

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2017-93

**By-law to enter into a contract with Bart DiGiovanni Construction Ltd. for the Repair and Improvement to the Leo Beaudoin Drain**

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**WHEREAS** under Section 9 of the Municipal Act 2001, S.O., 2001, c. 25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act.

**AND WHEREAS** under Section 8(1) of the Municipal Act 2001, S.O., 2001, c. 25, as amended, shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues;

**AND WHEREAS** the Council of The Corporation of the Town of Amherstburg deems it expedient to enter into a contract with Bart DiGiovanni Construction Ltd. for the Leo Beaudoin Drain.

**NOW THEREFORE** the Council of The Corporation of the Town of Amherstburg enacts as follows:

1. That the Council of The Corporation of the Town of Amherstburg agrees to enter into the contract as attached hereto as Schedule "A" to this By-law.
2. That the Mayor and Clerk are hereby authorized to sign and seal said agreement on behalf of The Corporation of Town of Amherstburg.
3. This By-law shall come into force and take effect immediately upon the final passing thereof.

Read a first, second and third time and finally passed this 23rd day of October, 2017.

  
\_\_\_\_\_  
MAYOR – ALDO DICARLO

  
\_\_\_\_\_  
MUNICIPAL CLERK – PAULA PARKER

The Corporation of the  
Town of Amherstburg, Ontario



**CONTRACT**

**REPAIR AND IMPROVEMENT TO THE  
LEO BEAUDOIN DRAIN  
PWD-MD-2012-006**



### CERTIFICATE OF INSURANCE

This Certificate is for information only; it is not a contract of insurance but attests that a policy as numbered herein (as it stands at the date of this Certificate) has been issued by the Company. Said policy is subject to change by endorsement and to assignment and cancellation in accordance with its terms.

**ADDITIONAL INSURED**

TOWN OF AMHERSTBURG  
512 SANDWICH STREET  
AMHERSTBURG, ON  
N9V 3R2

**INSURED**

BART DIGIOVANNI CONSTRUCTION, 957505 ONTARIO LTD. DBA  
2217 WALKER ROAD  
MC GREGOR, ON  
N0R 1J0

**DATE ISSUED: DEC 14 2017**

Is Certificate of Insurance required on renewal: Yes

**PROPERTY AND LIABILITY**

Policy No.: 0064754.3    Effective Date: APR 09 2017    Expiry Date: APR 09 2018

**GENERAL LIABILITY**

Occurrence Limit: \$1,000,000    General Aggregate Limit: \$2,000,000  
Products Completed Operations Aggregate Limit: \$2,000,000  
 COMMERCIAL GENERAL LIABILITY INCLUDING PRODUCTS & COMPLETED OPERATIONS  
 CROSS LIABILITY

**UMBRELLA LIABILITY**

Policy No.: 0064756.0    Effective Date: APR 09 2017    Expiry Date: APR 09 2018  
Occurrence Limit: \$4,000,000    Aggregate Limit: \$4,000,000    SELF-INSURED RETENTION: \$5000

**Note:** The Umbrella Policy is designed to provide higher limits for any General Liability or Automobile Liability Policy listed on this Certificate of Insurance. **For example**, if the General Liability occurrence limit is \$1,000,000 and the Umbrella Liability occurrence limit is \$9,000,000, the Insured has a total limit of \$10,000,000 for any single occurrence.

**AUTOMOBILE LIABILITY**

Policy No.: 0064755.1    Effective Date: APR 09 2017    Expiry Date: APR 09 2018  
Limit: \$1,000,000    Type: NON-OWNED AUTO

**AUTOMOBILE LIABILITY**

Policy No.: 0152367.8    Effective Date: APR 09 2017    Expiry Date: APR 09 2018  
Limit: \$1,000,000    Type: STANDARD AUTO

Special Provisions: The certificate holder listed above will be given 30 days written notice of cancellation.

The Certificate holder has been added as an additional insured - details to follow with the insurance policy documents.

FOR THE FOLLOWING JOBS: LEO BEAUDOIN DRAIN AMHERSTBURG  
ADDED AS ADDITIONAL INSURED:  
TOWN OF AMHERSTBURG  
UMBRELLA LIABILITY LIMIT IS \$4,000,000.  
WHEN COMBINED WITH THE COMMERCIAL GENERAL  
LIABILITY OF \$1,000,000 PROVIDES A TOTAL OF \$5,000,000 LIABILITY

This Certificate of Insurance neither affirmatively or negatively amends, extends or alters the coverage afforded by the above policy number(s).



Chief Executive Officer



**Performance Bond - CCDC**

Standard Construction Document  
CCDC 221 - 2002

Bond No.: 37-4253-99949

Bond Amount: \$ 61,410.00

**Bart DiGiovanni Construction Ltd.** as Principal, hereinafter called the Principal, and Echelon Insurance, 2680 Matheson Blvd East, Suite 300, Mississauga, Ontario L4W 0A5, a corporation created and existing under the laws of Canada and duly authorized to transact the business of Suretyship in all Provinces and all Territories in Canada as Surety, hereinafter called the Surety, are held and firmly bound unto **Corporation of the Town of Amherstburg** as Oblige, hereinafter called the Oblige, in the amount of **Sixty One thousand Four hundred Ten --00/100 Dollars (\$61,410.00 )** lawful money of Canada, for the payment of which sum the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS the Principal has entered into a written contract with the Oblige, dated the **6 day of November 2017** for **Repair and Improvements to the Leo Beaudion Drain, including ditch cleaning and culvert replacement** hereinafter referred to as the Contract.

The Condition of this obligation is such that, if the Principal shall promptly and faithfully perform the Contract then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Whenever the Principal shall be, and declared by the Oblige to be, in default under the Contract, the Oblige having performed the Oblige's obligations thereunder, the Surety shall promptly:

- 1) Remedy the default, or;
- 2) Complete the Contract in accordance with its terms and conditions or;
- 3) Obtain a bid or bids for submission to the Oblige for completing the Contract in accordance with its terms and conditions and upon determination by the Oblige and the Surety of the lowest responsible bidder, arrange for a contract between such bidder and the Oblige and make available as work progresses (even though there should be a default, or a succession of defaults, under the contract or contracts of completion, arranged under this paragraph) sufficient funds to pay to complete the Principal's obligations in accordance with the terms and conditions of the Contract and to pay those expenses incurred by the Oblige as a result of the Principal's default relating directly to the performance of the work under the Contract, less the balance of the Contract price; but not exceeding the Bond Amount. The balance of the Contract price is the total amount payable by the Oblige to the Principal under the Contract, less the amount properly paid by the Oblige to the Principal, or;
- 4) Pay the Oblige the lesser of 1) the Bond Amount or 2) the Oblige's proposed cost of completion, less the balance of Contract price.

It is a condition of this bond that any suit or action must be commenced before the expiration of two (2) years from the earlier of 1) the date of Substantial Performance of the Contract as defined in the lien legislation where the work under the Contract is taking place, or, if no such definition exists, the date when the work is ready for use or is being used for the purpose intended, or 2) the date on which the Principal is declared in default by the Oblige.

The Surety shall not be liable for a greater sum than the Bond Amount.  
No right of action shall accrue on this Bond, to or for the use of, any person or corporation other than the Oblige named herein, or the heirs, executors, administrators or successors of the Oblige.

IN WITNESS WHEREOF, the Principal and the Surety have Signed and Sealed this Bond dated the **15 day of December, 2017**.

SIGNED AND SEALED in the presence of:

**Bart DiGiovanni Construction Ltd.**

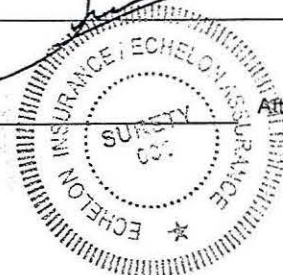
Principal:

Echelon Insurance

Surety

**Darren Miller**

Attorney-in-Fact



## Labour and Material Payment Bond

(Trustee Form)

Standard Construction Document

CCDC 222 - 2002

Bond No.: 37-4253-99949

Bond Amount: \$ 61,410.00

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WHEREAS the Principal has entered into a written contract with the Obligee, dated the **6 day of November, 2017** for **Repair and Improvements to the Leo Beaudion Drain, including ditch cleaning and culvert replacement** in accordance with the Contract Documents submitted, and which are by reference made part thereof and are hereinafter referred to as the Contract.

The Condition of this obligation is such that, if the Principal shall make payment to all Claimants for all labour and material used or reasonably required for use in the performance of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A Claimant for the purpose of this Bond is defined as one having a direct contract with the Principal for labour, material, or both, used or reasonably required for use in the performance of the Contract, labour and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment directly applicable to the Contract provided that a person, firm or corporation who rents equipment to the Principal to be used in the performance of the Contract under a contract which provides that all or any part of the rent is to be applied towards the purchase price thereof, shall only be a Claimant to the extent of the prevailing industrial rental value of such equipment for the period during which the equipment was used in the performance of the Contract. The prevailing industrial rental value of equipment shall be determined, insofar as it is practical to do so, by the prevailing rates in the equipment marketplace in which the work is taking place.
2. The Principal and the Surety, hereby jointly and severally agree with the Obligee, as Trustee, that every Claimant who has not been paid as provided for under the terms of its contract with the Principal, before the expiration of a period of ninety (90) days after the date on which the last of such Claimant's work or labour was done or performed or materials were furnished by such Claimant, may as a beneficiary of the trust herein provided for, sue on this Bond, prosecute the suit to final judgment for such sum or sums as may be justly due to such Claimant under the terms of its contract with the Principal and have execution thereon. Provided that the Obligee is not obliged to do or take any act, action or proceeding against the Surety on behalf of the Claimants, or any of them, to enforce the provisions of this Bond. If any act, action or proceeding is taken either in the name of the Obligee or by joining the Obligee as a party to such proceeding, then such act, action or proceeding, shall be taken on the understanding and basis that the Claimants, or any of them, who take such act, action or proceeding shall indemnify and save harmless the Obligee against all costs, charges and expenses or liabilities incurred thereon and any loss or damage resulting to the Obligee by reason thereof. Provided still further that, subject to the foregoing terms and conditions, the Claimants, or any of them may use the name of the Obligee to sue on and enforce the provisions of this Bond.
3. It is a condition precedent to the liability of the Surety under this Bond that such Claimant shall have given written notice as hereinafter set forth to each of the Principal, the Surety and the Obligee, stating with substantial accuracy the amount claimed, and that such Claimant shall have brought suit or action in accordance with this Bond, as set out in sub-clauses 3 (b) and 3 (c) below, Accordingly, no suit or action shall be commenced hereunder by any Claimant:
  - a) unless such notice shall be served by mailing the same by registered mail to the Principal, the Surety and the Obligee, at any place where an office is regularly maintained for the transaction of business by such persons or served in any manner in which legal process may be served in the Province or Territory in which the subject matter of the Contract is located. Such notice shall be given:
    - i) in respect of any claim for the amount or any portion thereof, required to be held back from the Claimant by the Principal, under either the terms of the Claimant's contract with the Principal, or under the lien Legislation applicable to the Claimant's contract with the Principal, whichever is the greater, within one hundred and twenty (120) days after such Claimant should have been paid in full under the Claimant's contract with the Principal;
    - ii) in respect of any claim other than for the holdback or portion thereof, referred to above, within one hundred and twenty (120) days after the date upon which such Claimant did, or performed, the last of the work or

# echelon

Insurance

labour or furnished the last of the materials for which such claim is made under the Claimant's contract with the Principal;

- b) after the expiration of one (1) year following the date on which the Principal ceased work on the Contract, including work performed under the guarantees provided in the Contract;
  - c) other than in a Court of competent jurisdiction in the Province or Territory in which the work described in the Contract is to be installed or delivered as the case may be and not elsewhere, and the parties hereto agree to submit to the jurisdiction of such Court.
4. The Surety agrees not to take advantage of Article 2365 of the Civil Code of the Province of Quebec in the event that, by an act or an omission of a Claimant, the Surety can no longer be subrogated in the rights, hypothec and privileges of said Claimant.
  5. Any material change in the Contract between the Principal and the Obligee shall not prejudice the rights or interest of any Claimant under this Bond, who is not instrumental in bringing about or has not caused such change.
  6. The amount of this Bond shall be reduced by, and to the extent of any payment or payments made in good faith, and in accordance with the provisions hereof, inclusive of the payment by the Surety of claims made under the applicable lien legislation or legislation relating to legal hypothecs, whether or not such claim is presented under and against this Bond.
  7. The Surety shall not be liable for a greater sum than the Bond Amount.

IN WITNESS WHEREOF, the Principal and the Surety have Signed and Sealed this Bond dated the **15** day of **December, 2017**.

SIGNED AND SEALED in the presence of:

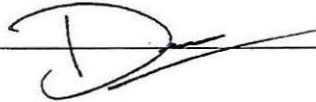
**Bart DiGiovanni Construction Ltd.**

Principal:

Echelon Insurance

Surety

**Darren Miller**



**ACKNOWLEDGEMENT IF ONLY ONE PROPOSAL IS RECEIVED**

I/We, the undersigned, hereby acknowledge and confirm on behalf of


Burt DiGiovanni Construction Ltd

That in the event that of only one proposal having been received by the Town of Amherstburg after this call for proposals, the Town reserves the right to open our proposal, or return the proposal unopened.

Should the Town choose to open our proposal, being the lone response after this call for proposals, I/We understand that the Town reserves the right to accept our proposal, negotiate the terms contained our proposal, or reject our proposal altogether, without being bound to award us with a contract for the work.

The Town is not responsible to us for any liabilities, expenses, loss or damage subsequent to or by reason of the acceptance or non-acceptance by the Town of any proposal.

Signature:

  
\_\_\_\_\_

Corporate Seal:

**If a corporate seal does not exist, please acknowledge the following:**

*"The signature of the person applied to this proposal document is authorized to act on behalf of the Proponent and is legally able to bind the company."*

\_\_\_\_\_ *Signatory Initials*

**AGREEMENT**

**THIS AGREEMENT** made in quadruplicate this 19 day of December, 2017.

**BETWEEN THE CORPORATION OF THE TOWN OF AMHERSTBURG**

(hereinafter called the Corporation) of the first part.

AND

Bart DiGiovanni Construction Ltd  
(hereinafter called the Contractor) of the second part.

**WHEREAS** the Corporation is desirous that certain works should be designed for the implementation of:

**REPAIR AND IMPROVEMENT TO THE LEO BEAUDOIN DRAIN**

In the Town of Amherstburg and has accepted a Tender by the Contractor for this purpose.

**NOW THIS AGREEMENT WITNESSES AS FOLLOWS:**

The Contractor hereby covenants and agrees to provide and supply at his expense, all and every kind of labour and materials for, and to undertake and complete in strict accordance with his Tender dated the:

19 day of December, 2017

And the Contract Documents (consisting of the contents and requirements for this Tender, including all modifications thereof and incorporated in the said documents before their execution) prepared by the Town of Amherstburg and all of which said documents are annexed hereto and form part of this Agreement to the same extent as fully embodied herein, the construction of the above noted works for the sum of:

One hundred and twenty two thousand eight hundred and twenty two (\$ 122,820.00 ) excluding H.S.T.

The Contractor further covenants and agrees to undertake and complete the said work in a proper workmanlike manner under the supervision and direction and to the entire satisfaction of the Town of Amherstburg Engineering and Public Works Department, within the specified time in his Tender. Time shall be deemed the essence of the contract.



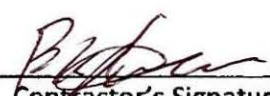
The Contractor further covenants and agrees that he will at all times, indemnify and save harmless, the Corporation of the Town of Amherstburg along with their respective officers, servants and agents, from and against all loss and damages whatsoever which may be made or brought against the above listed by reason or in consequence of the non-execution of negligent execution thereof by the Contractor, its servants, agents or employees.

