

CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2003-45

**Being a By-Law to Authorize the Execution
of a Construction Contract**

WHEREAS the Corporation of the Town of Amherstburg has proposed to install a custom designed elevator and other improvements required to make the Amherstburg Carnegie Library accessible to the disabled and;

WHEREAS N.K. Becker Incorporated has prepared specifications and has completed the tendering process and;

WHEREAS after reviewing the tenders submitted, N.K. Becker Incorporated has recommended that the project be awarded to F. Volpatti Construction Inc.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION
OF THE TOWN OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:**

- (1) That the entering into by the Corporation of the Town of Amherstburg of a contract in the amount of \$182,500.00 + GST in the form annexed hereto with F. Volpatti Construction Inc. to construct a custom designed elevator and other improvements to make the Amherstburg Carnegie Library accessible to the disabled be hereby approved, ratified and confirmed.
- (2) That the Mayor & Clerk be authorized to execute the said contract and apply the Corporate Seal thereto.

Read a first, second and third time and finally passed this 23rd day of June, 2003.



MAYOR



CLERK

Certified to be a true copy of By-Law
No. 2003-45 passed by The Amherstburg
Municipal Council on June 23rd, 2003.

CLERK

AGREEMENT BETWEEN OWNER AND CONTRACTOR

For use when a stipulated price is the basis of payment.

This Agreement made on the 30th day of May

in the year 2003

by and between

The Corporation of the Town of Amherstburg

hereinafter called the "Owner"

and

F. Volpatti Construction Inc.

hereinafter called the "Contractor"

The Owner and the Contractor agree as follows:

ARTICLE A-1 THE WORK

The Contractor shall:

1.1 perform the Work required by the Contract Documents for

Amherstburg Carnegie Library Elevator Addition

insert above the title of the Work

located at 232 Sandwich Street South, Amherstburg, Ontario, N9V 2A4

insert above the Place of the Work

which have been signed by the parties, and for which

N.K. Becker Incorporated

insert above the name of the Consultant

is acting as and is hereinafter called the "Consultant" and

1.2 do and fulfill everything indicated by this Agreement, and

1.3 commence the Work by the 6th day of June in the year 2003

and, subject to adjustment in Contract Time as provided for in the Contract Documents, attain Substantial

Performance of the Work, by the 15th day of September in the year 2003

ARTICLE A-2 AGREEMENTS AND AMENDMENTS

- 2.1 The *Contract* supersedes all prior negotiations, representations, or agreements, either written or oral, relating in any manner to the *Work*, including the bidding documents that are not expressly listed in Article A-3 of the Agreement - CONTRACT DOCUMENTS.
- 2.2 The *Contract* may be amended only as provided in the *Contract Documents*.

ARTICLE A-3 CONTRACT DOCUMENTS

3.1 The following are the *Contract Documents* referred to in Article A-1 of the Agreement - THE WORK:

- Agreement Between Owner and Contractor
 - Definitions
 - The General Conditions of the Stipulated Price Contract
 - *
- The Tender submitted by F. Volpatti Construction Inc. including the Drawings, Specifications and other documents appended to this Agreement.

* (Insert here, attaching additional pages if required, a list identifying all other Contract Documents e.g. Supplementary Conditions; Specifications, giving a list of contents with section numbers and titles, number of pages, and date; Drawings, giving drawing number, title, date, revision date or mark; Addenda, giving title, number, date)

ARTICLE A-4 CONTRACT PRICE

4.1 The *Contract Price*, which excludes *Value Added Taxes*, is:

One Hundred and Eighty-Two Thousand, One Hundred and
Forty-One dollars
and No cents. \$ 182,141.00

4.2 *Value Added Taxes* (of 7 %) payable by the *Owner* to the *Contractor* are:

Twelve Thousand, Seven Hundred and
Forty-Nine dollars
and No cents. \$ 12,749.00

4.3 Total amount payable by the *Owner* to the *Contractor* for the construction of the *Work* is:

One Hundred and Ninety-Four Thousand,
Eight Hundred and Ninety dollars
and No cents. \$ 194,890.00

