

PROPOSER TEAM MEMBER CONFIDENTIALITY AGREEMENT

In order to access the Confidential Information for the Project, please complete and return this Confidentiality Agreement by email (pdf format) to Brie Smith (the "Contact Person") at: NEWPCCNRF@ecom.com

REFERENCE: RFP 925-2024 (the "RFP")
Progressive Design Build of the North End Sewage Treatment Plant
(NEWPCC) Upgrade: Nutrient Removal Facilities (the "Project")

CONFIDENTIALITY AGREEMENT

Further to Sections D7.3 and D7.4 of the RFP, in consideration of receiving Confidential Information from the City of Winnipeg (the "City") related to the RFP and the Project, [insert name of Team Member here], (hereinafter referred to as the "Proposer Team Member") agrees as follows:

1. The Proposer Team Member acknowledges that it will receive as part of its participation in the RFP Process, information from the City. For the purpose of the RFP Process, "**Confidential Information**" means all material, data, information or any item in any form, whether oral or written, including in electronic or hard-copy format, supplied by, obtained from or otherwise provided by the City in connection with the RFP Process, the RFP Documents or the Project, whether supplied, obtained from or provided before or after the RFP Process. Confidential Information includes information made available to the Proposer Team Member by the City through the Data Room or any other electronic methods, and includes but is not limited to, any of the following:
 - (a) drawings, reports, previous tenders and specifications and conceptual design information related to the Project;
 - (b) compilations of data, information, or other documents concerning business, methods, practices, and strategies;
 - (c) information deemed sensitive or private under the laws of the Province of Manitoba;
 - (d) information about residents of the City;
 - (e) confidential, proprietary or trade secret information (including but not limited to plans, reports, analyses, studies, designs, forecasts, processes, methodologies, and equipment specifications, and any know-how, research, concepts, ideas whether patentable or not, and other intellectual property, referenced or incorporated into the materials) submitted or otherwise provided by suppliers, consultants or contractors, or other third party advisors, to the City (each a "**Third Party Consultant**", and collectively the "**Third Party Consultants**") for study, evaluation or use; and

(f) any other information not generally known to the public (including but not limited to information about operations, products or services) which, if misused or disclosed, could adversely affect the reputation and/or business of the City.

2. All capitalized terms not defined in this Confidentiality Agreement shall have the same meaning as in the RFP.

3. The Proponent Team Member agrees that all Confidential Information:

- (a) shall remain the sole property of the City (or the City's Third Party Consultants, as the case may be) and the Proponent Team Member shall treat it as confidential;
- (b) shall not be used by the Proponent Team Member for any purpose other than developing and submitting a Proposal in response to this RFP Process or the performance of any subsequent agreement relating to the Project with the City;
- (c) shall not be disclosed by the Proponent Team Member to any person who is not involved in the preparation of the Proponent's RFP Step 1 Submission or the performance of any subsequent agreement relating to the Project with the City, without prior written consent of the City;
- (d) shall not be used in any way that is detrimental to the City (or the City's third party consultants, as the case may be); and
- (e) if requested by the City, all Confidential Information shall be returned by the Proponent Team Members to the City no later than five (5) days after that request. However, notwithstanding anything herein to the contrary, the Proponent Team Member may retain one (1) copy, either hard copy or electronic copy, of the Confidential Information as required by law or to comply with the requirements of a regulatory body, provided the Proponent Team Member certifies that access to such Confidential Information is secured and limited.

To the extent Confidential Information resides in electronic backup systems, such Confidential Information may be retained until such time as the Proponent Team Member's document retention policies demand the destruction of such documents during the normal course of business.

The City may, upon written request and at any time after the Confidential Information is no longer required to be retained by the Proponent Team Member by law, regulatory body, or the Proponent Team Member's internal document retention policies, require a senior officer of the Proponent Team Member to certify in writing that all Confidential Information retained by it has been returned to the City or securely destroyed in a manner which protects the confidentiality of the Confidential Information.

4. The Proponent Team Member agrees to ensure that any person to whom it discloses the Confidential Information including, for greater clarity, the Proponent Team Member and their employees, representatives and Advisors:

- (a) only use the Confidential Information for the purposes provided for in this Confidentiality Agreement; and
- (b) observe and perform all of the covenants the Proponent Team Member has agreed to observe and perform in this Confidentiality Agreement as if they had signed this Confidentiality Agreement.