The Corporation hereby covenants and agrees that if the said Work is duly and properly executed and materials are provided as aforesaid, and if the said Contactor carries out, performs and observes all of the requirements and conditions of this Agreement, the Corporation will pay to the Contractor, the price set forth in his Tender, such payment or payments to be made in accordance with the provisions of the General Conditions of the Contract to above.

This Agreement and everything herein contained shall endure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns, respectively.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their Corporate Seals, if any, duly attested by the signature of their proper officers in that behalf, respectively.

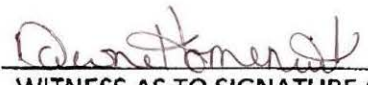
  
\_\_\_\_\_  
WITNESS AS TO SIGNATURE OF  
CONTRACTOR

  
\_\_\_\_\_  
Contractor's Signature and Seal


Antonio D. Giovanni / President  
\_\_\_\_\_  
Contractor's Name

2217 Walker Rd, Essex, ON, N0R1S0  
\_\_\_\_\_  
Contractor's address

**CORPORATION OF THE TOWN OF AMHERSTBURG**

  
\_\_\_\_\_  
WITNESS AS TO SIGNATURE OF  
CORPORATION

  
\_\_\_\_\_  
Aldo DiCarlo, Mayor

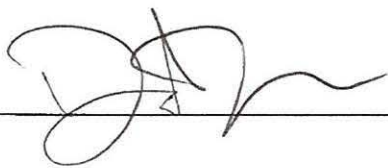
  
\_\_\_\_\_  
Paula Parker, Clerk

**FORM OF TENDER****CONTRACTOR IDENTIFICATION SHEET**

BUSINESS NAME OF CONTRACTOR:	Bart DiGiovanni Construction Ltd
MAILING ADDRESS OF CONTRACTOR (including postal code):	2217 County Rd 1A Essex, ON N0R 1S0
NAME OF CONTACT PERSON REPRESENTING CONTRACTOR:	Donato DiGiovanni
TELEPHONE NUMBER & EXTENSION OF PERSON REPRESENTING CONTRACTOR:	519 726 5263
FAX NUMBER OF CONTRACTOR:	519 726 5717
EMAIL ADDRESS OF PERSON REPRESENTING CONTRACTOR:	digiovanni.construction@ bellnet.ca
NAME OF PERSON SIGNING ON BEHALF OF CONTRACTOR:	Donato DiGiovanni
TITLE OF PERSON SIGNING ON BEHALF OF CONTRACTOR:	Project Manager

SIGNATURE OF PERSON AUTHORIZED TO ACT ON  
BEHALF OF PROPONENT:

CORPORATE SEAL:



(Please affix Corporate Seal)

**If a corporate seal does not exist, please acknowledge the following:**

*"The signature of the person applied to this proposal document is authorized to act on behalf of the proponent and is legally able to bind the company."*

\_\_\_\_\_ Signatory Initials

Item No.	Item	Unit	Estimated Quantity	Unit Price	Estimated Total
4	<p>Existing culvert to be replaced between Station 0+273.85 and Station 0+286.15 for Malden Marsh Inc. (Culvert No. 3):</p> <p>Price includes removal of 14.2 metres of existing 900 mm diameter corrugated steel pipe and granular material and disposal offsite; 12.3 metres of 1200mm diameter aluminized corrugated steel pipe, 68x13mm corrugations, 2.8mm thickness with sloped gabion stone end of pipe protection; granular "A" and granular "B" compacted fill material; supply and maintenance of silt fencing</p>	LS	1.0	\$18,240.00	\$18,240.00
5	<p>Existing culvert to be removed between Station 1+066.58 and Station 1+075.89 for Rosario &amp; Linda Esposito (Culvert No. 4):</p> <p>Price includes removal of 9.30 metres of existing 600 mm diameter corrugated steel pipe and granular material and disposal offsite; restoration of drain banks using good quality topsoil and grass seed; supply and maintenance of silt fencing</p>	LS	1.0	\$2,500.00	\$2,500.00
6	<p>Existing culvert to be replaced between Station 1+080.92 and Station 1+101.36 for The County of Essex (Culvert No. 5):</p> <p>Price includes removal of 20.50 metres of existing 900 mm diameter corrugated steel pipe and granular material and disposal offsite; 20.50 metres of 1800mm diameter aluminized corrugated steel pipe, 125x25mm corrugations, 2.8mm thickness with sloped gabion stone end of pipe protection; granular "A" and granular "B" compacted fill material; saw cutting of road; supply and placement of the following to restore road: 50mm HL4 or Superpave 12.5, 125mm HL8 or Superpave 19 400mm granular "A"; granular shoulder shall be restored to match existing; grassed areas shall be restored using good quality topsoil and grass seed; supply and maintenance of silt fencing. Note: The County of Essex requires the contractor to mill and asphalt beyond the limit of the trench.</p>	LS	1.0	\$43,410.00	\$43,410.00

Item No.	Item	Unit	Estimated Quantity	Unit Price	Estimated Total
7	Metres of existing 900mm diameter corrugated steel pipe to be cleaned between Station 1+245.05 and Station 1+258.95 for Edward & Doris Faucher and Peter Crump (Culvert No. 6)	m	13.9	\$ 100	\$ 1,390.00
8	Metres of existing 900mm diameter corrugated steel pipe to be cleaned between Station 1+540.43 and Station 1+552.13 for George & Ruth VandenBrink (Culvert No. 7)	m	11.7	\$ 100	\$ 1,170.00
9	The Contractor shall provide a traffic control plan to the Town of Amherstburg and the County of Essex for approval before construction commences. The Contractor shall supply, install and maintain the necessary signage during the construction period according to the latest revision of the Ontario Traffic Manual Book 7, Temporary Conditions	LS	1.0	\$ 2,500.00	\$ 2,500.00
10	Square metres of 100-230mm diameter gabion stone (300mm thick) erosion protection laid on Terrafix 270R filter fabric to be placed at all existing field furrows, line drains and used to extend existing spillways at Station 0+807 and Station 0+885.25 to prevent bank slope erosion	m <sup>2</sup>	40	\$ 125.00	\$ 5,000.00
11	Supply and place good quality topsoil and grass seed on all excavated portions of the drain	m <sup>2</sup>	100	\$ 10	\$ 1,000.00
12	Straw Bale Flow Check Dams to be supplied, placed and maintained near Station 0+027 (immediately upstream of Culvert No. 1) and near Station 1+080 (immediately downstream of Culvert No. 5) as per OPSD 219.180 including continuous cleaning of disposal of sediment	LS	1.0	\$ 2,000.00	\$ 2,000.00

Item No.	Item	Unit	Estimated Quantity	Unit Price	Estimated Total
13	After cleaning of the open is complete, debris (tree branches, brush, etc.) in pump reservoir shall be removed. Debris shall be loaded, hauled and disposed of at a site determined by the Contractor.	LS	1.0	\$ 2,000.00	\$2,000.00
14	Contingency allowance to be used upon approval of Engineer or Drainage Superintendent only	LS	1.0	\$5,000	\$5,000

SUBTOTAL \$122,820.00  
 HST 13% \$ 15,966.60  
 TOTAL TENDER PRICE \$138,786.00

SIGNATURE OF PERSON AUTHORIZED TO ACT ON BEHALF OF PROPONENT:

CORPORATE SEAL:

  
\_\_\_\_\_

(Please affix Corporate Seal)

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\_\_\_\_\_ *Signatory Initials*

**CONTRACTOR'S QUALIFICATIONS AND EXPERIENCE**

Please include a list of other similar projects and services completed by your firm and for whom the services were provided, when they were provided, and the approximate value of services provided.

Digeco Drain - Town of Amherstburg

Langlois Drain Town of ~~Amherstburg~~

Colvert Replacement - Town of Essex

*\*Provide any attachments in this regard immediately following this sheet*

**REFERENCES**

Provide a minimum of three (3) separate references for related projects successfully completed by the contractor. Note that the references may be contacted.

**Reference No.1**

Company Name: Town of Essex

Address: \_\_\_\_\_

Contact Name & Title: Dan Beaudrea Drainage Supervisor

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Description of Project: Various Ditch and culvert jobs

Date of Project: 2016

**Reference No.2**

Company Name: Town of Amherstburg

Address: \_\_\_\_\_

Contact Name & Title: Shane McVitty

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Description of Project: Drains and Culverts

Date of Project: 2017

REFERENCES- (cont'd)

Reference No.3

Company Name: Teppermans

Address: \_\_\_\_\_

Contact Name & Title: Super Intendant

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Description of Project: Drainage ditch, culvert  
and pond

Date of Project: 2015

*\*Provide any attachments in this regard immediately following this sheet*



**ACKNOWLEDGEMENT OF TENDER DOCUMENTS AND ADDENDA  
RECEIVED BY CONTRACTOR**

I/We, the undersigned, hereby acknowledge and confirm on behalf of \_\_\_\_\_

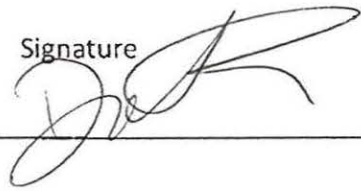
Bart DiGiovanni, Contractor Ltd

That I/We have received all of the documents noted in the Table of Contents contained in this document and have been provided with all of the details required to permit me/us to submit a bid on Request for Tender.

1. I/We declare that this bid is made without any connection, knowledge, comparison of figures or arrangements with any other company, firm or person submitting a Tender for the supply of the same goods and services.
2. I/We declare that I/We have carefully read this document and have satisfied ourselves as to the nature of the goods and services required and do hereby make our bid to the Corporation of the Town of Amherstburg for the goods and services described herein.
3. I/We acknowledge that we have received the following addendum to this Request for Tender and that it is my/our responsibility to ensure that all addenda issued by the Corporation of the Town of Amherstburg has been received.

Receipt of Addendum No: 1 to 1.

Witness (if applicable)  
\_\_\_\_\_

Signature  
  
\_\_\_\_\_

Dated:  
28 Sept 2017

Name & Position (please print)  
Donato DiGiovanni  
Project Manager

**ACKNOWLEDGEMENT IF ONLY ONE PROPOSAL IS RECEIVED**

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Burt DiGeroni Construction Ltd

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The Town is not responsible to us for any liabilities, expenses, loss or damage subsequent to or by reason of the acceptance or non-acceptance by the Town of any proposal.

Signature:



\_\_\_\_\_

Corporate Seal:

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\_\_\_\_\_ *Signatory Initials*

**ACKNOWLEDGEMENT IF ONLY ONE PROPOSAL IS RECEIVED**

I/We, the undersigned, hereby acknowledge and confirm on behalf of

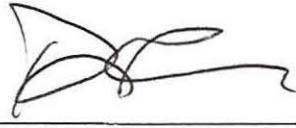
Burt DiGiovanni Construction Ltd

That in the event that of only one proposal having been received by the Town of Amherstburg after this call for proposals, the Town reserves the right to open our proposal, or return the proposal unopened.

Should the Town choose to open our proposal, being the lone response after this call for proposals, I/We understand that the Town reserves the right to accept our proposal, negotiate the terms contained our proposal, or reject our proposal altogether, without being bound to award us with a contract for the work.

The Town is not responsible to us for any liabilities, expenses, loss or damage subsequent to or by reason of the acceptance or non-acceptance by the Town of any proposal.

Signature:

  
\_\_\_\_\_

Corporate Seal:

**If a corporate seal does not exist, please acknowledge the following:**

*"The signature of the person applied to this proposal document is authorized to act on behalf of the Proponent and is legally able to bind the company."*

\_\_\_\_\_ *Signatory Initials*

ADDENDUM #1  
CHANGES AND ADDITIONS

**CHANGE - TENDER CLOSING DATE AND TIME**

Tenders, contained in a sealed envelope with the provided envelope cover (Appendix A) firmly affixed, will be received by:

**Clerks Department  
Town of Amherstburg – Town Hall (Upper Level)  
271 Sandwich Street South, Amherstburg, Ontario, N9V2A5**

Up until:

**11:00 am (local time), MONDAY, OCTOBER 2, 2017**

Tenders will be opened in public shortly after the official closing time.

Tenders must be received at the address noted above no later than the specified closing time. Tenders received after said closing time will not be accepted or considered.

**ADDITION - ACKNOWLEDGEMENT IF ONLY ONE PROPOSAL IS RECEIVED - ATTACHED**

Include this signed acknowledgement with your bid.

**CHANGE - APPENDIX A REPLACEMENT-ATTACHED**

Replace Appendix A – Envelope Cover, which provides new date of Monday, Oct 2, 2017.

SUBMITTED BY:

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# TENDER

**SUBMITTED TO:** TOWN OF AMHERSTBURG – TOWN HALL (UPPER LEVEL)  
271 SANDWICH STREET SOUTH  
AMHERSTBURG, ONTARIO  
N9V2A5

**ATTENTION:** CLERKS DEPARTMENT

**PROJECT:** REPAIR AND IMPROVEMENT TO THE LEO BEAUDOIN DRAIN  
PWD-MD-2012-006  
PP-PS-17-18

**CLOSING:** MONDAY, OCTOBER 2, 2017 AT 11:00AM

THIS PORTION TO BE COMPLETED BY THE TOWN OF AMHERSTBURG

RECEIVED DATE: \_\_\_\_\_ RECEIVED TIME: \_\_\_\_\_ RECEIVER'S INITIALS: \_\_\_\_\_ SUBMITTER'S INITIALS: \_\_\_\_\_

**ACKNOWLEDGEMENT IF ONLY ONE PROPOSAL IS RECEIVED**

I/We, the undersigned, hereby acknowledge and confirm on behalf of

---

That in the event that of only one proposal having been received by the Town of Amherstburg after this call for proposals, the Town reserves the right to open our proposal, or return the proposal unopened.

Should the Town choose to open our proposal, being the lone response after this call for proposals, I/We understand that the Town reserves the right to accept our proposal, negotiate the terms contained our proposal, or reject our proposal altogether, without being bound to award us with a contract for the work.

The Town is not responsible to us for any liabilities, expenses, loss or damage subsequent to or by reason of the acceptance or non-acceptance by the Town of any proposal.

Signature:

Corporate Seal:

---

**If a corporate seal does not exist, please acknowledge the following:**

*"The signature of the person applied to this proposal document is authorized to act on behalf of the Proponent and is legally able to bind the company."*

\_\_\_\_\_ *Signatory Initials*

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**PWD-MD-2012-006**

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## INFORMATION TO TENDERS

### 1. BACKGROUND INFORMATION

The Town of Amherstburg is located in southwestern Ontario, approximately 30 kilometers southwest of the City of Windsor and is one of seven lower-tier municipalities in the County of Essex. The current population of the Town of Amherstburg is approximately 21,000.

The Town is seeking experienced drainage contractors to undertake the following:

- Excavation to the theoretical drain bottom between Station 0+000 and Station 1+679.13;
- Removal and replacement of two (2) culverts and one (1) road crossing;
- Cleaning of three (3) culverts;
- Removal of one (1) culvert and restoration of disturbed drain banks;
- Seeding and mulching of excavated portions of the drain;
- Supply and placement of gabion stone erosion protection;
- Supply, placement and maintenance of Straw Bale Flow Check Dams and silt fencing;
- Removal of debris from pump reservoir after drain cleaning is complete.

### 2. DEFINITIONS

“Contractor” or “Bidder” means the individual, firm, company or corporation submitting a Tender to the Town in response to this Request for Tender.

“Corporate Contact” is the Town employee(s) defined as the contact in relation to the administration and technical specifications of the RFQ.

