

**PART D**

**SUPPLEMENTAL CONDITIONS**

## PART D - SUPPLEMENTAL CONDITIONS

### 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 Work to be done under the Contract shall consist of installation of concrete caissons along the riverbank at as shown on the drawings.
- D2.2 The major components of this Work:
- (a) Temporally removing and salvaging the riprap from the top of the stabilization berm
  - (b) Installing cast-in-place-concrete caissons extending the specified depth into the till.
  - (c) Replacing, geotextile and salvaged riprap within the Work area
  - (d) Restoring the site.

#### D3. DEFINITIONS

- D3.1 When used in this Bid Opportunity:
- (a) "**ASTM**" means American Society for Testing Materials;
  - (b) "**CSA**" means Canadian Standards Association;

#### D4. CONTRACT ADMINISTRATOR

- D4.1 The contract administrator is UMA Engineering Ltd., represented by:
- Jeff Tallin, P.Eng.  
1479 Buffalo Place  
Winnipeg, MB  
R3L 1N7
- Telephone No. (204) 284 0580  
Facsimile No. (204) 475 3646
- D4.2 At the pre-construction meeting, 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 his designated supervisor and any additional personnel representing the Contractor and their respective roles and responsibilities for the Work.

**D6. NOTICES**

D6.1 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.

D6.2 All notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications to the City, except as expressly otherwise required in D6.3, D6.4 or elsewhere in the Contract, shall be sent to the attention of the Contract Administrator at the address or facsimile number identified in D4.1.

D6.3 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

D6.4 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

**D7. FURNISHING OF DOCUMENTS**

D7.1 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**

**D8. PERFORMANCE SECURITY**

D8.1 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.

D8.2 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.

## **D9. INSURANCE**

D9.1 The Contractor shall provide and maintain the following insurance coverage:

- (a) commercial general liability insurance, in the amount of at least five million dollars (\$5,000,000.00) all inclusive, with The City of Winnipeg, The Province of Manitoba, and Canada 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, The Province of Manitoba, and Canada at all times during the performance of the Work and until the date of Total Performance.

D9.2 Deductibles shall be borne by the Contractor.

D9.3 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.

D9.4 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.

## **D10. SUBCONTRACTOR LIST**

D10.1 The Contractor shall provide the Contract Administrator with a complete list of the Subcontractors whom the Contractor proposes to engage (Form J: Subcontractor List) 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 the General Conditions for the return of the executed Contract.

## **SCHEDULE OF WORK**

### **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 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 performance security specified in D8;
    - (iv) evidence of the insurance specified in D9;
    - (v) the Subcontractor list 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.

D11.3 The Contractor shall not commence Work on the Site before July 1, 2004.

D11.3 The City intends to award the Contract by June 15, 2004.

## **D12. SUBSTANTIAL PERFORMANCE**

D12.1 The Contractor shall achieve Substantial Performance before July 31, 2004.

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 August 31, 2004.

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 or Total Performance in accordance with the Contract by the days fixed herein for same, the Contractor shall pay the City the following amounts per Working Day for each and every Working Day following the days fixed herein for same during which such failure continues:

- (a) Substantial Performance – one thousand five hundred dollars (\$1,500.00);
- (b) Total Performance - five hundred dollars (\$500.00).

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 or Total 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. SCHEDULED MAINTENANCE**

D15.1 Determination of Substantial Performance and Total Performance shall be exclusive of scheduled maintenance identified herein. All scheduled maintenance shall be completed prior to the expiration of the warranty period. Where the scheduled maintenance cannot be completed during the warranty period, the warranty period shall be extended for such period of time as it takes the Contractor to complete the scheduled maintenance.

#### **CONTROL OF WORK**

##### **D16. JOB MEETINGS**

D16.1 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.

D16.2 The Contract Administrator reserves the right to cancel any job meeting or call additional job meetings whenever he deems it necessary.

##### **D17. PRIME CONTRACTOR – THE WORKPLACE SAFETY AND HEALTH ACT (MANITOBA)**

D17.1 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).

#### **WARRANTY**

##### **D18. WARRANTY**

D18.1 Notwithstanding GC:13.2, the warranty period shall begin on the date of Substantial Performance and shall expire two (2) years thereafter unless extended pursuant to GC:13.2.1 or GC:13.2.2, in which case it shall expire when provided for thereunder.