5. The Proponent Team Member agrees to be responsible for any breach of any provision of this Confidentiality Agreement by any person to whom it discloses the Confidential Information including, for greater clarity, the Proponent Team Member's employees, representatives and Advisors and each of their employees. The Proponent Team Member shall indemnify the City and its councillors, consultants (including and Third Party Consultants), employees, agents and representatives and save each of them fully harmless from and against any and all loss, cost, damage, expense, fine, suit, claim, penalty, demand, action, obligation and liability of any kind or nature (including, without limitation, professional fees on a full indemnity basis) suffered or incurred by any of them arising as a result of or in connection with any breach of any of the provisions of this Confidentiality Agreement by the Proponent Team Member or by any person to whom the Proponent Team Member has disclosed the Confidential Information.

6. The Proponent Team Member acknowledges and agrees that, if a Proponent Team Member or any of its Advisors discovers a breach of any of the confidentiality obligations set out in this Confidentiality Agreement, the Proponent Team Member shall promptly disclose all information with respect to such breach to the City in a written statement to the Contact Person.

7. The Proponent Team Member acknowledges and agrees that a breach of the provisions of this Confidentiality Agreement would cause the City (or a Third Party Consultant, as the case may be) to suffer loss that could not be adequately compensated by damages, and that the City (or such Third Party Consultant) may, in addition to any other remedy or relief, seek and obtain injunctive relief against the Proponent Team Member for any breach or threatened breach of this Confidentiality Agreement by its employees, representatives and Advisors and each of their employees, and enforce any of the provisions of this Confidentiality Agreement upon application to a court of competent jurisdiction without proof of actual damage to the City (or such Third Party Consultant).

8. The provisions of this Confidentiality Agreement shall survive for a period of five years after the date hereof or for as long as the Proponent Team Member retains the Confidential Information pursuant to Section 3(e) herein, whichever period is longer, and shall be enforceable notwithstanding the existence of any claim or cause of action by either party against the other. Furthermore, this Confidentiality Agreement shall survive cancellation of the RFP Process and the conclusion of the RFP Process and, for greater clarity, shall be legally binding on the signatory, whether or not it submits a RFP Step 1 Submission in connection with the RFP Process.

9. The confidentiality obligations of the Proponent Team Member shall not apply to any information which falls within the following exceptions:

- (a) information that is lawfully in the public domain at the time of first disclosure to the Proponent Team Member, or which, after disclosure to the Proponent Team Member, becomes part of the public domain other than by a breach of the

Proponent Team Member's confidentiality obligations or by any act or fault of the Proponent Team Member;

- (b) information which was in the Proponent Team Member's possession prior to its disclosure to the Proponent Team Member by the City, and provided that it was not acquired by the Proponent Team Member under an obligation of confidence;
- (c) information which was lawfully obtained by the Proponent Team Member from a third party without restriction of disclosure, provided such third party was at the time of disclosure under no obligation of secrecy with respect to such information; or
- (d) information which is or was independently developed by the Proponent Team Member without the use of any Confidential Information.

10. If the Proponent Team Member is required by any court or judicial order to disclose any of the Confidential Information, it shall promptly notify the City so that the City may, at the City's sole discretion, seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, or in cases where a subpoena or other court order requires the Proponent Team Member to immediately comply, the Proponent Team Member shall furnish only that portion of the Confidential Information which it is legally required and compelled to disclose.

11. The Proponent Team Member acknowledges and agrees that the Confidential Information shall at all times remain the property of the City (or the City's Third Party Consultants, as the case may be), and by making Confidential Information or other information available to the Proponent Team Member, the City (and each of the City's Third Party Consultants) has not granted, and shall not be deemed to be granting, any licence or other right under or with respect to any trade secret, patent, copyright, trademark, or other proprietary or intellectual property right, save to use the confidential information for the purpose described in Section 3(b) of this confidentiality agreement.

12. This Confidentiality Agreement shall be enforceable in and construed in accordance with the laws of the Province of Manitoba, Canada.

13. This Confidentiality Agreement and RFP No. 925-2024, contain the entire agreement of the parties relating to the Confidential Information. This Confidentiality Agreement may be modified only by an instrument in writing signed by both parties hereto.

IN WITNESS WHEREOF, an authorized representative of the Proponent Team Member has executed and delivered this Confidentiality Agreement, as of the _____ day of _____ 2025.

Proponent Team Member

Authorized Signature _____

Print Name: _____

Title: _____

Company Name: _____

Contact Name: _____

Title: _____

Telephone: _____ Fax: _____

Email: _____