“Project Manager” is the Town employee who will oversee the completion of the contract in accordance to this tender, contract and agreement. This individual will take management of the project after the contract has been successfully awarded.

“Total Tender Price” means an evaluation of quality and service in assessment of Tenders and the sum of all expenses, warranties, taxes, local service costs, lifecycle costs, time of completion or delivery, inventory carrying costs, operating and disposal costs and any applicable disbursements that determine the lowest compliant Tender.

“Town” means the Corporation of the Town of Amherstburg

“Work” means any of the following tasks, or combinations, thereof:

- a) Supply or provision of articles or materials;
- b) Supply of labour;
- c) Performance of functions and tasks;
- d) Provision of services;

**2. DEFINITIONS - Continued**

- e) Equipment operated or not operated;
- f) Construction or repairs as specified;
- g) Security deposit

**3. TENDER CLOSING DATE AND TIME**

Tenders, contained in a sealed envelope with the provided envelope cover (Appendix A) firmly affixed, will be received by:

**Clerks Department  
Town of Amherstburg – Town Hall (Upper Level)  
271 Sandwich Street South, Amherstburg, Ontario, N9V2A5**

Up until:

**11:00 am (local time), THURSDAY, SEPTEMBER 28, 2017**

Tenders will be opened in public shortly after the official closing time.

Tenders must be received at the address noted above no later than the specified closing time. Tenders received after said closing time will not be accepted or considered.

**4. METHOD OF SUBMISSION**

Tenders must be submitted in a sealed envelope by way of hand delivery, courier service, or mail prior to the Tender closing time.

Delivery of Tender through a third party mail courier service shall be at the risk of the Bidder and must be arranged in due time for the Tender to arrive at the specified location before the Tender closing time. Failure of a third party courier service to submit the Tender prior to the Tender closing time will result in the disqualification of the Tender, and will be at no fault of the municipality.

Tenders sent by email or facsimile will not be accepted.

**5. SUBMISSION ENVELOPE**

The Tender must be supplied in a sealed envelope with the envelope cover supplied in Appendix A of this document. The envelope cover must be affixed to the Bidder's envelope without any extra exterior covering. Failure to affix the envelope cover to the submission envelope may result in disqualification of the Tender.

## 6. TENDER SUBMISSION REQUIREMENTS

Tenders shall be prepared and submitted in accordance with the outline set specified in this document.

The Tender shall be bound and contained in a sealed envelope bearing Appendix A – Envelope Cover, and include the following minimum requirements, as found in the Form of Tender (T-#) pages:

- a) Bid Bond (if required)
- b) T-1 – Contractor Identification Sheet
- c) T-2 – Tender Price
- d) T-6 – Contractor Qualifications and Experience
- e) T-7 to T-8 - References
- f) T-9 – Acknowledgement of Tender Documents Received by Bidder and Addenda

## 7. BID BOND

No tender shall be considered as bona fide unless accompanied by a Bid Bond or Certified Cheque in the amount of 10% of the submission price and made payable to the Corporation of the Town of Amherstburg. The Certified Cheque or Bid Bond of the unsuccessful Proponents will be returned without interest upon execution of the tender with the successful contractor.

The Certified Cheque or Bid Bond of the successful Contractor will be retained as liquidated damages to indemnify the Owner in case of default until such time as the contract is executed. All Certified Cheques or Bid Bonds will be returned without interest should a contract not be executed within ninety (90) days of the date of closing of this quotation.

## 8. PERFORMANCE BOND AND LABOUR AND MATERIAL PAYMENT BOND

The Contractor, together with a surety company approved by the Owner and authorized by law to carry on business in the Province of Ontario, shall furnish to the Owner a Performance Bond and a separate Labour and Material Payment Bond in the amount of one hundred percent (100%) of the total tender price (not including H.S.T.) and such additional amount, if any, as may be required by the Owner.

The Owner will notify the selected Tenderer accordingly when the Tender has been awarded. The Contractor will be required to execute and furnish to the Owner the Performance Bond and the Labour and Material Payment Bond as required herein and after notification of the award of contract by the Owner. Contracts will not be executed without the provision of said bonds and no work shall commence until said bonds have been provided.

## 9. EXAMINATION OF SITE, PLANS AND SPECIFICATIONS

Each Proponent must visit the site and review the plans and specifications before submitting his tender and must satisfy himself as to the extent of the work and local conditions to be met during the testing period. He is not to claim at any time after submission of his tender that there was any misunderstanding of the terms and conditions of the contract relating to site conditions. The quantities shown as indicated on the drawings or in the tender are estimates only and are for the sole purpose of indicating to the bidders the general magnitude of the work. The Proponent is responsible for checking quantities for accuracy prior to submitting his tender.

## 10. AGREEMENT AND GENERAL CONDITIONS

Tenders will be received and contracts awarded only in the form as shown on the tender page unless otherwise provided, for the completion of the whole work or of specified sections thereof in accordance with the plan and specification. The Contractor agrees to enter into a formal contract with the Municipality upon acceptance of the tender.

All work included in the contract must be completed on or before the date fixed in the contract and must, at the time of completion and final inspection, be in first class condition and comply fully with the specifications.

Final inspection will be made by the Amherstburg Public Works Department within 20 days after the Municipality has received notice in writing from the Contractor that the work is completed, or as soon thereafter as weather conditions permit.

The Contractor will be held liable for any damage or expenses occasioned by his failure to complete the work on time and for any expenses of inspecting, superintending or reletting due to his neglect or failure to complete the work satisfactorily. Any such expense or damages may be deducted from the amount of the Contract or may be recovered by the Municipality from the Contractor and his sureties.

## 11. INSURANCE

Upon award of the contract and prior to commencement of work, the Contractor shall furnish the Drainage Superintendent and Engineering Coordinator with a satisfactory Certificate of Insurance (COI) containing the information below, for the period of the execution of the work:

- i. A Commercial General Liability (CGL) policy that shall be not less than 5 million dollars per occurrence.

## 11. INSURANCE - Continued

- ii. The CGL policy shall include bodily injury including death, personal injury, property damage, tenants legal liability, non-owned automobile and contain a cross liability/severability of interest clause. The certificate must also include acknowledgement that coverage under the policy specifically extends to the works in question. The COI shall name the Town of Amherstburg and Baird AE as additional insured to the policy.
- iii. The CGL policy shall not contain any exclusion or limitation in respect to shoring, underpinning, raising or demolition of any building or structure, pile driving, caisson work, collapse of any structure or subsidence of any property, structure or land from any cause.
- iv. The Contractor shall note that where construction works are performed within lands owned by the County of Essex or Ministry of Transportation the CGL policy shall also name the County of Essex and/or the Ministry of Transportation as additional insured to the policy.
- v. The liability insurance shall be endorsed to provide that the policy shall not be altered, cancelled or allowed to lapse without 30 days prior written notice to the Town of Amherstburg.

## 12. CORPORATE CONTACT AND COMMUNICATIONS

Additional information, including clarifications, regarding this Tender may be obtained by contacting the following person by telephone or email:

Administrative Inquiries (regarding tender procedures, insurance, etc.)

**Bobbi Reive, Financial Planning Administrator**

Town of Amherstburg

Phone: 519-736-0012 extension 2229

Email: [breive@amherstburg.ca](mailto:breive@amherstburg.ca)

Technical Inquiries (regarding the scope of work of the contract)

**Halliday Pearson, P.Eng.**

Baird AE

Phone: 519-326-6161

Email: [halliday@bairdae.ca](mailto:halliday@bairdae.ca)

Contact with Town of Amherstburg officials or staff other than the staff members named as is not permitted and will be considered grounds for disqualification in the bidding and selection process. No verbal instructions or verbal information to bidders will binding on the Town.

## **12. CORPORATE CONTACT AND COMMUNICATIONS - Continued**

After the contract has been awarded, a Project Manager for the Town of Amherstburg may be named which may differ from the contact individual noted above. This individual will be the Manager that will oversee the completion of the contract per the specifications noted in this document.

## **13. TENDER VALIDITY PERIOD**

Tenders shall remain valid and open for acceptance for a period of 90 days from the Tender closing date. Bidders shall ensure that sub-trade and supply tenders are valid for a sufficient length of time to accommodate the noted validity period.

## **14. SUBMISSION CONFIDENTIALITY**

All Tenders submitted to the Town will be considered confidential, conditional to the Municipal Freedom of Information and Protection of Privacy Act. All pricing information regarding content of Tenders will remain confidential as the Town reserves the right to negotiate with bidders.

At no time will bidders divulge any confidential information provided to or acquired by the bidder or disclosed by the Town throughout the course of the intended project.

The successful bidder acknowledges that information of any kind provided throughout the course of the intended project are the exclusive property of the Town and shall not be disclosed or released to any person or organization without written authorization from the Town having been previously provided.

## **15. INFORMAL OR UNBALANCED TENDERS**

Tender documents must be legible. All entries in the Form of Tender shall be made in ink or by typewriter. Entries or changes made in pencil shall be subject to automatic rejection, unless otherwise decided by the Town.

Alterations of any kind must be clearly made and initialed by the bidder, or the Tender may be subject to automatic rejection.

Tenders containing a project period or schedule adverse to the objectives of the Town's interests may be rejected.

Tenders containing prices so unbalanced as to adversely affect the interests of the Town may be subject to rejection.



## 15. INFORMAL OR UNBALANCED TENDERS - Continued

All items must be bid with the unit price for every item and other entries clearly shown. If any amount within the Tender does not agree with the extension of the estimated quantity and unit price, the unit price shall govern and the amount and the Total Tender Price shall be corrected accordingly, unless the Town decides otherwise.

A discrepancy in addition or subtraction shall be corrected by the Town by adding or subtracting the items correctly and correcting the Total Tender Price, unless the Town decides otherwise. If an error has been made transposing an amount from one part of the Tender to another, the amount shown before transfer shall, subject to any corrections as previously noted, be taken to be correct and the amount shown after the transfer and the Total Tender Price shall be corrected accordingly.

If an omission has occurred wherein an item of work has not been provided a price in the Form of Tender, the bidder shall, unless otherwise stated in his Tender, be deemed to have allocated this price elsewhere in the Form of Tender for the cost of carrying out said item of work and, unless otherwise directed by the Town, no increase shall be made in the Total Tender Price because of said omission.

The Town may wave formalities at its discretion, provided the Town's Purchasing Policy has been adhered to.

## 16. CORPORATE SEAL

The Form of Proposal requires the application of the Proponent's corporate seal on a number of pages. The corporate seal must be applied on each page as required to make the proposal valid. If a corporate seal is not present on the required Form of Proposal pages, the Proponent must indicate that the proposal signatory is legally authorized to bind the company by completing the acknowledgement provided below the request for the corporate seal.

Failure to provide corporate seals or acknowledgement that the signatory is legally able to bind the company in the required locations on the Form of Proposal may result in the rejection of the proposal.

The Town reserves the right to request proof of legal authority to bind the company at its discretion.

## **17. WORKPLACE SAFETY AND INSURANCE BOARD PAYMENTS**

The Contractor will be required to submit to the Municipality a Certificate of Good Standing from the Workplace Safety & Insurance Board prior to the commencement of the work and

the Contractor will be required to submit to the Municipality a Certificate of Clearance for the project from the Workplace Safety & Insurance Board before final payment is made to the Contractor.

The Contractor shall provide and maintain the necessary first aid items and equipment as called for under the First Aid Regulations of the Workplace Safety & Insurance Act.

## **18. RESERVATION OF RIGHT**

Contractors will not have the right to change conditions, terms or prices of the Tender once the Tender has been submitted in writing to the Town. Bidders may withdraw a Tender once it has been submitted, in accordance with provisions of Section 25 – Withdrawal or Qualifying of Tenders.

## **19. ADDENDA**

Bidders may be notified during the Tender period of required additions to, deletions from, or alterations in the requirements of the Tender documents.

Any addenda issued after the posting of this Tender will be emailed and faxed to each bidder up to 48 hours prior to the Tender closing time. It is the sole responsibility of contractors to review and respond to addenda issued following the issuance of this request for Tender in their submissions.

If addenda are issued prior to 48 hours of closing this request for Tender, the closing date of this request for Tender will be adjusted accordingly.

Addenda must be acknowledged on page T-9 and provided with the Tender. Failure to acknowledge addendums may result in the rejection of the Tender. Bidders must also acknowledge if no addendums were received.

## **20. HARMONIZED SALES TAX (HST)**

The Proponent will be required to calculate and include both of the following items in his Tender:

- a) Tender Price (not including HST)
- b) Total Tender Price (including 13% HST)

**20. HARMONIZED SALES TAX (HST) - Continued**

For the purposes of evaluating Tenders, the Total Tender Price must be the base Tender Price plus 13%. If a percentage other than 13% is added, the Tender will be assumed to be in error and will be corrected accordingly.

**21. PRICING TO REMAIN FIRM**

Pricing provided under this Tender shall remain firm and unchanged for the entire validity period stated in this Tender. (See Section 13 – Tender Validity Period)

**22. COSTS INCURRED BY BIDDERS**

Expenses incurred by bidders for the preparation and submission of Tenders to the Town, or any work done in correlation thereof, shall be borne by the bidder.

No payment will be provided for any Tenders submitted or for any other effort made by the bidder prior to the commencement of the services as defined and approved by the Town.

**23. TENDER FEES**

The Tender Fee shall be a firm price (upset limit) and include all payroll costs, benefits, overhead and profit. All costs for printing, telephone and facsimile charges, and approved travel shall be included.

**24. PAYMENT OF FEES**

Unit prices are provided for the evaluation of tenders and the selection of a successful contractor. Payment for the items in the tender will be on a unit price basis as per the tender. Quantities have been estimated based on anticipated work required.

**25. WITHDRAWAL OR QUALIFYING OF TENDERS**

A bidder who has already submitted a Tender may submit a further Tender at any time up to the official closing time. The last Tender received shall supersede and invalidate all Tenders previously submitted by the bidder for this contract.

## 25. WITHDRAWAL OR QUALIFYING OF TENDERS – Continued

A bidder may withdraw his Tender at any time up to the official closing time by presenting a letter with his signature and corporate seal. Said letter must be received at the Tender closing location in sufficient time to be marked with the time and date of receipt, and for the Tender contact to note the withdrawal of the Tender prior to the official closing time.

When a request to withdrawal a Tender has been received prior to the closing time, and it has been verified to be signed and sealed by the Town, the unopened submission envelope will be returned to the bidder.

No telegrams, facsimiles, or telephone calls will be considered for official withdrawal of a Tender. If applicable, the bid deposit shall be forfeited to the Town when a bidder attempts to withdraw their Tender after the Tender closing time, in addition to any consequence or applicable legal penalty.

## 26. DISQUALIFIED TENDERS

The Town will not accept Tenders that:

- a) Are received by the Town at the closing location any time after the closing time advertised for the Tender
- b) Do not contain the required bid bond, certified cheque or bank draft in the required amount (if so required by the request for Tender)

Disqualifications of Tenders shall be subject to the Town's Purchasing Policy.

## 27. ABILITY AND EXPERIENCE OF CONTRACTOR

The successful contractor must submit satisfactory evidence that they have the ability and experience for this type of work and that they have the necessary plant and capital to enable them to proceed and complete the work in a satisfactory manner. This evidence must be provided on the submitted form of Tender.

The Town of Amherstburg may investigate as it deems necessary to determine the ability of the bidder to perform the work and the bidder shall furnish the Town of Amherstburg all such information and data for this purpose as the Town of Amherstburg may request. The Town of Amherstburg reserves the right to reject any tender if the evidence submitted by or investigation of such bidder fails to satisfy the Town of Amherstburg that the bidder is qualified to carry out the obligations of the contract.

