perform the following portions of the Work:
- (a) any Work on private property;
 - (b) communicating with residents and homeowners in person or by telephone;
- F1.1.1 Each Individual shall be required to obtain a Police Information Check from the police service having jurisdiction at their place of residence. Or
- (a) Sterling BackCheck – for existing account holders, log into your account to send individual invitations to employees requiring security clearance. For those that do not have an account, click on the following link to open an account: <https://forms.sterlingbackcheck.com/partners/platform2-en.php?&partner=winnipegcity>; or
 - (b) Commissionaires (Manitoba Division), forms to be completed can be found on the website at: <https://www.commissionaires.ca/en/manitoba/home>; or
 - (c) FASTCHECK Criminal Record & Fingerprint Specialists, forms to be completed can be found on the website at: <https://myfastcheck.com>
- F1.2 Prior to the award of Contact, and during the term of the Contract if additional or replacement individuals are proposed to perform Work, the Contractor shall supply the Contract Administrator with a Police Information Check obtained not earlier than one (1) year prior to the Submission Deadline, or a certified true copy thereof, for each individual proposed to perform such Work.
- F1.3 Any individual for whom a Police Information Check is not provided, or for whom a Police Information Check indicates any convictions or pending charges related to property offences or crimes against another person will not be permitted to perform any Work specified in F1.1.
- F1.4 Any Police Information Check obtained thereby will be deemed valid for the duration of the Contract subject to a repeated records search as hereinafter specified.
- F1.5 Notwithstanding the foregoing, at any time during the term of the Contract, the City may, at their sole discretion and acting reasonably, require an updated Police Information Check. Any individual who fails to provide a satisfactory Police Information Check as a result of a repeated Police Information Check will not be permitted to continue to perform any Work specified in F1.1

APPENDIX A - CLAY BORROW SITE

APPENDIX B – POTENTIAL DIKE LOCATION