

295-2025 ADDENDUM 6

LAGIMODIERE TWIN OVERPASSES OVER CPKC KEEWATIN REHABILITATION AND RELATED WORKS: CONTRACT 2 – BRIDGE STRUCTURES, ROADWORKS, AND LAND DRAINAGE

ISSUED: 2025-10-01
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URGENT

**PLEASE FORWARD THIS DOCUMENT TO
WHOEVER IS IN POSSESSION OF THE
BID/PROPOSAL**

**THIS ADDENDUM SHALL BE INCORPORATED
INTO THE BID/PROPOSAL AND SHALL FORM
A PART OF THE CONTRACT DOCUMENTS**

Template Version: Add 2024-02-01

Please note the following and attached changes, corrections, additions, deletions, information and/or instructions in connection with the Bid/Proposal, and be governed accordingly. Failure to acknowledge receipt of this Addendum in Paragraph 10 of Form A: Bid/Proposal may render your Bid/Proposal non-responsive.

PART D – SUPPLEMENTAL CONDITIONS

- Revise: D29.2 to read: The amounts specified for liquidated damages in D29.1 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. Without diminishing the Contractor's obligations or the City's powers anywhere else in this Contract, the Liquidated Damages represent the City's sole financial remedy for delays in the Contractor's achievement of **Critical Stages**, Substantial Performance or Total Performance under this Contract and shall not exceed the sum of \$12,000.00 per Calendar Day of delay.
- Delete: D29.3
- Revise: D49.3 to read: The limits set out in D49.2 shall be exclusive of any insurance proceeds received or which will be received pursuant to policies maintained in accordance with this Contract, or which would have been received if the Contractor had complied with its obligation to insure under this Contract or the terms of any policy of insurance required under this Contract each in the "not less than" value as set out in the Contract; and shall not apply in cases of gross negligence or willful misconduct. **For the avoidance of doubt, should the Contractor place insurance policies in excess of the minimum requirements specified under this Contract, any funds recovered by the Contractor under such excess policies and utilized to compensate the City under any clause of this Contract shall not be distinguished from any other sources of funds for the purposes of calculating the Contractors limits set out under D49.2.**

QUESTIONS AND ANSWERS

- Q1: In D47.3, Clause does not expressly cover liabilities from encountering, handling or disposing of pre-existing or unidentified materials. Owner should be indemnifying Contractor for pre-existing hazardous materials or unidentified hazardous substances off site. Request clarification that all costs, damages or expenses arising including pre-existing or unidentified hazardous substances off site.

A1: Please refer to C7.2.1.

- Q2. For D48.4, While we recognize the government's ability to audit (city, provincial or federal), the City of Winnipeg's timeline to perform and audit is quite extensive with 6 years from Total Performance. Additionally, audit rights should only be permissible if such contract is a cost-plus arrangement or at a minimum audit rights will not apply to any lump sum or unit price work. Request confirmation that audit rights will not apply to lump sum or unit price work and the audit period be reduced to 5 years, from 6 years.

Proposed revised language as follows:

The Contractor shall maintain and preserve accurate and complete records in respect of this Contract and the Work, including all accounting records **that are unrelated to the makeup of lump sum or unit price Work**, financial documents, copies of contracts with other parties and other records relating to this Contract and the Work during the term of the Contract and for at least **five (5)** years after Total Performance...

A2: The City cannot change this section as it is a requirement of external funding agreements.

- Q3. In C16 Force Majeure, currently the clause as written does not include a diverse and extensive list of triggering events for force majeure. The clause specifies strikes, lockouts or an act of God only. It does however have broad catch all language. Recommend the clause be revised to add the following list of triggering events:

- Abnormally adverse weather
- Natural disasters
- Fires
- Explosions
- Epidemics/pandemics
- Sabotage
- Wars, terrorism, riots
- Criminal actions and/or civil disturbances
- Protests
- Supply chain disruptions
- Loss, damage or delay in long lead items

A3: The City does not believe a change is required to this section as it is already of general applicability. Additionally, C8 (Change in Work) may be applicable to certain items on this list.

- Q4: In C18.1 Events of Default & C19.3 Withholding of Payment, Contractor should not be in default of the contract for failure to pay a subcontractor or remove a lien if we have not been paid by the City. In addition, Contractor should only be required to pay remove a lien once payment has been received from the Owner.

Recommend C18.1 (g) & (h) be revised to the following:

(g) **subject to the City meeting its payment obligations**, fails to make prompt payment to their Subcontractors, their employees or on account of the purchase or rental of Plant or Material; or

(h) **subject to the City meeting its payment obligations**, fails to promptly secure a discharge of a claim for lien or trust claim served upon the City pursuant to The Builders' Liens Act; or

Recommend C19.1 (b) be revised to the following:

(b) **subject to the City meeting its payment obligations**, secure the discharge of a lien or trust claim served upon the City pursuant to The Builders' Liens Act;

A4: Prompt Payment legislation already subjects the City to a payment obligation.

- Q5: In C15 Assignment, Owner appears free to assign the contract to other entities without Contractor's consent.

Recommend C15.1 be revised to the following:

Neither party shall not assign the Contract or any payments thereunder without the prior consent of the other party.

A5: The City has never assigned a project of this value and categorization to a third party. As such the City does not believe the addition requested is necessary.