

PART D

SUPPLEMENTAL CONDITIONS

PART D - SUPPLEMENTAL CONDITIONS

GENERAL

D1. GENERAL

- 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 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 sewer outfall pipe renewal, outlet erosion protection, debris grating installation, safety railing installation and surface restoration and riverbank stability improvements.
- D2.2 The major components of the Work are as follows:
- (a) Replacement of approximately 10 L.M. of 450mm CMP at the Shenfield Road Outfall.
 - (b) Replacement of approximately 40 L.M. of 1050mm CMP at the Dumoulin Outfall.
 - (c) Installation of a rockfill trench shear key at the Dumoulin Outfall.
 - (d) Installation of rip rap erosion protection, debris grates and handrails.

D3. CONTRACT ADMINISTRATOR

- D3.1 The Contract Administrator is KGS Group, represented by:
- Roy J. Houston P.Eng.
Manager of Civil / Municipal Services
3rd floor – 865 Waverley Street
Winnipeg, MB R3T 5P4
Telephone No. (204) 896-1209
Facsimile No. (204) 896-1209
- D3.2 At the pre-construction meeting, Roy J. Houston will identify additional personnel representing the Contract Administrator and their respective roles and responsibilities for the Work.

D4. CONTRACTOR'S SUPERVISOR

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

D5. NOTICES

- D5.1 Except as provided for in GC:23.2.2, all notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications to the Contractor

shall be sent to the address or facsimile number identified by the Contractor in Paragraph 2 of Form A: Tender.

D5.2 All notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications to the City, except as expressly otherwise required in D5.3, D5.4 or elsewhere in the Contract, shall be sent to the attention of the Contract Administrator at the address or facsimile number identified in D3.1.

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

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

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

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

D6. FURNISHING OF DOCUMENTS

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

SUBMISSIONS

D7. PERFORMANCE SECURITY

D7.1 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.

D7.2 If the bid security provided in his Tender 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.

D8. INSURANCE

D8.1 The Contractor shall provide and maintain the following insurance coverage:

- (a) commercial general liability insurance, in the amount of at least two million dollars (\$2,000,000.00) all inclusive, with The City of Winnipeg being added as an additional insured, with a cross-liability clause, such liability policy to also contain a contractual liability, an unlicensed motor vehicle liability and a products and completed operations endorsement to remain in place at all times during the performance of the Work and throughout the warranty period;
- (b) automobile liability insurance for owned and non-owned automobiles used for or in connection with the Work in the amount of at least two million dollars (\$2,000,000.00) at all times during the performance of the Work and until the date of Total Performance;

D8.2 Deductibles shall be borne by the Contractor.

D8.3 The Contractor shall provide the City Solicitor with a certified true copy or a certificate of insurance of each policy, in a form satisfactory to the City Solicitor, at least two (2) Business Days prior to the commencement of any Work on the Site but in no event later than the date specified in GC:4.1 for the return of the executed Contract.

D8.4 The Contractor shall not cancel, materially alter, or cause each policy to lapse without providing at least fifteen (15) Calendar Days prior written notice to the Contract Administrator.

D9. SUBCONTRACTOR LIST

D9.1 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.

D10. EQUIPMENT LIST

D10.1 The Contractor shall provide the Contract Administrator with a complete list of the equipment which the Contractor proposes to utilize (Form K: Equipment 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.

D11. DETAILED WORK SCHEDULE

D11.1 The Contractor shall provide the Contract Administrator with a detailed work schedule (Form L: Detailed Work Schedule) at least two (2) Business Days prior to the commencement of any Work on the Site but in no event later than the date specified in the General Conditions for the return of the executed Contract.

D12. EMERGENCY CONTACT LIST

D12.1 At least two (2) Business days prior to the Commencement of any Work on the site, the Contractor shall provide the Contract Administrator with a list of Emergency phone numbers, including, but not limited to, the nearest hospital, underground services contacts, and the supervisor identified in D4 that can be contacted 24 hours a day to respond to an emergency.

SCHEDULE OF WORK**D13. COMMENCEMENT**

- D13.1 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.
- D13.2 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 D7;
 - (iv) evidence of the insurance specified in D8;
 - (v) the Subcontractor list specified in D9;
 - (vi) the equipment list specified in D10; and
 - (vii) the detailed work schedule specified in D11;
 - (viii) The Emergency Contact List specified in D12.
 - (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.
- D13.3 The Contractor shall commence the Work on the Site within seven (7) Working Days of receipt of the letter of intent.
- D13.3 The Contractor shall not commence the Work on the Site while in flood stage.
- D13.4 The City intends to award Contract by February 4, 2004

D14. RESTRICTED WORK HOURS

- D14.1 The Contractor shall require written permission 48 hours in advance from the Contract Administrator for any work to be performed between the hours of 8:00 PM and 7:00 AM, or on Saturdays, Sundays, Statutory Holidays and or Civic Holidays. In addition, such work shall conform with all applicable Laws and or By-laws and specifically the Noise Control By-law No. 2480/79.

D15. CRITICAL STAGES

- D15.1 The Contractor shall achieve critical stages of the Work in accordance with the following requirements:
- (a) the rockfilled trench shear key shall be installed prior to the 1050 CMP pipe excavation.

D16. SUBSTANTIAL PERFORMANCE

- D16.1 The Contractor shall achieve Substantial Performance by March 15, 2004.
- D16.2 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.

- D16.3 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.

D17. TOTAL PERFORMANCE

- D17.1 The Contractor shall achieve Total Performance by June 30, 2004.
- D17.2 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.
- D17.3 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.

