

## SCHEDULE 16

### CONTRACT SECURITY AND LABOUR AND MATERIAL PAYMENT BOND

#### FORM A1: PERFORMANCE BOND

THIS IS TO CERTIFY 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 for

RFP NO. 659-2018B

DESIGN BUILD OF NORTH END SEWAGE TREATMENT PLANT (NEWPCC) UPGRADE:  
HEADWORKS FACILITIES

which is by reference made part hereof and is hereinafter referred to as the "Design Build Agreement".

NOW THEREFORE the condition of the above obligation is such that if the Principal shall:

- (a) carry out and perform the Design Build Agreement and every part thereof in the manner and within the times set forth in the Design Build Agreement and in accordance with the terms and conditions specified in the Design Build Agreement;
- (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 Design Build Agreement; 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 Design Build Agreement, 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 Design Build Agreement or any part thereof during the term of the Design Build Agreement 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 as to Principal if no seal)

\_\_\_\_\_  
(Name of Principal)

Per: \_\_\_\_\_ (seal)

Per: \_\_\_\_\_

\_\_\_\_\_  
(Name of Surety)

By: \_\_\_\_\_  
(Attorney in Fact) (Seal)

## FORM A2: LABOUR AND MATERIAL PAYMENT BOND

THIS IS TO CERTIFY THAT

\_\_\_\_\_  
his/its heirs, executors, administrators, successors or assigns (hereinafter called the "Principal"),  
and

\_\_\_\_\_  
his/its heirs, executors, administrators, successors or assigns (hereinafter called the "Surety"),  
are held and firmly bound unto THE CITY OF WINNIPEG (hereinafter called the "Obligee"), for  
the use and benefit of claimants as herein below defined, in the amount of

\_\_\_\_\_ dollars (\$\_\_\_\_\_)  
of lawful money of Canada, for the payment whereof we, the Principal and the Surety jointly and  
severally bind ourselves firmly by these presents.

WHEREAS the Principal has entered into a written contract with the Obligee for

RFP NO. 659-2018B

DESIGN BUILD OF NORTH END SEWAGE TREATMENT PLANT (NEWPCC) UPGRADE:  
HEADWORKS FACILITIES

which is by reference made part hereof and is hereinafter referred to as the "Design Build  
Agreement".

NOW THEREFORE the condition of the above obligation is such that if the Principal shall  
promptly make payment to all claimants as hereinafter defined, for all labour, service and  
material used or reasonably required for use in the performance of the Design Build Agreement,  
then this obligation shall be void, otherwise it shall remain in full force and effect subject,  
however, to the following conditions:

- (a) A claimant is defined as one having a direct contract with the Principal for  
labour, service and material, or any of them, used or reasonably required for  
use in the performance of the contract, labour, service and material being  
construed to include that part of water, gas, power, light, heat, oil, gasoline,  
telephone service or rental of equipment (but excluding rent of equipment  
where the rent pursuant to an agreement is to be applied towards the  
purchase price thereof) directly applicable to the Design Build Agreement;
- (b) The above-named Principal and Surety hereby jointly and severally agree  
with the Obligee that every claimant as herein defined, who has not been  
paid in full before the expiration of a period of ninety (90) days after the date  
on which the last of such claimant's work, labour or service was done or  
performed, or materials were furnished by such claimant, may sue on this  
bond, prosecute the suit to final judgment for such sum or sums as may be  
justly due claimant, and have execution thereon;
- (c) No suit or action shall be commenced hereunder by any claimant

- (i) unless claimant shall have given written notice to the Principal and the Surety above-named, within one hundred and twenty (120) days after such claimant did or performed the last of the work, labour or service, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work, labour or service was done or performed. Such notice shall be served by mailing the same by registered mail to the Principal, and Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the Province of Manitoba;
  - (ii) after the expiration of one (1) year following the date on which Principal ceased work on said Design Build Agreement; including work performed under the guarantees provided in the Design Build Agreement;
  - (iii) other than in a court of competent jurisdiction in the Province of Manitoba.
- (d) The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.
- (e) The Surety shall not be liable for a greater sum than the specified penalty of this bond.

The Principal and Surety hereby agree that The Guarantors' Liability Act (Manitoba) shall apply to this Bond.

IN TESTIMONY WHEREOF, the Principal has hereunto set its hand affixed its seal, and the Surety has caused these presents to be sealed and with its corporate seal duly attested by the authorized signature of its signing authority this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SIGNED AND SEALED  
in the presence of:

\_\_\_\_\_  
(Witness as to Principal if no seal)

\_\_\_\_\_  
(Name of Principal)

Per: \_\_\_\_\_ (seal)

Per: \_\_\_\_\_

\_\_\_\_\_  
(Name of Surety)

By: \_\_\_\_\_  
(Attorney in Fact) (Seal)