## 28. PRIVILEGE CLAUSE

The lowest or any Tender may not necessarily be accepted. The Corporation of the Town of Amherstburg reserves the right to delete any part, or parts from the Tender without stating reasons therefore. In the event of any deletion, it is agreed that the contractor will have no claim for loss of potential profit or overhead costs.

## 29. RECORD AND REPUTATION

Without limitation to any other privilege of the Town, and notwithstanding whether a submitted Tender otherwise satisfies the requirements of the Tender or not, the Town may instantly reject any Tender from a bidder where in the opinion of Council, the affiliation between the Town and said bidder has been damaged by prior or current acts or omission of said bidder, including but not limited to:

- a) Litigation with the Town
- b) The failure of the bidder to pay, in full, any outstanding payments, interests, and costs owing to the Town after the Town has requested payment of same
- c) The refusal of the bidder to enter into the contract with the Town after the bidder's Tender has been accepted by the Town
- d) The refusal of the bidder to perform or complete performance of a contract with the Town at any time after the bidder has been awarded the contract by the Town
- e) The refusal of the bidder to follow logical directions of the Town or to alleviate a default under any contract with the Town when required by the Town or the Town's representative
- f) Acts or omissions by the bidder resulting in a claim by the Town under a bid bond, performance bond or any other security required to be submitted by the bidder on a tender, RFP or RFQ within a five year period immediately preceding the date on which the tender, RFP or RFQ is awarded

## 30. TENDER ACCEPTANCE OR REJECTION

It is understood that the Corporation of the Town of Amherstburg is not bound to accept the lowest, or any bid submission.

Reporting and authorization of resulting contracts shall be conducted in accordance with the Town's Procurement Policy.

### **30. TENDER ACCEPTANCE OR REJECTION - Continued**

A Tender is accepted by the Town when the agreement is executed by the Town and the successful bidder; or upon written authorization from the Town within the 90 day validity period, where the Town has issued a written order to commence work to the successful bidder. The acceptance of the Tender is also conditional upon the receipt of a Performance Bond (if required), and Labour and Material Payment Bond (if required).

The Town is not responsible for any liabilities, expenses, loss or damage to the Bidder subsequent to or by reason of the acceptance or non-acceptance by the Town of any Tender or by reason of any delay in the acceptance of a Tender. Tenders are subject to a formal contract being prepared and executed.

If an insufficient number of Tenders are received, Tenders may be returned unopened.

### **31. TENDER RESULTS**

A Council report indicating the results of this Tender shall be a matter of public record. The results of the Tender, when requested, may be made public by the Town, and may contain the Total Tender price.

The name of the successful bidder and the contract price shall be deemed public information following the award of contract, however unit prices contained in the form of Tender will not be released.

Unsuccessful bidders may request information regarding their Tender evaluation from the Corporate Contact.

### **32. AGREEMENT**

The successful bidder will be required to enter into an agreement with the Town upon acceptance of their Tender. An agreement will be executed in quadruplicate by the Town and will be provided to the Contractor in the executed contract.

If a mathematical error has been found in the Contractor's submission and has been properly corrected and initialed by the bidder, the price stipulated in the agreement will be the corrected price.

### 33. CONTRACT EXECUTION

Upon approval of the award of contract, the successful bidder will be notified by the Town that their Tender has been accepted and an official award of contract letter will be provided.

The successful bidder will be given no more than fourteen days from the receipt of the contract documents for execution of the contract documents and to provide the necessary guarantees, insurance, etc. Failure to execute the contract documents, and failure to provide the required guarantees, insurance, etc. within the specified time may result in forfeiture of the Tender deposit (if applicable). No work shall commence on the project until the documents have been executed by the bidder and the insurance and guarantees have been received.

There shall be no variation or substitution from this Tender unless approved in writing by the Town.

Receipt of materials, equipment, work or service will not waive any of the requirements of the contract. Defective goods, materials, or equipment found will be returned at the risk of the supplier and at the supplier's expense.

Failure to deliver or complete the terms of the contract outside of the stipulated project schedule shall entitle the Town to cancel the contract without being liable for any costs, fees, or charges of any kind.

In the event of labour or supplier strikes, or unexpected events that cease work, the Town reserves the right to suspend this contract.

### 33. BIDDER DECLARATION

The bidder, by submission of a Tender, declares that:

- a) The bidder has carefully reviewed the required deliverables and specifications in accordance to this Tender
- b) No one other than the bidder has any interest in this Tender or in the assignment of the pending contract from this Tender
- c) That all representation in the Tender submission are true and factual

**33. BIDDER DECLARATION - Continued**

- d) The bidder and their heirs, administrators, successor, executor and assigns are to forfeit all claims against the Town under the contract. This includes claims for all work done and/or supplies and/or service provided under the contract should it seem that a member of Council or a Town employee has been furnished with a direct or indirect financial benefit

**35. CONFLICT OF INTEREST**

Contractors participating in this Tender process shall disclose, prior to entering into an agreement, any potential direct or indirect conflict of interest. If such a conflict exists, the Town of Amherstburg may, at its discretion, withhold the award of a contract from the Contractor until the matter is resolved. If the conflict is deemed to remain unresolved, and the Town deems it necessary, the Town reserves the right to withhold the award of contract to the bidder altogether and provide the contract to the next qualified bidder.

**36. SUBCONTRACTORS OR SUPPLIERS**

If the Contractor proposes to use any product or services from another firm or subcontractor for any part of the work, other than those listed in the Form of Tender, the contractor must request approval in writing from the Project Manager. The Owner reserves the right at any time to object or refuse to accept any subcontractor, firm or supplier for inclusion in the work and shall not be required to give a reason for such objection or refusal.

No substitute for any firm, subcontractor or supplier shall be allowed without written consent from the Project Manager. Nothing contained in the contract documents shall create any contractual relationship between any subcontractor, firm or supplier and the Owner. Should the contractor request to change any subcontractor, firm or supplier, the Owner will not be responsible for any additional costs incurred by the contractor as a result of this request.

**37. CONTRACTOR'S LIABILITY**

The successful Bidder, his agents, employees, or persons under his control including sub-contractors, shall use due care that no person or property is injured and that no rights are infringed in the prosecution of the work. The Contractor shall be solely responsible for all damages, by whomsoever claimable, in respect to any injury to persons or property of whatever description and in respect of any infringement of any right, privilege or easement whatever, occasioned in the carryon of the work, or by any neglect on the Contractor's part.



### **38. INDEMNIFICATION**

The Contractor will indemnify and save harmless the Town, its officers, partners, agents, employees and Council members from and against all claims, demands, losses, damages, costs, expenses, actions and suits that may arise, directly or indirectly from its performance of the contract or by reason of any matter or thing done, permitted or omitted to be done by the Contractor, its sub-contractors or their agents or employees with respect to the contract.

### **39. ERRORS AND OMISSIONS**

The Town shall not be held liable for any errors or omissions contained in any part of this Tender. The Town has put forth significant effort to ensure accurate data in this Tender. The information contained in this Tender is supplied exclusively as parameters for bidders. The information contained in the Tender documents is not guaranteed or warranted to be accurate, nor is it necessarily comprehensive. No information provided in the Tender is intended to relieve the bidder from forming their own conclusions with respect to the matters contained therein.

### **40. CONTRACT DOCUMENTS**

The Proponent shall take note that the Contract Documents shall include a Contract Agreement, a Certificate from the Workplace Safety & Insurance Board, a Certificate of Insurance, Labour and Materials Payment Bond and a Performance Bond, all to be furnished by the Contractor in a form satisfactory to the Owner's solicitor. The Proponent shall consult with the Owner's solicitor as to the forms required for the Contract and the Proponent shall not qualify his Quotation in respect to these matters.

### **41. LIQUIDATED DAMAGES**

Liquidated Damages are not applicable to this project.

### **42. PROJECT COMMENCEMENT AND COMPLETION DATE**

The bidder agrees that, if this tender is accepted, he shall commence work as soon as practical. The Contractor is advised that no work shall be allowed to be carried out in the existing drain during the no in-water works timing window, from **March 15th to June 30th** of any year. This restriction may only be waived if approval is granted in writing by the local Conservation Authority, Department of Fisheries and Oceans (D.F.O.) and the Ministry of Natural Resources and Forestry (M.N.R.F.).

**42. PROJECT COMMENCEMENT AND COMPLETION DATE - Continued**

Once the contractor has moved onsite and commenced work, he shall conscientiously and continuously work towards the completion of the project. The Contractor will not be permitted to abandon the site of the work prior to completion unless permitted by the Drainage Superintendent.

Subject to the above restrictions, the project is expected to be completed no later than **September 3<sup>rd</sup>, 2018.**

**43. OCCUPATIONAL HEALTH AND SAFETY ACT**

The contractor shall comply with all requirements of the Occupational Health and Safety Act, 1990 and Regulation for Construction Projects and Amendments, as administered by the Ontario Ministry of Labour and all subsequent amendment of said act. In the event that the contractor fails to comply with the requirements of the above mentioned act, the Town may suspend the continuation of the work forthwith and the suspension will remain in effect until the contractor has taken whatever remedies are necessary to comply with said act. Suspension of the work by the Town on account of the provisions of this clause, shall not allow the contractor an extension of the time of completion and the contractor may be liable for liquidated damages to the Town.

**44. PROCUREMENT POLICY BY-LAW / GOVERNING LAW**

Tenders will be called, received, evaluated, accepted and processed in accordance with the Town's Procurement and Purchasing Policy, respecting purchasing (copy available upon request). By submitting a Tender for this subject, the Contractor agrees to be bound by the terms and conditions of such Policy and any amendments thereto, as fully as if it were incorporated herein.

Any Contract resulting from this Request for Tender shall be governed by and interpreted in accordance with the laws of the Province of Ontario.

**45. ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT (AODA)**

The Contractor shall ensure that all its employees, agents, volunteers, or others for whom the Contractor is legally responsible receive training regarding the provision of the goods and services contemplated herein to persons with disabilities in accordance with Section 6 of Ontario Regulation 429/07 (the "Regulation") made under the Accessibility for Ontarians with Disabilities Act, 2005, as amended (the "Act"). The Contractor shall ensure that such training includes, without limitation, a review of the purposes of the Act and the requirements of the Regulation, a review of the Town's Policy on Accessible Customer

Service Standards, as well as instruction regarding all matters set out in Section 6 of the Regulation.

The Contractor shall also maintain a record of all training provided to the Contractor's personnel on the Town's accessible customer service standards as required under this section, which shall include at a minimum the dates on which the training was provided and the number of individuals to whom the training was provided. The Vendor shall furnish any required records of accessible customer service training to the Town within ten (10) days of the Town's request, unless otherwise agreed upon by the Town. The Town reserves the right to require the contractor to amend its training policies to meet the requirements of the Act and the Regulation.

The Town's Accessible Customer Service Standards Policy has been provided in Appendix B.

Information on accessible customer service training is available online from the Ministry of Community and Social Services at [www.accesson.ca/index.aspx](http://www.accesson.ca/index.aspx).

## SPECIFICATIONS

### 1. SCOPE OF WORK

This specification and attached drawings apply to and govern the repair and improvements recommended in the 2017 Baird AE report for the repair and improvements to the Leo Beaudoin Drain. The work consists of culvert works and repair and improvement to an open cut drain from the Concession 3 South to the drain's upper end in Lot 13 of Concession 1. The whole of the works will be constructed in accordance with the drawings attached and specifications described herein, or in accordance with any other plans, specifications or details which may be provided by the Engineer from time to time during the course of construction. ☐

### 2. ADDITIONAL WORK

Additional work will only be required under the direction of the Drainage Superintendent or Engineer.

### 3. TRAFFIC PROTECTION PLAN

The Contractor shall prepare a traffic protection plan including all signage at the site in accordance with the latest revision of the Ontario Traffic Manual Book 7 Temporary Conditions. The Contractor shall have the plan available on site at all times for inspection by the Town or Ministry of Labour.

### 4. TRAFFIC CONTROL

The Contractor shall provide all necessary lights, signs, and barricades to protect the public. All work shall be carried out in accordance with the requirements of the Occupational Health and Safety Act, and the latest amendments thereto. If traffic control is required on this project, signing is to comply with the M.T.O. Manual of Uniform Traffic Control Devices (MUTCD) for Roadway Work.

The Contractor shall exercise all due care and attention in working within the road allowances. The Contractor shall comply to all current safety regulations, and with signing requirements according to Division 5, Temporary Conditions, of the M.T.O. Manual of Uniform Traffic Control Devices. The Contractor shall provide sufficient flag persons while working within the allowances to ensure safety to workers and the public in general.

The Ontario Traffic Manual Book 7 Temporary Conditions shall be utilized to apply traffic control devices in temporary construction, maintenance and utility work zones,

**4. TRAFFIC CONTROL - Continued**

to ensure worker safety, motorist safety, and motorist mobility. The plan is to be prepared and submitted prior to construction illustrating the appropriate signing and channelization required for any roadway work operations.

**5. EMERGENCY TELEPHONE NUMBER**

The Contractor shall have a representative from his staff on call, 24 hours a day, and seven days a week. The representative should be familiar with the project, and be able to handle any emergency that may arise during the course of the project.

**6. PRIVATE PROPERTY**

The Contractor shall assume full responsibility for crossing or making use of private property. Before the Contractor or any of his sub-contractors shall make use of any private property for any purpose, he shall first submit to the Engineer a copy of a written agreement granting permission by the Owner.

**7. PEDESTRIAN AND VEHICULAR ACCESS**

The Contractor shall be required to provide for pedestrian and vehicular access to private homes, business premises and through the construction work to streets where and as directed by the Town. This may require the provision of adequate temporary board walks, steps or ramps where necessary to allow pedestrian and/or vehicular access to new houses and business premises temporarily cut off from normal traffic due to new construction.

**8. FIRST AID EQUIPMENT**

The Contractor shall provide and maintain the necessary First Aid items and equipment as called for under the First Aid Regulations of the Worker's Compensation Act.

**9. SITE MEETINGS**

Site meetings shall be held at regular intervals as required.

**REPLACEMENT ACCESS CULVERTS**  
**OVER THE LEO BEAUDOIN DRAIN**  
**TOWN OF AMHERSTBURG**  
**PROJECT NO. 12-040**

## 1.0 PIPE MATERIAL

The Contractor shall supply and install, clean or remove the following:

- a) The following culvert and road crossing shall be removed and replaced:
  - I. Culvert No. 2 at Station 0+250.12: 12.0 metres of new 1200mm diameter aluminized corrugated steel pipe with sloped gabion stone and end of pipe protection;
  - II. Culvert No. 3 at Station 0+273.85: 12.3 metres of new 1200mm diameter aluminized corrugated steel pipe with sloped gabion stone end of pipe protection;
  - III. Culvert No. 5 at Station 1+080.92: 20.5 metres of 1800mm diameter aluminized corrugated steel pipe with sloped gabion stone end of pipe protection;
  
- b) The following culverts shall be cleaned:
  - I. Culvert No. 1 at Station 0+000
  - II. Culvert No. 6 at Station 1+245.05
  - III. Culvert No. 7 at Station 1+540.43.
  
- c) The following culvert shall be removed and not replaced:
  - I. Culvert No. 4 at Station 1+066.58

## 2.0 WORKING AREA

The areas available to the Contractor to be used for the purpose of constructing the recommended works of this report and for future maintenance as provided for under Section 63 of the Act are described as follows:

*Between Station 0+000 and Station 0+024:* The Contractor shall utilize the Concession 3 South right-of-way.

*Between Station 0+024 and Station 0+272:* The Contractor shall utilize a corridor 4.6 metres wide measured from the east top of drain bank.

*Between Station 0+272 and Station 1+075:* The Contractor shall utilize a corridor 4.6 metres wide measured from the west top of drain bank.