D18.2 Notwithstanding GC:13.2 or D18.1, the Contract Administrator may permit the warranty period for a portion or portions of the Work to begin prior to the date of Substantial Performance if:

- (a) 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; or

## **D19. SITE ACCESS AND TRAFFIC CONTROL**

- D19.1 The Contractor's attention is drawn to Clauses 14 and 15, 1100-R4 concerning construction traffic, traffic control and maintaining access. A temporary route for construction traffic between the site and the nearest designated "truck route" will be established by the Contract Administrator prior to construction. Construction traffic shall be confined to this temporary route and will not be permitted on other streets not designated as "truck routes", without written authorization from the Contract Administrator.
- D19.2 The Contractor shall maintain traffic flow in each direction for vehicular traffic on Lord Avenue and intersecting streets at all times during construction.
- D19.3 Further to Clauses 14 and 15, 1100-R4, the Contractor shall maintain access routes to and from the site during construction, including:
- (a) The Contractor shall keep public roads and right-of-ways used by their construction activities and traffic, clean and maintained during the construction period
  - (b) Earth, gravel, sand or other construction materials spilled from hauling equipment onto public roads and right-of-ways shall be picked up promptly and continuously at the Contractor's expense.
  - (c) Any damage to public roads and right-of-ways caused by the Contractor's construction activities shall be repaired at the Contractor's expense as directed by the Contract Administrator or the authority having jurisdiction.
- D19.4 The necessary protection of pedestrian traffic shall be provided during construction, including flagmen (as necessary), barricades, fencing and signage.
- D19.5 Further to GC 6.28(a), the Contractor shall install and maintain temporary fencing or barricades to protect the public from any unsafe site conditions or construction activities, such as steep cuts or drop-offs.
- D19.6 The Contractor shall erect and maintain all necessary traffic control devices in accordance with the City of Winnipeg "Manual of Temporary Traffic Control in Work Areas on City Streets" and employ flagmen where necessary to control construction traffic entering public streets.
- D19.7 No separate payment shall be made to the contractor for obtaining permits, signs, barricades, or other costs necessary to maintain a Work site safe from the public.

## **D20. HOURS OF WORK**

- D20.1 The Contractor shall obtain permission from the Contract Administrator for any Work to be performed outside regular working hours including any Sunday or Statutory Holiday. Regardless of the Contract Administrator's approval, any such Work done by the Contractor outside regular working hours shall conform to all applicable Laws, By-Laws and Ordinances.

## **D21. PROTECTION AND REPLACEMENT OF TREES**

- D21.1 Further to Clause 2 of CW 1100-R4, the Contractor shall plan and carry out construction activities with minimal impact on trees within and outside the Work.
- D21.2 The Contractor shall take precautionary steps to avoid damage to trees from his construction activities, including the following:
- (a) The Contractor shall not stockpile materials or soils, or park vehicles or equipment on boulevards within 2 metres of trees.

- (b) Mature tree trunks shall be strapped with 25 x 150 x 2400 (1" x 6" x 8") wood planks. Smaller trees shall be similarly protected using appropriately sized wood planks. Planking shall be attached in a manner that is not injurious to the tree(s).
- (c) Excavations shall be carried out in such a manner so as to minimize damage to existing root systems. Where roots must be cut to facilitate an excavation they shall be neatly pruned at the face of the excavation and coated with an appropriate wound dressing to prevent infection.

D21.3 Work on site shall be carried out in such a manner so as to minimize damage to existing tree branches. Where damage to tree branches does occur, the Contractor shall neatly prune the damaged branch and coat them with an appropriate wound dressing to prevent infection. Pruning of Elms shall be conducted on accordance with the Dutch Elm Disease Act. Pruning of Elms is prohibited from April to August.

D21.4 The Contractor shall obtain permission from the Contract Administrator prior to the removal of any trees required for construction.

D21.5 Any damage to trees as a result of the Contractor's negligence or failure to provide necessary level of protection during construction shall be rectified at the Contractor's expense to the satisfaction of the City of Winnipeg, Parks and Recreation Department, Forestry Branch.

## **D22. ENCHROACHMENT ON PRIVATE PROPERTY**

D22.1 Permission to work on private property has been obtained from the affected homeowners.

