

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 G.C: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:
- (a) Concrete Repairs, Asphalt Resurfacing and Related Works on the northbound lanes of Waverley Street between Bishop Grandin Boulevard and Clarence Avenue in 2004 and on the southbound lanes of Waverley Street within the limits indicated on the drawings in 2005.
- D2.2 The major components of the Work are as follows:
- (a) Planing of Asphaltic Concrete Overlay
 - (b) Excavation and Placement of Sub-base and Base Course Materials
 - (c) Full Depth Slab Replacement, Full Depth Partial Slab and Joint Repairs
 - (d) Construction of New 200 mm Plani Dowelled Concrete Pavement
 - (e) Renewal of Curbs and Sidewalk
 - (f) Installation of New Catchpits and Lead Pipe
 - (g) Adjustment of Existing Drainage Inlets and Manholes
 - (h) Construction of Monolithic Concrete Splash Strip
 - (i) Placement of 80 mm (average thickness) Asphaltic Concrete Overlay
 - (j) Boulevard Restoration and Site Clean-up in 2005
 - (k) Existing ditch regrading

- D2.3 The Contractor is advised that the City of Winnipeg is presently engaged in negotiations with Canadian Pacific Railway regarding the removal of the railway crossing on Waverley Street south of Scurfield Boulevard. Should the rail crossing be removed, there will be the requirement for replacement of an estimated 600 square metres of pavement northbound and an estimated 200 square metres of pavement southbound on Waverley Street. The work would involve the removal of the all existing pavement, excavation, placement of base course and new 200 mm plain doweled concrete pavement, followed by placement of the asphalt overlay. All related work shall be paid for at the appropriate unit price bid for those items of work.

D3. CONTRACT ADMINISTRATOR

- D3.1 The Contract Administrator is Earth Tech, Inc., represented by:

Mr. Kevin W. Rae, P. Eng.
Project Manager
Earth Tech, Inc.
850 Pembina Highway
Winnipeg, Manitoba R3M 2M7
Telephone No. (204) 477-5381
Facsimile No. (204) 284-2040

- D3.2 At the pre-construction meeting, Mr. Kevin W. Rae, P. Eng., 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.
- D4.2 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 phone number where the supervisor identified in D4.1 or an alternate can be contacted 24 hours a day to respond to an emergency.

D5. NOTICES

- D5.1 Except as provided for in GC:23.2.2, all notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications to the Contractor shall be sent to the address or facsimile number identified by the Contractor in Paragraph 2 of Form A: Bid.
- D5.2 All notices, requests, nominations, proposals, consents, approvals, statements, authorizations, documents or other communications to the City, except as expressly otherwise required in D5.3, D5.4 or elsewhere in the Contract, shall be sent to the attention of the Contract Administrator at the address or facsimile number identified in 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 Bid Opportunity. If the Contractor requires additional sets of the Bid Opportunity, 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 Bid Submission was not a certified cheque or draft pursuant to B10.1(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 and in no event later than the date specified in the 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 named 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 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 the 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 or prior to a pre-construction meeting, or 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 GC:4.1 for the return of the executed Contract.

D10. DETAILED WORK SCHEDULE

- D10.1 The Contractor shall provide the Contract Administrator with a detailed work schedule (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.

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 D7;
 - (iv) evidence of the insurance specified in D8;
 - (v) the subcontractor list specified in D9;
 - (vi) the detailed work schedule specified in D10; and
 - (vii) the twenty-four (24) hour emergency response phone number specified in D4.2.
 - (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 commence the Work on the Site within seven (7) Working Days of receipt of the letter of intent.

D12. WORKING DAYS

D12.1 Further to GC:1.1(gg);

D12.1.1 The Contract Administrator will determine daily if a Working Day has elapsed and will record his assessment. On a weekly basis the Contract Administrator will provide the Contractor with a record of the Working Days assessed for the preceding week. The Contractor shall sign each report signifying that he agrees with the Contract Administrator's determination of the Working Days assessed for the report period.