*Between Station 1+075 and Station 1+105:* The Contractor shall utilize the County Road 20 right-of-way.

*Between Station 1+105 and 1+679.13:* The Contractor shall utilize a corridor 4.6 metres wide measured from the east top of drain bank.

### **3.0 DISPOSAL OF EXCAVATED MATERIAL**

The Contractor shall cast all excavated material on the adjacent agricultural lands as described below:

*Between Station 0+024 and Station 0+272:* The Contractor shall utilize a corridor 4.6 metres wide measured from the east top of drain bank.

*Between Station 0+272 and Station 1+075:* The Contractor shall utilize a corridor 4.6 metres wide measured from the west top of drain bank.

*Between Station 1+105 and 1+679.13:* The Contractor shall utilize a corridor 4.6 metres wide measured from the east top of drain bank.

Excavated material shall be spread to a depth of no more than 100 mm along the south top of drain bank and shall be kept at least 1.2 metres clear from the finished edge of the drain, care being taken not to fill up any existing tiles, ditches, furrows or drains with the excavated material.

Where the drain passes in front of any house, garden, lawn, driveway, etc., the excavated material shall be hauled and spread upon the adjacent agricultural lands.

### **4.0 LOCATION AND ELEVATION OF CULVERT**

The location and elevations of the new culvert shall be according to the drawings, 12-040 Sheet 1 to Sheet 6.

### **5.0 PLACEMENT OF CULVERT**

The Contractor shall excavate all vegetation, topsoil and existing granular material from the bank slopes and bottom of the existing drain complete along with hauling materials off site.

The required work includes the supply and installation of new pipe as described in Section 1.0 Pipe Material.

The Contractor shall perform the excavation, placement of the pipe and backfill in a dry condition and shall provide all required pumps and/or equipment to enable the work to proceed in the dry.

Supply and place sloped gabion stone end of pipe protection, as required; supply and install concrete block headwall, as required.

## **6.0 PIPE BACKFILL**

After the pipe has been set, the Contractor shall backfill the culvert with granular "B" material, O.P.S.S. Spec 1010 according to the attached plan. The backfill material shall be carefully placed so damage to or movement of the culvert is avoided and backfill materials shall be placed in layers not exceeding 300 mm in thickness, loose measurement. Each layer shall be thoroughly compacted in place to a Standard Proctor Density of 98% by means of mechanical compactors. The equipment and method of compacting the backfill material shall be to the full satisfaction of the Drainage Superintendent.

Where the pipe is across County Road 20, the Contractor shall backfill the culvert with granular 'A' material according to the attached plan and these specifications. The backfill material shall be carefully placed so damage to or movement of the culvert is avoided and backfill materials shall be placed in layers not exceeding 300 mm in thickness, loose measurement. Each layer shall be thoroughly compacted in place to a Standard Proctor Density of 98% by means of mechanical compactors. The equipment and method of compacting the backfill material shall be to the full satisfaction of the Drainage Superintendent.

## **7.0 QUARRIED ROCK END PROTECTION**

Where specified and after the pipe has been set and backfilled the Contractor shall install quarried rock erosion protection at each end of the pipe.

The backfill over the ends of the pipe shall be set on a slope of 1½ metres horizontal to 1 metre vertical from the bottom of the pipe to the top of each side slope and between both side slopes.

The top 300 mm in thickness of the backfill over the ends of the pipe shall be quarried rock. The quarried rock shall be placed on a slope of 1½ metres horizontal to 1 metre vertical from the bottom of the pipe to the top of each side slope of the drain and between both side slopes. The quarried rock shall have a minimum dimension of 100 mm (4") and a maximum dimension of 225 mm (9"). Prior to placing quarried rock end protection over the granular material, the Contractor shall lay a non woven geotextile filter fabric equal to a "Terrafix 270R" or approved equal. The geotextile filter fabric shall extend from the bottom of the pipe to the top of each side slope of the drain and between both side slopes of the drain. The Contractor shall take extreme care not to damage the geotextile filter fabric when placing the quarried rock on top of the filter fabric. The geotextile filter fabric and quarried rock shall be placed to the complete satisfaction of the Municipality's Drainage Superintendent.



## **8.0 ALIGNMENT – Not Required**

The alignment of the enclosure throughout shall be to the full satisfaction of the Drainage Superintendent. The whole of the work shall be done in a neat, thorough and workmanlike manner to the full satisfaction of the Drainage Superintendent.

## **9.0 LOCATION OF STRUCTURES, ETC.**

The Contractor shall satisfy himself as to the exact location, nature and extent of any existing structure, utility or other object which he may encounter during the course of the work. The Contractor shall indemnify and save harmless, the Municipality and the Engineer for any damages which he may cause or sustain during the progress of the work. He shall not hold the Municipality or the Engineer liable for any legal action arising out of any claims brought about by such damage caused by him.

## **10.0 DAMAGE TO TRAVELLED PORTION OF MUNICIPAL ROAD**

The Contractor will be responsible for any damage caused by him to any portion of the municipal road system, especially to the travelled portion. When excavation work is being carried out and the excavation equipment is placed on the travelled portion of a road, the travelled portion shall be protected by having the excavation equipment placed on satisfactory timber planks or timber pads. If any parts of the travelled portion of the road is damaged by the Contractor, the Municipality shall have the right to have the necessary repair work done by its employees and the cost of all labour and materials used to carry out the repair work shall be deducted from the Contractor's contract and credited to the Municipality.

## **11.0 CONSTRUCTION SAFETY**

The Contractor shall comply with all the requirements of the Occupational Health and Safety Act, 1990 and the regulations passed in connection therewith, as administered by the Ontario Ministry of Labour and all subsequent amendments of the said Act.

The Contractor shall exercise all possible precaution against injury to persons or property resulting from his work. The Contractor shall leave no trenches, pits, holes or excavations uncovered, without providing sufficient protection at all times. The Contractor shall install, erect and provide barricades, signs, traffic cones, flashers, lights, plates, warning and other devices, materials and personnel as may be required and at his own expense in order to provide for the safe passage and control of traffic and to ensure public safety. All traffic control shall be in accordance with the latest standards of the Ministry of Transportation.

## **12.0 CERTIFICATE OF CLEARANCE**

The Contractor will be required to submit to the Municipality a Certificate of Good Standing from the Workplace Safety & Insurance Board prior to the commencement of the work and the Contractor will be required to submit to the Municipality, a Certificate of Clearance for the project from the Workplace Safety & Insurance Board before final payment is made to the Contractor.

## **13.0 PROGRESS ORDERS**

Monthly progress orders for payment shall be furnished to the Contractor by the Engineer; said orders shall not be for more than 90% of the value of the work done and the materials furnished on the site. The paying of the full 90% does not imply that any portion of the work has been accepted. The remaining 10% will be paid 45 days after the final acceptance and completion of the work.

## **14.0 CLEANING UP**

The Contractor shall leave the whole of the site of the work in a neat, thorough and workmanlike appearance to the full satisfaction of the Drainage Superintendent. He shall haul away any excess earth from the site. He shall haul to the site, sufficient earth to fill any depressions caused by his work at his own expense. The site shall be left as close as possible in the same condition as it was prior to the commencement of the work.

## **15.0 MEASUREMENT AND PAYMENT**

Payment for the work shall be on a unit price basis unless otherwise indicated and shall include all the work shown on the accompanying drawings and specifications.

## **16.0 MAINTAINING FLOW**

The Contractor shall maintain the flow of any drainage works encountered in the progress of the work and at no expense to the Owner. The Contractor shall obtain written approval from the Drainage Superintendent to stop up any drain and if necessary provide pumping equipment, build necessary by-passes, etc. at no expense to the Owner.

## **17.0 NOTIFICATION OF WORK**

Prior to commencing any, the Contractor shall inform the Municipality's Drainage Superintendent of his intent to commence work at least 48 hours prior to commencing any work. The Owner or Contractor shall endeavour to install and complete the work without delay once he has commenced the work.

**17.0 NOTIFICATION OF WORK - Continued**

If for any reason the work does not proceed continuously then the Owner or Contractor shall notify the Drainage Superintendent in advance of any backfilling operation or headwall construction so that he may schedule inspection of same. The completed work must be done to the satisfaction of the Municipality's Drainage Superintendent and be approved by him.

**18.0 MAINTENANCE**

The Contractor shall repair and make good at his expense any damages or faults in the work that may appear within one year after its completion (as evidenced by the final inspection report), as the result of imperfect or defective work done or materials furnished. Nothing herein contained shall be construed as any way restricting or limiting the liability of the Contractor under the appropriate laws under which the work is being done.

**19.0 SEDIMENT CONTROL**

The Contractor shall supply, place and maintain silt fence erosion protection as per OPSD 219.110 at the downstream of each culvert while work on the culvert is ongoing. The Contractor shall ensure all sediment is disposed of in accordance with Item 3.0 on page SP-4 of these specifications, namely Specifications Replacement Access Culverts over the Leo Beaudoin Drain. All sediment shall be stabilized upon completion of the work and shall be spread an appropriate distance from the top of the drain bank to ensure the soil is not washed back into the drain.

**20.0 PUMP RESERVOIR CLEANING**

Cleaning of the pump reservoir is not intended to form a major part of this project. It is intended to ensure that material from the drain cleaning will not be left in the reservoir to potentially cause harm or damage to the pump.

Periodic cleaning of the reservoir may be required during the cleaning of the drain to remove material as directed by the Drainage Superintendent.

**21.0 COUNTY ROAD 20 PAVEMENT DESIGN**

The Contractor shall ensure that all work completed within the County Road 20 right-of-way conforms to Ontario Provincial Standard Specifications and Drawings (OPSS and OPSD).

**21.0 COUNTY ROAD 20 PAVEMENT DESIGN - Continued**

The Contractor shall saw cut the existing base course of asphalt beyond the limit of the trench. The top course shall be saw cut 300mm beyond the base course cut.

The Contractor shall restore the pavement on County Road 20 using the following, as per the County of Essex:

50mm HL4 or Superpave 12.5

125mm HL8 or Superpave 19

400mm granular "A".

The granular shoulder shall be restored to match existing. The grassed portion of the right-of-way shall be restored using good quality topsoil and grass seed.

**ENVIRONMENTAL PROTECTION SPECIAL PROVISIONS**  
**FOR THE**  
**LEO BEAUDOIN DRAIN**  
**TOWN OF AMHERSTBURG**  
**PROJECT NO. 12-040**

**1.0 GENERAL**

These Environmental Protection Special Provisions shall apply and form part of this Contract. All costs associated to conforming with these Special Provisions shall be included in the Tender prices bid.

**2.0 FIRES**

Fires and burning of rubbish on site will be permitted only with special approval from the Town.

**3.0 DISPOSAL OF WASTES**

The Contractor shall not bury rubbish and waste materials on site unless approved by the Engineer and all applicable approving authorities. The site shall be maintained free of accumulated waste and rubbish. All waste materials should be disposed of in a legal manner at a site approved by all local approving authorities and the Engineer.

The Contractor shall not allow deleterious substances, waste or volatile materials such as mineral spirits, or paint thinner, to enter into waterways, storm or sanitary sewers.

The disposal of dredge material shall be in accordance with the above.

**4.0 POLLUTION CONTROL**

The Contractor shall maintain under this Contract temporary erosion, sediment and pollution control features installed.

#### **4.0 POLLUTION CONTROL - Continued**

The Contractor shall control emissions from equipment and plant to local authorities emission requirements.

The Contractor shall not cause excessive turbidity when performing in-water work. The Contractor shall not allow any debris, fill or other foreign matter to enter into the waterway. The Contractor shall remove from the waterway, all extraneous materials resulting from in-water work.

The Contractor shall abide by local noise By-Laws for the duration of the Contract.

Spills of deleterious substances into waterways and on land shall be immediately contained by the Contractor and the Contractor shall cleanup in accordance with Provincial regulatory requirements. All spills shall be reported to the Ontario Spills Action Centre (1-800-268-6060), local authorities having jurisdiction and the Engineer. To reduce the risk of fuel entering the waterway, refuelling of machinery must take place a safe distance from the waterway. The Contractor shall note that the Engineer or the Owner takes no responsibility for spills, this shall be the sole responsibility of the Contractor.

#### **5.0 WHMIS**

The Contractor shall comply with the requirements of Workplace Hazardous Materials Information System (WHMIS) regarding use, handling, storage and disposal of hazardous materials and regarding labelling and the provision of material safety data sheets acceptable to Labour Canada.

#### **6.0 DRAINAGE**

The Contractor shall not pump water containing suspended materials into waterways, sewers or drainage systems. The Contractor shall be solely responsible for the control, disposal or runoff of water containing suspended materials or other harmful substances in accordance with these specifications, and local authority requirements. The Contractor shall provide temporary drainage and pumping as necessary to keep excavations and site free from water.

The Contractor shall install and maintain sediment control devices as indicated on the Contract Drawing and as directed by the Engineer.

#### **7.0 PROTECTION OF VEGETATION**

The Contractor shall exercise the utmost caution to ensure that existing trees and plants on-site and on adjacent properties are not damaged or disturbed unless noted otherwise in the Removals Special Provisions of this Contract.

## **7.0 PROTECTION OF VEGETATION - Continued**

The Contractor shall restrict tree removal to areas indicated on the Contract Drawings and/or designated on-site. No trees or shrubs shall be removed without the approval of the Engineer.

## **8.0 DUST CONTROL**

The Contractor will be solely responsible for controlling dust nuisance resulting from his operations, both on the site and within adjacent right-of-ways.

Water and calcium chloride shall be applied to areas on or adjacent to the site as authorized by the Engineer as being necessary and unavoidable for the prevention of dust nuisance or hazard to the public. No payment will be made for dust control unless otherwise specified in the Special Provisions.

## **9.0 RESTRICTIONS FOR IN-WATER WORKS**

The Contractor shall only perform in-water works during times when conditions permit reasonable production rates to be achieved. The Contractor shall be required to adopt good housekeeping practices that minimize disturbance to the site and the adjacent waterway.

The Contractor shall note that this Project is subject to approval from the governing Conservation Authority and as such, any possible turbidity caused by the construction of the shore protection works is of key importance.

The Contractor shall minimize the turbidity (sedimentation) produced by any in-water works construction or operations. The Contractor will be ordered to cease operations if, in the opinion of the Engineer or authorities having jurisdiction, the in-water work is producing unacceptable amounts of turbidity in the waterway. Based on this, the Contractor shall either adjust his operation(s) to produce lower turbidity levels, wait for more favourable conditions before operations will be allowed to continue, or undertake approved mitigating measures (e.g. sediment control, etc.). All costs associated with the above will be the sole responsibility of the Contractor, and no claims for extras or delays will be considered.

## **10.0 FISH HABITAT**

No work shall be undertaken when there is likelihood of adverse effects on fish spawning or fish habitat in downstream waters.

## 11.0 SEDIMENT AND EROSION CONTROL

Sediment and erosion control is of utmost importance during the Repair and Improvement of the Leo Beaudoin Drain. In order to prevent the entry of significant quantities of debris and vegetation into the pump reservoir, the following process and strict requirements will be enforced:

Straw Bale Flow Check Dams, as per OPSD 219.180, shall be supplied, placed and maintained near:

- Station 0+027: Immediately upstream of Culvert No. 1 while working between Concession 3 South and County Road 20
- Station 1+080: Immediately downstream of Culvert No. 5 while working upstream of County Road 20

After the straw bale check dams have been constructed, brushing and grubbing may commence.

Excavation of the open drain shall commence immediately after brushing and grubbing. Silt fencing, as per OPSD 219.110, shall be supplied, placed and maintained at the downstream end of each culvert as described.

All debris, including brush, tree branches, etc. shall be removed from the pump reservoir after all open drain work is complete. The debris shall be loaded, hauled and disposed of offsite.