D18. LIQUIDATED DAMAGES

- D18.1 If the Contractor fails to achieve Substantial Performance in accordance with the Contract by the day fixed herein for Substantial Performance, the Contractor shall pay the City one thousand two hundred dollars (\$1200.00) per Working Day for each and every Working Day following the day fixed herein for Substantial Performance during which such failure continues.
- D18.2 The amount specified for liquidated damages in D18.1 is based on a genuine pre-estimate of the City's losses in the event that the Contractor does not achieve Substantial Performance by the day fixed herein for same.
- D18.3 The City may reduce any payment to the Contractor by the amount of any liquidated damages assessed.

D19. SCHEDULED MAINTENANCE

- D19.1 The Contractor shall perform the following scheduled maintenance in the manner and within the time periods required by the Specifications:
- (a) Sodding using imported topsoil as specified in CW 3510-R6.
- D19.2 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

D20. JOB MEETINGS

- D20.1 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.

D20.2 The Contract Administrator reserves the right to cancel any job meeting or call additional job meetings whenever he deems it necessary.

D21. OFFICE FACILITIES

D21.1 The Contractor shall supply office facilities for the Dumoulin shear key and outfall works meeting the following requirements:

- (a) The field office shall be for the exclusive use of the Contract Administrator.
- (b) The building shall be conveniently located near the site of the Work.
- (c) The building shall have a minimum floor area of 20 square metres, a height of 2.4 m with 2 windows for cross ventilation and a door entrance with a suitable lock.
- (d) The building shall be suitable for all weather use. It shall be equipped with an electric heater so that the room temperature can be maintained between 24/25°C
- (e) The building shall be adequately lighted with fluorescent fixtures and have a minimum of three wall outlets.
- (f) The building shall be furnished with one desk, one office chair, one drafting table, table 3 m x 1.2 m, one stool, and a minimum of 8 chairs. The building shall have telephone line and fax line. The Contractor is responsible for providing the telephone and fax machine, both in good working order.
- (g) A portable toilet shall be located near the field office building. The toilet shall have a locking door and be for the exclusive use of the Contract Administrator and other personnel from the City.
- (h) The field office building and the portable toilet shall be cleaned on a weekly basis immediately prior to each site meeting. The Contract Administrator may request additional cleaning when he deems it necessary.

D22. PRIME CONTRACTOR – THE WORKPLACE SAFETY AND HEALTH ACT (MANITOBA)

D22.1 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).

D23. PROTECTION OF EXISTING TREES

D23.1 Further to CW 1100-R4, Clause 2, the Contractor shall take the following precautionary steps to prevent damage from construction activities to existing boulevard trees within the limits of the construction area:

- (a) The Contractor shall not stockpile materials and soil or park vehicles and equipment on boulevards within 2 metres of trees.
- (b) Trees identified to be at risk by the Contract Administrator are to be strapped with 25 x 100 x 2400mm wood planks, or suitably protected as approved by the Contract Administrator.

- (c) Excavation shall be performed in a manner that minimizes damage to the existing root systems. Where possible, excavation shall be carried out such that the edge of the excavation shall be a minimum of 1.5 times the diameter (measured in inches), with the outcome read in feet, from the closest edge of the trunk. Where roots must be cut to facilitate excavation, they shall be pruned neatly at the face of excavation.
- (d) Operation of equipment within the dripline of the trees shall be kept to the minimum required to perform the work required. Equipment shall not be parked, repaired, refuelled; construction materials shall not be stored, and earth materials shall not be stockpiled within the driplines of trees. The dripline of a tree shall be considered to be the ground surface directly beneath the tips of its outermost branches. The Contractor shall ensure that the operations do not cause flooding or sediment deposition on areas where trees are located.
- (e) Work on-site shall be carried out in such a manner so as to minimize damage to existing tree branches. Where damage to branches does occur, they shall be neatly pruned.

D23.2 All damage to existing trees caused by the Contractors activities shall be repaired to the requirements and satisfaction of the Contract Administrator and the City Forester or his designate.

D23.3 No separate measurement or payment will be made for the protection of trees.

D23.4 Elm trees cannot be trimmed between April 1 and July 31, inclusive.

D24 AUTHORIZED WORK ON PRIVATE PROPERTY

D24.1 Further to GC 6.28, the Contractor shall confine his works to the right-of-way or easements. Where Work is required to be done on private property the Contract Administrator will authorize such work in writing after obtaining the permission of the property owner.

FORM H1: PERFORMANCE BOND
(See D7)

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:

TENDER NO. 646-2003

**2003 OUTFALL MAINTENANCE PROGRAM
OUTFALL REPAIRS AND RIVERBANK STABILITY IMPROVEMENTS**

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 D7)**

(Date)

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

RE: PERFORMANCE SECURITY - 646-2003

**2003 OUTFALL MAINTENANCE PROGRAM
OUTFALL REPAIRS AND RIVERBANK STABILITY IMPROVEMENTS**

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)

FORM K: EQUIPMENT
(See D10)
2003 OUTFALL MAINTENANCE PROGRAM
OUTFALL REPAIRS AND RIVERBANK STABILITY IMPROVEMENTS

1. Category/type:
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
2. Category/type:
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
3. Category/type:
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____

FORM K: EQUIPMENT
(See D10)
2003 OUTFALL MAINTENANCE PROGRAM
OUTFALL REPAIRS AND RIVERBANK STABILITY IMPROVEMENTS

4. Category/type:
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
5. Category/type:
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
6. Category/type:
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____
Make/Model/Year: _____ Serial No.: _____
Registered owner: _____