D12.1.2 Work done to restore the Site to a condition suitable for Work, shall not be considered "work" as defined in the definition of a Working Day.

D12.1.3 When the Work includes two or more major types of Work that can be performed under different atmospheric conditions, the Contract Administrator shall consider all major types of Work in determining whether the Contractor was able to work in assessing Working Days.

D13. RESTRICTED WORK HOURS

D13.1 Further to clause 3.10 of CW 1130, the Contractor shall require written permission 48 hours in advance from the Contract Administrator for any work to be performed between 2000 hours and 0700 hours, or on Saturdays, Sundays, Statutory Holidays and or Civic Holidays.

D14. WORK BY OTHERS

D14.1 Work by others on or near the Site will include but not necessarily be limited to:

- (a) City of Winnipeg Traffic Signals Department – Upgrading of the Traffic Signals at the Waverley Street/Chevrier Boulevard and Waverley Street/Scurfield Boulevard intersections.

D15. SEQUENCE OF WORK

D15.1 Further to GC 6.1, the sequence of work shall be as follows:

D15.1.1 The Work shall be divided into two Parts. Part A will consist of the asphalt resurfacing of the northbound lanes of Waverley Street within project limits during the 2004 construction season. Part B will consist of the asphalt resurfacing of the southbound lanes of Waverley Street within project limits during the 2005 construction season.

D15.1.2 Each of the Parts shall be further subdivided into stages. Stage 1 will include the completion of joint and slab repairs, splash strip construction and asphalt resurfacing of the median lane on Waverley Street. The length of median lane under construction at any one time shall be limited to 700 metres. Upon completion of the scratch course paving for the section under construction the Contractor may extend his lane closure to the remainder of the median lane to be resurfaced. The section of median lane where scratch course paving has been completed shall then be re-opened to traffic. Stage 2 will include the completion of joint and slab repairs, splash strip construction and asphalt resurfacing of the gutter lane on Waverley Street. The length of gutter lane under construction at any one time shall be limited to 700 metres. Upon completion of the scratch course paving for the section under construction the Contractor may extend his lane closure to the remainder of the gutter lane to be resurfaced. The section of gutter lane where scratch course paving has been completed shall then be re-opened to traffic. Upon completion of all scratch course paving for the applicable Part (A or B) under construction, the Contractor shall then complete surface course paving for that Part.

D15.1.3 Stages are further subdivided into major items of work.

- (a) **Stage 1:** Asphalt Resurfacing of the median and left turn storage lanes as applicable, south project limit to north project limit in 700 metre long sections.
 - (i) Plane the existing asphalt overlay as required;
 - (ii) Complete concrete pavement slab and joint work and adjustments to pavement structures and appurtenances;
 - (iii) Complete removal of concrete curb and construction of new concrete splash strip and monolithic concrete median or concrete sidewalk as required;
 - (iv) Finish grade;
 - (v) Place scratch course of asphalt;
- (b) **Stage 2:** Asphalt Resurfacing of the gutter and right turn storage lanes as applicable, south project limit to north project limit in 700 metre long sections.
 - (i) Plane the existing asphalt overlay as required;
 - (ii) Complete concrete pavement slab and joint work and adjustments to pavement structures and appurtenances;
 - (iii) Complete removal of concrete curb and construction of new concrete splash strip and concrete sidewalk as required;
 - (iv) Regrade ditches and finish grade boulevards;
 - (v) Place scratch course of asphalt;
 - (vi) Complete surface course paving of median and gutter lanes from the south project limit to the north project limit.

D15.1.4 Completion of work on Part B shall follow a similar sequence to Part A, except that work will proceed from north to south, commencing at Clarence Avenue. Stage 1 work will take place in the median lane, with the same 700 metre long work area limitation as indicated in Part A. Stage 2 will take place in the gutter lane and shall also have the 700 metre long work area limitation indicated in Part A. All sod and topsoil shall be placed for Part B in 2005 prior to the completion of scratch coat paving in the applicable stage. Placement of sod and topsoil for Part A shall also be completed in 2005.