Additional sediment and erosion protection measures as directed by the Engineer or Drainage Superintendent.



**GENERAL SPECIFICATIONS**  
**FOR CONSTRUCTION OF OPEN DRAINS**  
**FOR THE**  
**LEO BEAUDOIN DRAIN**  
**TOWN OF AMHERSTBURG**  
**PROJECT NO. 12-040**

**1.0 EXAMINATION OF SITE, PLANS AND SPECIFICATIONS**

Each tenderer must visit the site and review the plans and specifications before submitting his tender and must satisfy himself as to the extent of the work and local conditions to be met during the construction period. He is not to claim at any time after submission of his tender that there was any misunderstanding of the terms and conditions of the contract relating to site conditions. The quantities shown as indicated on the drawings or in the report are estimates only and are for the sole purpose of indicating to the tenderers the general magnitude of the work. The tenderer is responsible for checking quantities for accuracy prior to submitting his tender.

**2.0 SUPPLY OF MATERIALS**

The Contractor shall supply all labour, equipment and materials necessary for the proper completion of the project.

**3.0 PROFILE**

The excavation of the drain must be at least to the depth intended by the grade line as shown on the profile, which grade line is governed by the bench marks. The profile shows, for the convenience of the Contractors and others, the approximate depth of cut from the surface of the ground at the points where the numbered stakes are set to the final invert of the channel and also the approximate depth of cut from the bottom of the existing channel to the final invert of the channel. Bench marks which have been established along the course of the drain, shall govern the final elevation of the drain. The location and elevation of the bench marks are shown on the profile.

The drain bottom has a width of 2.0 metres between Station 0+027 and Station 0+255.84. The drain bottom has a width of 1.0 metres between Station 0+255.84 and Station 1+679.13.

The minimum slope of the drain bank shall be 1.5 to 1 along the length of the drain between Station 0+000 and Station 1+679.13.

#### **4.0 ALIGNMENT**

The alignment of the drain throughout shall be to the full satisfaction of the Drainage Superintendent. The whole of the work shall be done in a neat, thorough and workmanlike manner to the full satisfaction of the Drainage Superintendent. The bottom widths and side slopes of the various sections of the finished drain are to be true to line and grade as shown on the profile. When completed the drain shall have a uniform and even bottom and in no case shall such bottom project above the grade line as shown on the accompanying drawing, and as determined from the bench mark.

#### **5.0 BRUSHING AND GRUBBING**

Where there is any brush or rubbish in the course of the drain, including both side slopes of the drain, or where the earth is to be spread or on that strip of land between where the earth is to be spread and the edge of the drain, all such brush or rubbish shall be grubbed out and close cut and the whole to be burned (with Municipal approval) or removed from the drain, hauled away and disposed of by the Contractor.

Existing select hardwood trees greater than 200 mm in diameter situated in the drain bank within 1.0 metre from the top of the bank may be selectively left standing if the Drainage Superintendent considers the trees will not adversely affect the flow of water within the drain. Prior to removing any trees the Contractor shall meet at the site with the drainage superintendent to review if any vegetation or select trees are environmentally significant for preservation.

#### **6.0 SPREADING EXCAVATED EARTH**

The excavated material shall be cast on the following lands:

Between Station 0+024 and Station 0+272: The Contractor shall utilize a corridor 4.6 metres wide measured from the east top of drain bank.

Between Station 0+272 and Station 1+075: The Contractor shall utilize a corridor 4.6 metres wide measured from the west top of drain bank.

Between Station 1+105 and 1+679.13: The Contractor shall utilize a corridor 4.6 metres wide measured from the east top of drain bank.

The excavated material where specified to be cast onto the adjoining land shall be well and evenly spread over a sufficient area so that no portion of the excavated earth is more than 100 mm in depth or as otherwise specified and kept at least 1.2 metres clear from the finished edge of the drain, care being taken not to fill up any existing tiles, ditches, furrows or drains with the excavated material. The excavated material to be spread upon the lands shall be free from rocks, boulders, stumps, rubble, rubbish or other similar material and other materials if encountered, shall be hauled away by the Contractor and disposed of at a site to be obtained by him at his expense.

Where the drain crosses any lawn, garden, orchard or driveway, etc. the excavated material for the full width of the above mentioned areas, shall be disposed of upon the adjacent lands and spread as previously specified.

## **7.0 FENCING**

Where it is necessary to take down any fence in order to proceed with the work, the same shall be done by the Contractor across or along that portion of the work where such fence is. The Contractor will be required to exercise extreme care in the removal of any fence so as to cause a minimum of damage to the same. The Contractor will be required to replace any fence that is taken down in order to proceed with the work and the fence shall be replaced in a neat and workmanlike manner. The Contractor will not be required to procure any new materials for rebuilding the fence provided he has used reasonable care in the removing and replacing of the same. Where any fence is removed by the Contractor and the Owner thereof deems it advisable and procures new material for replacing the fence so removed, the Contractor shall replace the fence using the new materials and the materials from the present fence shall remain the property of the Owner. The Contractor is not to leave any fences open when he is not at work in the immediate vicinity.

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## **8.0 LOCATION OF STRUCTURES AND UTILITIES**

The Contractor shall satisfy himself as to the exact location, nature and extent of any existing structure, utility or other object which he may encounter during the course of the work. The Contractor shall indemnify and save harmless, the Municipality and the Engineer for any damages which he may cause or sustain during the progress of the work. He shall not hold the Municipality or the Engineer liable for any legal action arising out of any claims brought about by such damage caused by him.

## **9.0 ACCESS BRIDGES**

The Contractor shall satisfactorily clean through all existing access bridges to the grade line as shown on the accompanying drawing.

## **10.0 ROCK PROTECTION FOR CULVERTS**

The backfill over the ends of the pipe shall be set on a slope of 1½ metres horizontal to 1 metre vertical from the bottom of the pipe to the top of each side slope and between both side slopes. The top 30 cm in thickness of the backfill over the ends of the pipe shall be quarried rock. The quarried rock shall be placed on a slope of 1½ metres horizontal to 1 metre vertical from the bottom of the pipe to the top of each side slope

of the drain and between both side slopes. The quarried rock shall have a minimum dimension of 100 mm and a maximum dimension of 225 mm. Prior to placing quarried rock end protection over the granular material, the Contractor shall lay a non woven geotextile filter fabric equal to a "Terrafix 270R" or approved equal. The geotextile filter fabric shall extend from the bottom of the pipe to the top of each side slope of the drain and between both side slopes of the drain. The Contractor shall take extreme care not to damage the geotextile filter fabric when placing the quarried rock on top of the filter fabric.

### **11.0 PLACING OF ALUMINIZED CORRUGATED STEEL PIPE**

When specified the Contractor shall install all culvert bridges in the location directed by the Engineer. The excavation for placing the culvert, the type and class of bedding and backfill and culvert end treatment shall be carried out to the width, depth and alignment as specified herein. The surface on which the culvert is to be laid shall be true to grade and alignment and shaped to accept the materials to be placed. The pipe shall be laid to the alignment and grade shown in the report but may not be placed on a bed containing frozen materials. The Contractor shall carefully place the bedding and backfill material so damage to or movement of the pipe is avoided. Backfill and cover materials shall be placed in layers not exceeding 250 mm in thickness, loose measurement. Each layer shall be thoroughly compacted before the next layer is placed. Backfill on each side of the pipe shall be placed simultaneously and at no time shall the levels on each side of the pipe differ by more than 250 mm. Where native backfill is approved to be used the material shall not contain boulders larger than 150 mm or other deleterious material. The Contractor will be required to fully restore all paved driveways with materials of similar type and depths. The Contractor shall neatly saw cut all paved driveways at a distance of 300 mm beyond the edge of the excavated trench and this shall be done immediately prior to final restoration of the paved driveway.

When an access culvert or bridge does not have to be lowered or replaced, the Contractor shall clean it to its full cross sectional area using care to avoid causing damage to it in the process. Where pipes are scheduled to be cleaned and flushed only, the material which is removed from the culvert pipe is to be loaded and hauled away. Over digging of the drain at the downstream end of the culvert to accommodate material flushed from a culvert pipe will not be allowed.

Where a pipe culvert is to be reset to a new grade, the Contractor shall carefully remove it, clean it to its full cross sectional area and replace it in the drain as specified herein. Where a culvert is to be replaced, the Contractor shall carefully remove the existing pipe from the drain, clean it to its full cross sectional area and leave it on the drain bank unless otherwise specified. Should either the property owner or the Drainage Superintendent in

charge not require the salvaged pipe then the Contractor shall dispose of the pipe at the Contractors expense.

The Contractor if using a batter board system for establishing the grade of the culvert pipe, shall utilize a minimum of three batter board stakes for each culvert. The Contractor shall ensure that the batter board stakes placed on the grade stakes shall line up, this being done prior to any excavation taking place for the proposed culvert.

Where pipes are scheduled to be moved or replaced the Contractor shall confirm the new location of the culvert pipe with the owner prior to installation. Where the Contractor has excavated a culvert pipe which has been scheduled to be cleaned and reinstalled and it is found that the condition of the existing culvert pipe is not satisfactory to be reused, the Contractor shall immediately notify the Drainage Superintendent who will verify the condition of the existing pipe and may instruct the Contractor to supply a new length of pipe.

## 12.0 CUTS

The cuts as shown on the accompanying drawing are to be taken from the ground beside the stakes to the bottom of the finished drain, unless otherwise noted on the drawing.

## 13.0 SEEDING AND MULCHING

The Contractor shall fine grade the finished surfaces and shall apply hydroseeding and mulch. The seeding and mulching operation shall be carried out according to O.P.S.S. Spec. 572 or as amended herein and the operation shall include the supplying and placing of the following:

- A) Seed Mixture - Creeping Red Fescue - 50%
  - Red Top - 20%
  - Canada Blue Grass - 15%
  - Kentucky Blue Grass - 15%
- B) Nurse Crop - Oats if seeding and mulching is performed during May or June.  
- Annual Rye Grass if seeding and mulching is performed during Sept. or Oct.
- C) Fertilizer - 5-20-10 mixture
- D) Mulch - Wood Cellulose Fibre or Straw
- E) Adhesive - Asphalt Emulsion if straw mulch used  
- Liquid Polyvinyl Acetate if wood fibre mulch used

### 13.0 SEEDING AND MULCHING – Continued

The application rates shall be as follows:

- A) Grass Seed Mixture - 90 lbs./acre
- B) Fertilizer - 350 lbs./acre
- C) Nurse Crop Seed - 55 lbs./acre
- D) Mulch - 1300 lbs./acre if wood fibre used  
- 1" to 2" depth if straw used
- E) Adhesive - 200 imp.gal/acre for Asphalt Emulsion  
- 205 lbs./acre for Liquid Polyvinyl Acetate

The seeding and mulching operation shall be only carried out as weather conditions permit during the months of May and June in the Spring, and September and October in the Fall. If the excavation work is carried out during the months of May and June, or September or October, the Contractor has the option of contacting the Drainage Superintendent and if the Contractor receives his written permission, the seed mixture as above specified, may be placed on the excavated side slopes by the Contractor by hand, daily, at the completion of his daily excavation operation. If the Contractor has been given written permission by the Drainage Superintendent to place the seeding mixture by hand daily, at the completion of his daily excavation operation, the Contractor shall be responsible to give the side slopes a rough, harrowed texture prior to placing the seed mixture.

### 14.0 MAINTAINING FLOW AND EXISTING SEWERS

The Contractor shall support and maintain the flow and existing sewers and house connections and any other drainage works encountered in the progress of the work and at no expense to the owner. The Contractor shall obtain written approval from the engineer to stop up any drain, and if necessary, provide pumping equipment, build necessary by-passes, etc. at no expense to the owner.

### 15.0 SPECIAL PROVISIONS

The part of the Specifications headed "Special Provisions" which is attached hereto forms part of this Specification and is to be read with it. Where there is any difference between the requirements of this General Specification and those of the Special Provisions, the Special Provisions shall govern.

## **16.0 REMOVAL OF TREES**

Whenever practical, existing trees not scheduled for removal will be preserved. The Contractor shall exercise the utmost caution to ensure that the trees are not damaged or disturbed.

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## 1. DEFINITIONS

Wherever used in these General Conditions, or in the Supplementary General Conditions, Special Provisions of Contract, Agreement, Plans, Form of Tender, Information for Tenderers, Specifications, Statutory Declarations or other documents forming part of this Contract: **"authorized"**, **"directed"**, **"required"**, **"requested"**, **"approved"**, **"ordered"**, **"sanctioned"**, **"considered"** and **"satisfactory"**, shall, unless some other meaning is obvious from the context, mean respectively authorized, directed, required, requested, approved, ordered, sanctioned or considered by or satisfactory to the Engineer.

**"Owner"** means the Municipality, Corporation, Company, Individual or Purchaser named in the Form of Tender, for whom the work is being performed.

**"Corporation"** shall mean the municipality or municipalities in or for which the work is being carried out.

**"Contract"** includes the Agreement to do the work entered into with the Owner, the Specifications, the General Conditions, Information for Tenderers, Special Provisions of Contract, the Plans, the Tender and all other documents referred to in or connected with the said Agreement.

**"Contractor"** or pronoun in place thereof, means the person or persons or corporation who have undertaken to carry out the Contract.

**"Engineer"** shall refer to and mean **CROZIER BAIRD ENGINEERS** or any of their duly authorized representatives.

**"Inspector"** means an inspector for the Owner or Engineer acting under the direction of the Engineer.

**"period of maintenance"** means the period from the date of completion of the works, as set out in the Certificate of Completion, to the date of issuance of the Final Certificate and shall be not less than 12 months.

**"plans"** means all plans, profiles, drawings, sketches, or copies thereof exhibited, used or prepared for or in connection with work embraced under the Contract.

**"plant"** (unless the context requires a different meaning) means every temporary or accessory means necessary or required to carry on or complete the work and extra work, in the time and manner herein provided.

**"shall"**, **"may"**, **"herein"**, **"person"**, **"writing"**, or **"written"**, **"surety"**, and **"security"** and words used in the singular number or the masculine gender, shall have the meaning and effect as given in the Interpretation Act of the Revised Statutes of Ontario.

**"Solicitor"** means the person for the time being acting as Solicitor for the Owner.

**"Sub-Contractor"** includes only a person, firm or corporation having a contract for the execution of a part or parts of the work included in the general contract, or a person, firm or corporation furnishing material called for in the general contract and worked to a special design according to the plans or specifications, but does not include one who merely furnishes material not so worked.

**"work"** or **"works"** (unless the context required a different meaning) means the whole works, materials, matters and things required to be done, supplied, or installed that are mentioned or referred to in the

Contract, including all extra or additional work or material, matters or things which may be ordered by the Engineer, as herein provided.

## 2. TENDERS

All tenders for the execution of the work herein set forth or referred to must be made on the printed forms supplied for that purpose. No others will be considered. Such tenders must be made without any knowledge, comparisons of figures or arrangements with any other person making any tender or estimate for the same purpose, and the tenderers shall declare that such tenders are in all respects, fair and without collusion or fraud, and that no owner or duly authorized representative is, shall be, or shall become interested, directly or indirectly as contracting party, partner, stockholder, surety or otherwise in, or in the performance of, the Contract, or in the supplies, work or business to which it relates, or in any portion of the profits to be used therein or thereof, or in any of the monies to be derived therefrom. The tender must be verified by the Statutory Declaration of the party or parties making the tender that the several matters stated therein are in all respects, true. Tenders must cover the cost of completion of the Contract in every respect, in accordance with the Contract, including all labour, plant, tools, etc.

The Contractor agrees that he is fully informed regarding all of the conditions, local or otherwise, affecting the work to be performed and that his information was secured by personal investigation and that he will make no claim against the Owner or Engineer based on any estimate or representation of the Owner or Engineer or of any representative of same.