D22.2 The Contractor shall confine his Work to the public right-of-ways and the areas on private property necessary for construction. The Contractor shall not conduct Work in other areas of private property without written permission from the property owner.

D22.3 The Contractor shall maintain drainage for private properties during construction.

## **D23. DAMAGE TO EXISTING STRUCTURES AND PROPERTY**

D23.1 Further to Clause GC6.28(a) of the General Conditions, special care shall be taken to avoid damage to existing adjacent structures and properties during the course of the Work.

D23.2 Any damage caused by the Contractor or his Subcontractors to the adjacent structures or properties shall be promptly repaired by the Contractor at his own expense to the satisfaction of the Contract Administrator at the Contractor's expense.

## **D24. PROTECTION OF RIVER CHANNEL**

D24.1 No Work in the river channel shall be permitted.

D24.2 Should the Contractor deposit any unauthorized material in the river channel, he shall take steps to immediately remove the material and restore the channel to its original condition.

D24.3 Construction equipment shall not be refuelled adjacent to the river. Refuelling shall be in accordance with D27. Appropriate precautions shall be taken to ensure that no fuel or other fluids from construction equipment enters the river. Emergency spill containment equipment including absorbent spill blankets shall be kept on site during construction.

D24.4 Maintenance of all areas affected by construction during this time period shall conform to Clause 13 of CW 1100-R4.

D24.5 Sediment releases into the river shall be prevented in accordance with E4 and E5.

**D25. SITE RESTORATION**

- D25.1 The Contractor's attention is drawn to Clause 13, CW 1100-R4, concerning surface restoration. The Contractor shall restore surface Work within the areas affected by the construction to conditions equal to or better than the original conditions
- D25.2 Disturbance to the site beyond the limits of construction shall be restored to equal or better than existing conditions by the Contractor at his expense.

**D26. PROTECTION OF INSTRUMENTATION**

- D26.1 The Contractor is advised that all instrumentation, both existing and to be installed during construction, shall be protected during construction.
- D26.2 Instrumentation damaged by the Contractor shall be repaired or replaced to the satisfaction of the Contract Administrator by the Contractor at his expense.

**D27. ENVIRONMENTAL PROTECTION**

- D27.1 The Contractor shall plan and implement the Work of this Contract strictly in accordance with the requirements of the environmental protection measures proscribed by law and as specified herein.
- D27.2 The Contractor is advised that at least the following Acts, Regulations, and By-laws apply to the Work.
- D27.3 Federal
- (a) Canadian Environmental Protection Act (CEPA) c.16
  - (b) Transportation of Dangerous Goods Act and Regulations c.34
  - (c) The Fisheries Act
  - (d) Navigatable Waters Act
- D27.4 Provincial
- (a) The Dangerous Goods Handling and Transportation Act D12
  - (b) The Endangered Species Act E111
  - (c) The Environment Act c.E125
  - (d) The Fire Prevention Act F80
  - (e) The Manitoba Nuisance Act N120
  - (f) The Public Health Act c.P210
  - (g) The Workplace Safety and Health Act W120
  - (h) The Manitoba Heritage Act
  - (i) The Manitoba Noxious Weeds Act N110
  - (j) The Manitoba Nuisance Act N120
  - (k) The Dutch Elm Disease Act
  - (l) And current applicable associated regulations.
- D27.5 The Contractor is advised that the following environmental protection measures apply to the Work.

D27.6 The contractor shall have on site a sufficient supply of containment and clean-up materials such as absorbents, plastic oil booms, and oversized recovery drums (eg. Spill Kit) available on site.

D27.7 Fuel Handling and Storage

- (a) The Contractor shall abide by the requirements of Manitoba Conservation for handling and storage of fuel products.
- (b) All fuel handling and storage facilities shall comply with The Dangerous Goods and Transportation Act, Storage and Handling of Petroleum Products Regulation and any local land use permits.
- (c) Fuels, lubricants, and other potentially hazardous materials as defined in The Dangerous Goods and Transportation Act shall be stored and handled within the approved storage areas.
- (d) The Contractor shall ensure that all fuel storage containers are inspected daily for leaks and spillage.
- (e) Products transferred from the fuel storage area(s) to specific Work sites shall not exceed the daily usage requirement.
- (f) When servicing requires the drainage or pumping of fuels, lubricating oils or other fluids from equipment, a groundsheet of suitable material (such as HDPE) and size shall be spread on the ground to catch the fluid in the event of a leak or spill.
- (g) Refueling of mobile equipment and vehicles shall take place at least 100 metres from a watercourse.
- (h) The area around storage sites and fuel lines shall be distinctly marked and kept clear of snow and debris to allow for routine inspection and leak detection.
- (i) A sufficient supply of materials, such as absorbent material and plastic oil booms, to clean up minor spills shall be stored nearby on-site. The Contractor shall ensure that additional material can be made available on short notice.