D16. CRITICAL STAGES

- D16.1 The Contractor shall achieve critical stages of the Work in accordance with the following requirements:
- (a) Part A Waverly Street, Bishop Grandin Boulevard to Clarence Avenue concrete repairs and asphalt resurfacing of the northbound lanes shall be complete within 40 working days of commencement.
- D16.2 When the Contractor considers the Work associated with Part A to be completed, the Contractor shall arrange, attend and assist in the inspection of the Work with the Contract Administrator for purposes of verifying completion. 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 re-inspected.
- D16.3 The date on which the Part A Work has been accepted by the Contract Administrator as being completed to the requirements of the Contract is the date on which completion of Part A has been achieved.

D17. SUBSTANTIAL PERFORMANCE

- D17.1 The Contractor shall achieve Substantial Performance within seventy-five (75) consecutive Working Days of the commencement of the Work as specified in D11. Upon commencement of work on each part of the Contract, working days shall accrue consecutively and uninterrupted until that part of the work is complete. At no time will the Contractor be permitted to cease his operations and then recommence operations at a later date. The only exception shall be the period of time between the completion of Part A, at the end of the 2004 construction season and commencement of work on Part B, at the beginning of the 2005 construction season.
- D17.2 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 re-inspected.
- D17.3 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.

D18. TOTAL PERFORMANCE

- D18.1 The Contractor shall achieve Total Performance within eighty (80) consecutive Working Days of the commencement of the Work as specified in D11.
- D18.2 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 re-inspected.
- D18.3 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.

D19. LIQUIDATED DAMAGES

- D19.1 If the Contractor fails to achieve critical stages or Substantial 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) Part A - Waverley Street, Bishop Grandin Boulevard to Clarence Avenue, Concrete Repairs and Asphalt Resurfacing of the Northbound lanes - One Thousand dollars (\$1,000.00);
 - (b) Substantial Performance - Two Thousand dollars (\$2,000.00).
- D19.2 The amount specified for liquidated damages in D19.1 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.
- D19.3 The City may reduce any payment to the Contractor by the amount of any liquidated damages assessed.
- D19.4 The amounts specified for liquidated damages in D19.1 are based on a genuine pre-estimate of the City's losses in the event that the Contractor does not achieve critical stages, Substantial Performance or Total Performance by the days fixed herein for same.

D19.5 The City may reduce any payment to the Contractor by the amount of any liquidated damages assessed.

D20. SCHEDULED MAINTENANCE

D20.1 The Contractor shall perform the following scheduled maintenance in the manner and within the time periods required by the Specifications:

- (a) Reflective crack maintenance during **one year** warranty period as specified in CW 3250-R4.
- (b) Maintenance of sodded areas as specified in CW 3510-R7.

D20.2 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

D21. JOB MEETINGS

D21.1 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.

D21.2 The Contract Administrator reserves the right to cancel any job meeting or call additional job meetings whenever 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. WARRANTY

D23.1 Notwithstanding GC:13.2, the warranty period shall begin on the date of Substantial Performance and shall expire one (1) year thereafter unless extended pursuant to GC:13.2.1 or GC:13.2.2, in which case it shall expire when provided for thereunder.

D23.2 Notwithstanding GC:13.2 or D23.1, the warranty period for Part A of the contract will be allowed to begin prior to the date of Substantial Performance providing that the work of Part A is completed in the 2004 construction season.

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:

BID OPPURTUNITY NO. 371-2004

WAVERLEY STREET, BISHOP GRANDIN BOULEVARD TO CLARENCE AVENUE, CONCRETE
REPAIRS AND ASPHALT RESURFACING
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 – 371-2004

WAVERLEY STREET, BISHOP GRANDIN BOULEVARD TO CLARENCE AVENUE, CONCRETE
REPAIRS AND ASPHALT RESURFACING

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)