## 3. SCOPE OF CONTRACT

Stated in general terms, and without in any way limiting the requirements and intent of the Contract, the work required to be done by the Contractor under the Contract comprises all excavations required for the proper carrying out of the works, the formation, construction, completion and maintenance of the works referred to in the Plans, Specifications, General Conditions other contract documents relating thereto and includes the provision, except where otherwise specifically stated in the Contract, of all labour, plant, materials and equipment required for the complete and proper execution of the work. The contract documents are complementary and what is required by any part thereof shall be considered as being required by the whole thereof. Materials and work which are not specifically described or shown in the contract documents but the necessity of which can reasonably be considered as referable from the contract documents shall be supplied and performed by the Contractor at no additional cost to the Owner and the Contractor shall not claim extra payment therefor or an extension of the time of completion on account thereof.

In the case of discrepancies between drawings, those of larger scale, or if the scales are the same, those of later date shall govern. In the case of a discrepancy between the Drawings and the Specifications, the Specifications shall govern. Special Provisions of Contract shall govern over all other sections of the Contract Documents.

## 4. SCHEDULE OF CONSTRUCTION

The Contractor shall, within two weeks after the receipt by him of the Contract executed by the Owner and the Contractor, submit his proposed schedule of construction to the Engineer for approval. The schedule of construction shall show clearly in weekly stages, the proposed progress on the main items, structures and sub-trades of the Contract and shall indicate where applicable the labour, construction crews, plant and equipment to be employed.

The Engineer may require the Contractor to revise his proposed schedule at any time as provided for in

these General Conditions.

## 5. PLANT, LABOUR AND MATERIAL

The Contractor shall provide all necessary storage ground and storage sheds and shall furnish all required skilled and unskilled labour, materials, fuel or other energy, machinery, tools and all plant, so that the Contract, and all work required to be done under it, can and will be carried on continuously and expeditiously to completion, in all respects to the satisfaction of the Engineer. The Contract price for the appropriate tender items shall be deemed to include full compensation for the supply of such Material.

All material, plant, machinery, tools and equipment acquired, possessed or provided by the Contractor for the Owner, whether or not such material, plant, machinery, tools and equipment are brought to or upon the works or upon lands of the Owner and the Contractor is prohibited from removing or disposing of the same, or any part thereof, without the consent or instructions of the Engineer in writing.

No materials, plant, machinery or equipment reasonably required for the performance of the Contract and not for incorporation into the works, brought to or upon the works or upon lands of the Owner, shall be removed or disposed of during the progress of the works without the written consent or instruction of the Engineer or his authorized representative. In case of a difference of opinion between the Contractor and the Engineer or his authorized representative as to whether any of the aforesaid items is reasonably required on the works for the satisfactory progress of the work, the Contractor shall abide by the decision of the Engineer.

All material supplied by the Contractor shall be new unless otherwise specified in the Contract Documents. The material supplied by the Contractor shall conform to the requirements of the Contract. The Contractor shall make available for inspection or testing a sample of any Material to be supplied by the Contractor as specified in the Contract Documents or as requested by the Engineer. The Contractor shall obtain for the Contract Administrator the right to enter onto the premises of the Material manufacturer or supplier to carry out such inspection, sampling and testing as specified in the Contract Documents or as requested by the Contract Administrator. The Contractor shall notify the Contract Administrator of the sources of supply sufficiently in advance of the Material shipping dates to enable the Contract Administrator to perform the required inspection, sampling and testing. The Owner shall not be responsible for any delays to the Contractor's operations where the Contractor fails to give sufficient advance notice to the Contract Administrator to enable the Contract Administrator to carry out the required inspection, sampling and testing before the scheduled shipping date. The Contractor shall not change the source of supply of any Material without the written authorization of the Contract Administrator. Material that is not specified shall be of a quality best suited to the purpose required and the use of such Material shall be subject to the approval of the Contract Administrator. All Material inspection, sampling and testing shall be carried out on a random basis in accordance with the standard inspection or testing methods required for the Material. Any approval given by the Contract Administrator for the Materials to be used in the Work based upon the random method shall not relieve the Contractor from the responsibility of incorporating Material that conforms to the Contract Documents into the Work or properly performing the Contract and of any liability arising from the failure to properly perform as specified in the Contract Documents.

Rejected Material shall be removed from the Working Area expeditiously after the notification to that effect from the Contract Administrator. Where the Contractor fails to comply with such notice, the Contract Administrator may cause the rejected Material to be removed from the Working Area and disposed of in what the Contract Administrator considers to be the most appropriate manner and the Contractor shall pay the costs of disposal and the appropriate overhead charges.

Where the Contract Documents require the Contractor to supply a Material designated by a trade or other name, the Tender shall be based only upon the supply of the designated Material that shall be regarded as the standard for quality required by the Contract Documents. After the acceptance of the Tender, the Contractor may apply to the Contract Administrator to substitute another Material identified by a different trade or other name for the Material designated. The application shall be made in writing and shall state the price for the proposed substitute and any other information the Contract Administrator may require. Rulings on a proposed substitution shall not be made prior to Tender acceptance nor shall substitutions be made without the prior approval of the Contract Administrator. Approval or rejection of proposed substitutions shall be at the discretion of the Contract Administrator. If the proposed substitution is approved by the Contract Administrator, the Contractor shall be entitled to the first \$1,000.00 of the aggregate saving in cost by reason of such substitution and to 50.0% of any additional saving in cost in excess of \$1,000.00. Each approval shall be conveyed to the Contractor in writing or by issuance of a Certificate of Equality on the Owner's standard form of "Certification of Equality" and if any adjustment to the Contract price is made by reason of such substitution, a Change Order shall be issued as well.

## 6. SHOP DRAWINGS

The Contractor shall furnish to the Engineer at proper times, all shop and setting drawings or diagrams which the Engineer may deem necessary in order to make clear the work intended or to show its relation to adjacent work of other trades. The Contractor shall make any changes in such drawings or diagrams which the Engineer may require consistent with the Contract and shall submit up to six (6) copies of the revised prints to the Engineer for examination or review, two (2) of which shall be returned to the Contractor and the others retained by the Engineer.

When submitting such shop and setting drawings, the Contractor shall notify the Engineer in writing of changes made therein from the Engineer's Drawings or Specification. The Engineer's review of such drawings or of the revised drawings shall not relieve the Contractor therein or for changes made from the Engineer's Drawings or Specification not covered by the Contractor's written notification to the Engineer. All models and templates submitted shall conform to the spirit and intent of the Contract Documents.

The contractor shall furnish to the Engineer as called for in the Specification such further drawings as he requires and his Contract Price is to include for the supply of these further drawings.

## 7. SAMPLES

Before any material of any kind is used on the work, the Contractor shall submit samples thereof for the approval of the Engineer and must obtain such approval. No material shall be used on the work which is in any way inferior to the approved samples. The giving of such approval shall not obligate the Owner to pay for any material other than in accordance with the Contract, shall not prevent the rejection of any material which may be found, in the opinion of the Engineer, to be unsound or unfit for the use on the work or not in accordance with the approved samples or the requirements of the Contract and shall not be deemed to be a waiver of objection to the work or any part thereof at any time on account of the materials used not being satisfactory or on any other account. The decision of the Engineer with respect to the approval or rejection of samples shall be final.

## 8. CONDEMNED AND SURPLUS MATERIALS

Should any plant, appliances or materials which the Engineer may deem to be inferior or unfit for use in or on the works, be brought on the ground, or used, the same shall be wholly removed therefrom within twenty-four (24) hours after notification to that effect from the Engineer, and in case of failure or neglect on the part of the Contractor to remove the same, the Engineer may cause the same to be taken away at the Contractor's expense and deposited, wasted, or otherwise disposed of, in any locality, place or way he considers convenient or proper, and the Contractor shall forthwith pay to the Owner on demand, all expenses incurred, including storage, if any, or the same may be deducted or collected by the Owner as provided in the section hereof entitled "Monies Due Owner".

No surplus or other material of any kind, arising from any portion of the work, shall be sold, thrown away, dumped, wasted or otherwise disposed of without the written sanction of the Engineer, and if so disposed of the Engineer may ascertain as nearly as he conveniently can, the quantities and value, and deduct the same from the Contractor's next progress payment certificate.

All excavated material shall be disposed of in the manner set forth in the Plans and Specifications for the work or as directed by the Engineer.

All excavated material of value to, or required by the Owner including materials from existing structures, such as old lumber, concrete blocks, stone, rubble, crushed stone, sand or gravel, sewer or other pipe, sewer brick, manhole tops or other castings, valves, hydrants, and earth or any other materials must be neatly piled, deposited or evenly spread by the Contractor in such a place as may be directed by the Engineer, the whole expense, including that of hauling, unloading and spreading to be borne by the Contractor. The materials must be removed and deposited as above required, as soon as excavated, or as soon thereafter as the Engineer may direct.

Surplus excavated material not required by the Owner shall be disposed of by the Contractor off the line of the works, on sites obtained by him, in such a manner as to not to cause a nuisance, injury or inconvenience to the Owner or to public or private parties; otherwise the Contractor will in all cases be held liable for, and must indemnify the Owner against all claims in respect thereof.

## 9. FOSSILS, ETC.

All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on the site, shall as between the Owner and the Contractor, be deemed to be the absolute property of the Owner; and the Contractor shall take reasonable precautions to prevent his workers or any other persons, from removing or damaging any such article or thing and shall immediately upon discovery thereof, and before removal, acquaint the Engineer of such discovery and carry out at the expense of the Owner, the Engineer's orders as to the disposal of same.

## 10. EQUIVALENTS

Where pursuant to the Specifications the Contractor is required to supply an article or group of related articles designated by a trade or other name or an "approved equal", the tender shall be based only upon supplying the article or group of articles so designated, which shall be regarded as the standard quality required by the Specifications. After the acceptance of a tender, the Contractor may apply to the Engineer to substitute as an approved equal, another article or group of related articles identified by a different trade or other name for an article or group of related articles designated as aforesaid.

The application shall be in writing and shall state the price for the proposed substitute article or group of related articles, the price for the article or group of articles designated as aforesaid and such other information as the Engineer may require.

No ruling on a proposed substitution will be made prior to the acceptance of a tender. No substitution shall be made without the prior approval of the Engineer. The approval or rejection of a proposed substitution shall be at the discretion of the Engineer and his decision shall be final. If the proposed substitution is approved by the Engineer, the Contractor shall be entitled to the first \$100.00 of the aggregate saving in cost by reason of such substitution and to 50% of any additional saving in cost in excess of such \$100.00 or in the amount negotiated or agreed upon by the Engineer and the contractor. Each such approval shall be conveyed to the Contractor in writing by the Engineer and if any adjustment to the Contract Price is to be made by reason of such substitution, a Contract Change Order shall be issued to this effect.

#### **11. MATERIALS AND EQUIPMENT SUPPLIED BY THE OWNER**

Where material is supplied by the Owner and where this Material is ordered by the Contractor in excess of the amount specified to complete the Work, such excess Material shall become the property of the Contractor on completion of the Work and shall be charged to the Contractor at cost plus applicable overheads.

The Contractor shall, in advance of receipt of shipments of Material supplied by the Owner, provide adequate and proper storage facilities acceptable to the Contract Administrator, and on the receipt of such Material shall promptly place it in storage, except where it is to be incorporated forthwith into the Work.

The Contractor shall be responsible for acceptance of Material supplied by the Owner, at the specified delivery point and for its safe handling and storage. If such Material is damaged while under the control of the Contractor, it shall be replaced or repaired by the Contractor at no expense to the Owner, and to the satisfaction of the Contract Administrator. If such material is rejected by the Contract Administrator, for reasons that are not the fault of the Contractor, it shall remain in the care and at the risk of the Contractor until its disposition has been determined by the Contract Administrator.

Where Material supplied by the Owner arrives at the delivery point in a damaged condition or where there are discrepancies between the quantities received and the quantities shown on the bills of lading, the Contractor shall immediately report such damage or discrepancies to the Contract Administrator who shall arrange for an immediate inspection of the shipment and provide the Contractor with a written release from responsibility for such damage or deficiencies. Where damage or deficiencies are not so reported, it shall be assumed that the shipment arrived in good condition and order, and any damage or deficiencies reported thereafter shall be made good by the Contractor at no extra cost to the Owner.

The full amount of Material supplied by the Owner in each shipment shall be accounted for by the Contractor and such Material shall be the risk of the Contractor after taking delivery. Such Material shall not, except with the written permission of the Contract Administrator, be used by the Contractor for purposes other than the performance of the Work under the Contract.

Empty reels, crates, containers, and other type of packaging from Material supplied by the Owner shall become the property of the Contractor when they are no longer required for their original purpose and shall be disposed of by the Contractor, unless otherwise specified in the Contract Documents.

Immediately upon receipt of each shipment, the Contractor shall provide the Contract Administrator copies of bills of lading or such other documentation the Contract Administrator may require to substantiate and reconcile the quantities of Material received.

Where Material supplied by the Owner is ordered and stockpiled prior to the award of the Contract, the Contractor shall, at no extra cost to the Owner, immediately upon commencement of operations, check the Material, report any damage or deficiencies to the Contract Administrator and take charge of the Material at the stockpile site. Where damage or deficiencies are not so recorded by the Contractor, it shall be assumed that the stockpile was in good condition and order when the Contractor took charge of it, and any damage or deficiencies reported thereafter shall be made good by the Contractor at no extra cost to the Owner.

## **12. APPROVALS AND PERMITS**

The Construction of the works and all operations connected therewith are subject to the approval, inspection, by-laws and regulations of all municipal, provincial and federal and other authorities having jurisdiction in respect to any matter embraced in this Contract.

The Owner will obtain and pay the fees, if any, for approvals and permits relating to the design and location of the permanent works required from the Ministries of Transportation of Ontario, Labour, Environment, Public Works or Transport from railway or pipeline companies or from hydro electric, canal or seaway and conservation authorities. Unless otherwise specifically stated in the tender documents, the Contractor shall obtain and pay the fees for all other approvals and permits required for or in respect of the works.

## **13. ERRORS AND OMISSIONS BY CONTRACTOR**

Errors, mistakes, omissions or unauthorized changes made by the Contractor or his agents, workers or employees and all damage that may result therefrom shall be rectified by the Contractor at his own expense.

## **14. DELAYS**

If, after the execution of the Contract, the Contractor suffers damage by reason of delay with respect to construction of the works arising from causes other than adverse weather or labour disputes and beyond his control, the Owner may in his discretion compensate the Contractor wholly or in part for such damage.

The Contractor shall take all steps necessary or advisable to reduce or eliminate all damage or loss by reason of delay with respect to construction of the works arising from any cause whatsoever.

## **15. ORAL ARRANGEMENTS**

In all cases of misunderstandings or disputes, oral arrangements will not be considered, but the Contractor must produce written authority in support of his contentions, and shall advance no claim in the absence of such written authority, and shall not use, or attempt to use, against the Owner, any conversation with any parties.



## 16. DECISIONS BY THE ENGINEER

Should any discrepancies appear or differences of opinion or misunderstandings arise as to the meaning of the Contract or as to any omissions therefrom or statements therein in any respect, or as to the quality or dimensions or sufficiency of the materials, plant or work or any part thereof, or as to the due and proper execution of the works, or as to the measurement or quantity or valuation of any works executed or to be executed under this Contract or as to extras thereto or deductions therefrom, or as to any other questions or matters arising out of the Contract, the same shall, subject to the terms of the Contract, be determined by the Engineer, who shall have the right at all reasonable times to visit, enter and carry out inspections at any building, factories, workshops, works or sites of the Contractor or others wherever any materials are being prepared, manufactured or treated, or other work is being done in connection with this Contract and the right also to take such samples therefrom as he may deem necessary and the Contractor shall immediately when ordered by the Engineer, proceed with and execute the work or works, or any part thereof, forthwith in accordance with such order and with such additions to or deductions from the contract price as are provided under the terms of the Contract, without making any claim for any extension of time in completing the work, unless arranged in writing with the Engineer as herein provided.