4.4 All amounts are in Canadian funds.

4.5 These amounts shall be subject to adjustments as provided in the *Contract Documents*.

ARTICLE A-5 PAYMENT

- 5.1 Subject to the provisions of the *Contract Documents*, and in accordance with legislation and statutory regulations respecting holdback percentages and, where such legislation or regulations do not exist or apply, subject to a holdback of Ten percent (10 %), the *Owner* shall in Canadian funds:
- .1 make progress payments to the *Contractor* on account of the *Contract Price* when due in the amount certified by the *Consultant* together with such *Value Added Taxes* as may be applicable to such payment, and
 - .2 upon *Substantial Performance of the Work*, pay to the *Contractor* the unpaid balance of the holdback amount when due together with such *Value Added Taxes* as may be applicable to such payment, and
 - .3 upon the issuance of the final certificate for payment, pay to the *Contractor* the unpaid balance of the *Contract Price* when due together with such *Value Added Taxes* as may be applicable to such payment.
- 5.2 In the event of loss or damage occurring where payment becomes due under the property and boiler insurance policies, payments shall be made to the *Contractor* in accordance with the provisions of GC 11.1 - INSURANCE.
- 5.3 Interest
- .1 Should either party fail to make payments as they become due under the terms of the *Contract* or in an award by arbitration or court, interest at Two percent (2 %) per annum above the bank rate on such unpaid amounts shall also become due and payable until payment. Such interest shall be compounded on a monthly basis. The bank rate shall be the rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to the chartered banks.
 - .2 Interest shall apply at the rate and in the manner prescribed by paragraph 5.3.1 of this Article on the amount of any claim settled pursuant to Part 8 of the General Conditions - DISPUTE RESOLUTION from the date the amount would have been due and payable under the *Contract*, had it not been in dispute, until the date it is paid.

ARTICLE A-6 RECEIPT OF AND ADDRESSES FOR NOTICES

6.1 Notices in writing between the parties or between them and the *Consultant* shall be considered to have been received by the addressee on the date of delivery if delivered to the individual, or to a member of the firm, or to an officer of the corporation for whom they are intended by hand or by registered post; or if sent by regular post, to have been delivered within 5 *Working Days* of the date of mailing when addressed as follows:

The *Owner* at 271 Sandwich Street South
street and number and postal box number if applicable
Amherstburg, Ontario, N9V 2Z3
post office or district, province, postal code

The *Contractor* at 2170 Manning Road, Tecumseh, Ontario,
street and number and postal box number if applicable
N8N 2L9
post office or district, province, postal code

The *Consultant* at 1127 Victoria Avenue, Windsor, Ontario
street and number and postal box number if applicable
N9A 4N9
post office or district, province, postal code

ARTICLE A-7 LANGUAGE OF THE CONTRACT

7.1 When the *Contract Documents* are prepared in both the English and French languages, it is agreed that in the event of any apparent discrepancy between the English and French versions, the English/FRENCH language shall prevail.

* *Complete this statement by striking out inapplicable term.*

7.2 This Agreement is drawn in English at the request of the parties hereto. La présente convention est rédigée en anglais à la demande des parties.

ARTICLE A-8 SUCCESSION

8.1 The *Contract Documents* are to be read into and form part of this Agreement and the whole shall constitute the *Contract* between the parties, and subject to the law and the provisions of the *Contract Documents* shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors, and assigns.

In witness whereof the parties hereto have executed this Agreement and by the hands of their duly authorized representatives.

SIGNED AND DELIVERED
in the presence of:

OWNER

The Corporation of the Town of Amherstburg

name of owner

[Handwritten Signature]

signature

Tony D. BARTOLOMEO Mayor

name and title of person signing

[Handwritten Signature]

signature

DAVID MARLOSZ CLERK.

name and title of person signing

WITNESS

signature

name and title of person signing

CONTRACTOR

F. Volpatti Construction Inc.

name of contractor

[Handwritten Signature]

signature

Fausto Volpatti - owner

name and title of person signing

signature

name and title of person signing

WITNESS

[Handwritten Signature]

signature

name and title of person signing

N.B. Where legal jurisdiction, local practice, or Owner or Contractor requirement calls for:

- (a) proof of authority to execute this document, attach such proof of authority in the form of a certified copy of a resolution naming the representative(s) authorized to sign the Agreement for and on behalf of the corporation or partnership; or
- (b) the affixing of a corporate seal, this Agreement should be properly sealed.