D27.8 Waste Handling and Disposal

- (a) The construction area shall be kept clean and orderly at all times during and at completion of construction.
- (b) At no time during construction shall personal or construction waste be permitted to accumulate for more than one day at any location on the construction site, other than at a dedicated storage area as may be approved by the Contract Administrator.
- (c) Indiscriminate dumping, littering, or abandonment shall not take place.
- (d) No on-site burning of waste is permitted.
- (e) Equipment shall not be cleaned near watercourses; contaminated water from onshore cleaning operations shall not be permitted to enter watercourses.

D27.9 Dangerous Goods/Hazardous Waste Handling and Disposal

- (a) Dangerous goods/hazardous waste are identified by, and shall be handled according to, The Dangerous Goods Handling and Transportation Act and Regulations.
- (b) The Contractor shall be familiar with The Dangerous Goods Handling and Transportation Act and Regulations.

D27.10 Emergency Spill Response

- (a) The Contractor shall ensure that due care and caution is taken to prevent spills.
- (b) The Contractor shall report all spills of petroleum products or other hazardous substances with the potential for impacting the environment and threat to human health and safety to the Contract Administrator and Manitoba Conservation, immediately after occurrence of the

- environmental accident, by calling the 24-hour emergency telephone number (204) 945-4888.
- (c) The Contractor shall designate a qualified supervisor as the on-site emergency response coordinator for the project. The emergency response coordinator shall have the authority to redirect manpower in order to respond in the event of a spill.
- (d) The following actions shall be taken by the person in charge of the spilled material or the first person(s) arriving at the scene of a hazardous material accident or the on-site emergency response coordinator:
- (i) Notify emergency-response coordinator of the accident:
  - (ii) identify exact location and time of accident
  - (iii) indicate injuries, if any
  - (iv) request assistance as required by magnitude of accident (Manitoba Conservation 24-hour Spill Response Line (204) 945-4888, Police, Fire Department, Ambulance, company backup)
  - (v) Assess situation and gather information on the status of the situation, noting:
    - personnel on site
    - cause and effect of spill
    - estimated extent of damage
    - amount and type of material involved
    - proximity to waterways and sewers
  - (vi) If safe to do so, try to stop the dispersion or flow of spill material:
    - approach from upwind
    - stop or reduce leak if safe to do so
    - dyke spill material with dry, inert sorbent material or dry clay soil or sand
    - prevent spill material from entering waterways and utilities by dyking
    - prevent spill material from entering utilities, utility manholes, and other openings by covering the openings with rubber spill mats or by dyking
  - (vii) Resume any effective action to contain, clean up, or stop the flow of the spilled product.
- (e) The emergency response coordinator shall ensure that all environmental accidents involving contaminants shall be documented and reported to the Manitoba Conservation according to The Dangerous Goods Handling and Transportation Act Environmental Accident Report Regulation 439/87.

## **D28. PRIVATE PROPERTY INSPECTIONS**

- D28.1 Prior to commencement of construction, the Contractor and the Contract Administrator shall conduct a condition assessment of the properties within the project limits.
- D28.2 The condition of these properties (building interior and exterior, lawns, driveways, etc.) shall be documented by photographs or videotape, which shall be made available to the Contractor, the City, and Contract Administrator, during and following construction.
- D28.3 The Contractor may elect to assess conditions at other facilities, properties, or buildings within the zone of construction influence.

**FORM H1: PERFORMANCE BOND**  
(See D8)

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. 98-2004

LORD AVENUE RING DIKE RIVERBANK REMEDIATION CONTRACT NO. 2

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 D8)**

\_\_\_\_\_  
(Date)

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

RE: PERFORMANCE SECURITY - 98-2004

LORD AVENUE RING DIKE RIVERBANK REMEDIATION CONTRACT NO. 2

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)