## 17. INSPECTOR AND INSPECTION

All work to be done under the contract shall be done to the satisfaction of the Engineer or of an agent or inspector authorized to act for him. The Inspector is required by the Engineer to see that provisions of the contract are faithfully adhered to especially as regards the quality of the workmanship and materials, and may stop the work entirely if there is not a sufficient quantity of suitable and approved material on the site to carry on the work properly or for any good and sufficient reason. In particular, but without limiting the powers of the Inspector, orders given by the Inspector relating to the quality of material or workmanship or in respect of safety or public convenience, must at once be obeyed by the Contractor. The Inspector shall have the power to suspend any worker for incompetency, drunkenness, negligence or disregard of orders and the Contractor shall ensure that any worker so suspended is forthwith removed from the site.

Materials and equipment and the process or manufacture of materials or equipment shall at all times be subject to inspection, testing and rejection at any stage by the Engineer or his agent. The Engineer will give the Contractor reasonable notice of the materials and equipment in respect of which the Engineer proposes to have inspection or testing carried out during the process of preparation or manufacture, save that in the case of materials or equipment specifically stated in the contract as required to be tested or inspected by or in the presence of the Engineer or his agent, the Engineer shall not be obliged to give such notice. The contractor shall notify the Engineer in writing at least seven days previous to the commencement of preparation or manufacture of each item of such materials or equipment of the time and place at which such preparation or manufacture is to commence in order that the Engineer or his agent may be present.

Notwithstanding compliance by the Contractor with the foregoing paragraph hereof, if any materials or equipment prepared or manufactured away from the site of the works and required by the Contract or by the Engineer to be inspected or tested by or in the presence of the Engineer or his agent at the place of preparation or manufacture become ready for delivery to the site of the works but have not been inspected or tested as required, the Contractor shall so notify the Engineer in writing and shall not have such materials or equipment delivered to the site of the works until authorized so to do in writing by the Engineer.

In any event, no materials or equipment required by the Contract or by the Engineer to be inspected or tested by or in the presence of the Engineer or his agent shall be incorporated into the work until the

required inspection or testing has been carried out to the satisfaction of the Engineer.

The Contractor shall provide, and shall ensure that all Sub-Contractors and those carrying out the process of preparation or manufacture shall provide, every reasonable facility and co-operation to assist the Engineer or Inspector or others designated by the Contract or by the Engineer in carrying out inspection and testing.

The Contractor shall not backfill or otherwise cover up any work without either having it inspected and passed by the Inspector or first notifying the Inspector in a manner approved or as directed by the Engineer that the work is ready to be covered up and allowing the Inspector reasonable notice and opportunity for carrying out an inspection. Any work covered up other than in accordance with the foregoing shall, if ordered by the Inspector or the Engineer, be uncovered or opened up for inspection and the Contractor shall, as directed by and to the satisfaction of the Inspector or the Engineer, make good again all openings, excavations and disturbances of any property, real, or personal, resulting therefrom all at the Contractor's expense; but if the Contractor has backfilled or otherwise covered up any work in accordance with the foregoing, the cost of any covering or opening up and making good shall be borne as provided for in Section 30 (e) hereof.

No approval by an Inspector or by the Engineer or failure of an Inspector or the Engineer to carry out an inspection shall relieve the Contractor of any of his obligations under the Contract or shall be interpreted as being an acceptance of defective or improper work or material which must in every case, be removed and replaced properly or otherwise rectified in a satisfactory manner whenever discovered at any time as provided for in Sections 30 and 47 hereof.

If, in addition to the inspection provided for above, the Contractor is required by the Contract, by-law, by local by-law or by the Engineer, to have any part of the works inspected by others, the Contractor shall give the Engineer and the others concerned reasonable notice of the time and date proposed for the additional inspection.

#### **18. OCCUPANCY OF THE WORKS**

The use or occupancy of the works or any part thereof by the Owner shall not be taken in any manner as an acceptance by the Owner of any work or material not in accordance with the Contract or to relieve the Contractor or his surety from liability, whether heretofore or hereafter incurred or arising, in respect of the observance or performance of any covenant or condition in the Contract not then performed, whether such covenant or condition be by way of indemnity to the Owner or otherwise, save to the extent that loss or damage is caused during such use or occupancy by the Owner or by employees of the Owner for whom the Owner is responsible. In particular, without limiting the generality of the foregoing, the use or occupancy of the work or any part thereof by the Owner shall not release the Contractor from liability to pay to the Owner or waive or impair the right of the Owner to deduct and retain, liquidated damages and resident Engineers' and Inspectors' fees, in accordance with the Contract.

#### **19. ABSENCE OF ENGINEER AND HIS AGENT**

The Owner may appoint an Engineer or firm of Consulting Engineers for the purpose of inspecting the work performed under this Contract. In the absence of the Engineer or his duly authorized agent, any assistants who have been designated by the agent to superintend the work shall have full power to decide as to the manner of conducting and executing the work in every particular and the Contractor shall follow the instructions or orders of the person so designated.

**20. CONTRACTOR'S ABSENCE**

In the absence of the Contractor from the works (whether permanent or temporary) he must provide and leave a competent and reliable superintendent in charge of the entire works for him, and such person shall be considered as acting in his place, and all notices, communications, orders or instructions given or sent to or served upon such person shall be taken as served upon and received by the Contractor.

**21. PUBLIC CONVENIENCE AND SAFETY**

If at any time the Engineer or his authorized representative considers the works to be unsafe, he may order the

Contractor to take measures forthwith to ensure adequate safety. Should the Contractor fail to take adequate measures, the Engineer or his representative may order the work to cease until such measures have been taken.

The Contractor shall not be entitled to additional payment for, or an extension of time for the performance of the Contract by reason of such safety measures. The fact that the Engineer or his representative has ordered or has failed to order additional safety measures shall not relive the Contractor of responsibility for the adequacy of the safety measures taken.

The Contractor during the progress of the work shall keep the site and the work in as tidy a condition as practicable. He shall not deposit any material on any portion of street, sidewalk, boulevard, grass plot, or public property, without permission of the Engineer, and shall remove same without delay when and as directed by the Engineer. Upon completion of the work, plant and surplus materials, as well as any rubbish accumulated on account of his operations shall leave the site in a condition satisfactory to the Engineer.

Unless all surplus material, plant, rubbish, falsework, etc. are removed from time to time, when and as directed, the Engineer will proceed to do whatever is necessary to restore the site, street, sidewalk, boulevard, grass plot or public property to a tidy condition and will charge the cost thereof against the Contractor. Whenever or wherever any work is closed, suspended or stopped for the winter, all material of every description must be gathered up from the street, sidewalks, boulevards and grass plots, and removed therefrom and the site shall be left in a safe and tidy condition and shall be maintained in a safe condition until work is resumed.

The method of use and the character of all explosives shall be subject to the approval of the Engineer. The Contractor shall ensure that the charges of explosives used by the Contractor and the time at which they are exploded shall be such as not to cause damage to person or property or to cause unreasonable inconvenience.

Explosives shall be properly housed and protected as provided by law, and no explosives known to have deteriorated shall be used. Approved methods of handling and thawing of frozen explosives shall be followed, and the greatest care shall be exercised at all times by the Contractor in blasting operations.

**22. RESTORATION**

Where the Contractor enters into the land or buildings of the Province or of any municipality or of any person or enters into any highway or road under the jurisdiction and control of any public authority for the purpose of making any survey, examination, investigations, inspection or other arrangement or lays any pipes or appurtenances in, upon, through, over or under any highway or road under the jurisdiction and control of any public authority and in so doing disturbs any such lands, buildings, highways or roads, such lands, buildings, highways or roads shall be restored to their original condition without unnecessary delay.

**23. DRAINAGE**

The Contractor shall keep all portions of his work properly and efficiently drained during construction and until completion, and he will be held responsible for all damage which may be caused or result from water backing up or flowing over, through, from or along any part of the works.

**24. BARRIERS, LIGHTS AND DETOURS**

The Contractor must, at his own expense, and without further or other order, provide, erect and maintain all requisite barriers, fences or other proper protection; and must provide keep and maintain watchmen and lights with red or amber globes, as may be necessary or as may be ordered by the Engineer, in order to ensure safety to the public as well as to those engaged about the premises or works. Should the Contractor neglect to carry out the above requirement, the Engineer is hereby authorized to place such watchmen, lights, barriers, etc., as are required and to charge the cost to the Contractor, without relieving the Contractor of any claims for damages or accident.

The Contractor must (where it is practicable in the opinion of the Engineer) keep the roadway open for travel for the use of the public, for such width as the Engineer may direct. Where in the opinion of the Engineer, it is not practicable to keep a roadway open for the full flow of traffic, he may permit the contractor to close or partially close such roadway to provide for a detour of the traffic or a part thereof. In each such case and before putting into effect the closure or detour, the Contractor shall present his proposal for closure or detour to the municipal or other authority or authorities having jurisdiction over any of the roadways which will be affected by the proposed closure or detour and shall obtain the written authorization to such proposal of the said authority or authorities. The Contractor must provide a sufficient number of "NO THOROUGHFARE", "DETOUR" or other proper notices, which he must cause to be placed and maintained in good order in conspicuous places wherever any roadway, sidewalk or thoroughfare is torn up or dangerous, and so long as it remains unsafe or unfinished.

When any work is carried on at night, the Contractor must supply, at his own expense, a sufficient number of electric or other approved and efficient lights, to enable the same to be done in an efficient and satisfactory manner, and the Engineer shall have the power to order additional lights to be put on at the Contractor's expense if in the opinion of the Engineer, they are, or may be required.

**25. LOSS OR DAMAGE**

The Owner shall not in any manner, be answerable or accountable for any loss or damage by fire or otherwise that shall or may happen to the work or any part or parts thereof; or for any of the materials or other things used and employed in finishing and completing the work, or for any injury to any person or persons, including workers and the public, or for damage to adjoining property, against all of which injuries and damages to persons or property the Contractor shall properly guard and shall make good all damage of whatsoever nature or origin may arise out of, or be occasioned by any cause connected with the Contract, or the work done by the Contractor, and shall indemnify and keep indemnified, the Owner against same until the completion of all the work hereunder and the termination in accordance with the Contract of the insurance which the Contractor is required by the Contract to provide.

**26. INSURANCE**

- (a) The Contractor shall insure and shall maintain insurance for, and in the joint names of the Contractor and the Owner, and in an insurance company satisfactory to the Owner, the work and all material, plant, fuel, machinery, tools and equipment acquired, possessed or provided by the Contractor for incorporation into the work, whether or not such material, plant, fuel, machinery, tools and equipment are brought to or upon the work or upon the lands of the Owner or of the Corporation, in an amount not less than 90% of the total value of such work and material, plant, fuel, machinery, tool and equipment and such additional amount, not exceeding the contract price, as may be directed by the Owner against all risk, so that any loss under such insurance shall be payable to the Owner and the Contractor as their respective interests may appear. The Contractor shall deposit with the Owner, a cover note of such insurance in the form attached hereto and the original policy of such insurance or a Certificate of Insurance, clearly stating that the policy of insurance provided as aforesaid complies with these provisions. The Contractor shall pay all insurance premiums as they become due; provided that the Owner may pay premiums and deduct the amount thereof from monies due the Contractor. Any loss or damage which may occur shall not affect the rights and obligations of the Contractor or of the Owner under this Contract except that in such event the Engineer may in writing extend the time for completion for such period as he thinks reasonable.

If the Engineer does not extend the time for completion, then the work must be completed within the time fixed in the contract. Monies paid to the Contractor under such insurance shall be used for the purpose of replacing, rebuilding, repairing and completing the work, and all such material, plant, fuel, machinery, tools and equipment which have been damaged or destroyed. Such replacing, rebuilding, repairing and completion shall be carried out in every way subject to the terms and conditions of the Contract.

- (b) The Contractor shall maintain and pay for such insurance and shall pay such assessments as will protect him from claims under the Workplace Safety and Insurance Act and from any other claims for damages arising from bodily injury, including death, and from claims for property damage which may arise from his operations under this contract. The Contractor shall deposit with the Owner, a Certificate of such insurance, in the form attached hereto, clearly stating that the policy of insurance so provided complies with these provisions.
- (c) The insurance required under paragraphs (a) and (b) shall be maintained in full force until the Engineer has issued a Certificate of Completion or until the Owner has otherwise approved in writing save that the Contractor continues to work at the site after the date of completion or returns to the site to work after such date, he shall maintain or renew for the duration of such work, the insurance required by the Contract.

**27. CONTRACTOR'S LIABILITY**

The Contractor shall assume the defence of and indemnify and save harmless, the Owner and its Officers and agents from all claims relating to labour and materials furnished for the work, and to inventions, copyrights, trademarks, royalties or patents, and rights thereto, relating to or used in doing the work, or the subsequent use and operation of the work or any part thereof upon completion.

In carrying out the works from the inception, and until the final acceptance of the same, the Contractor must be careful to cause as little injury or damage as possible to any adjacent property, public or private, or to any sidewalks, roadways, curbs, gutter, drains, hydrants, manholes, frames, covers, or street gullies, boulevards, grass plots, sodding, trees, shrubs, or structures, utilities and all municipal services, works or

things on or near the line or in the vicinity of the works or elsewhere, and, except as in this contract is otherwise provided, if injury or damage is done, he must make good the same, at his own expense, in the manner directed by and to the satisfaction of the Engineer. The contractor shall be responsible for any and all damages, or claims for damages for injury or accidents done or caused by him or his employees or agents, or resulting from the prosecution of the works, or any of his operations, or caused by reason of the existence of location or condition of the works, or of any materials, plant or machinery used thereon or therein, or which may happen by reason thereof, or arising from any act of commission or omission on his part, or on the part of any of his agents or employees, in connection with the Contract, and covenants and agrees to hold the Owner harmless and indemnified from all such damages and claims for damage; and in case of the Contractor's failure, neglect or omission to observe and perform faithfully and strictly, all the provisions of the Contract, the Engineer may, either with or without notice (except where in this Contract, notice is specially provided for, and then upon giving the notice therein provided for), take such steps, procure such material, plant, trucks and men and do such work or things as he may deem advisable toward carrying out and enforcing the same, and any and all expenses so incurred may be deducted or collected by the Owner under the provisions of Section 45 hereof entitled "Monies Due Owner", and any such action by the Engineer as he is herein empowered to take, shall not in any way relieve the Contractor or his surety from any liability under the Contract.

Without limiting the generality of the foregoing provisions of this section and notwithstanding any consent or order which the Engineer may give to the Contractor to prosecute the works under this Contract for a longer period than eight hours a day or forty-eight hours a week, the Contractor may, by order of the Engineer, be prohibited from carrying on operations during any hour or hours of the day in which the Engineer in his judgement deems such operations to be a disturbance or nuisance to the residents of the municipality or municipalities wherein the work is being executed in whole or in part, and irrespective of any permission or order which the Engineer may have given to the Contractor, the Contractor shall indemnify and save harmless, the Owner or such municipality or municipalities as aforesaid, from any claim, action, loss or damage whatsoever which may be made, brought or recovered against it or them as a result of any of his operations. In the event of the Contractor being enjoined by court process in connection with any of his operations, he shall not have recourse against the Owner or municipality or municipalities as aforesaid on account thereof.

The Contractor shall at all times pay, or cause to be paid, any assessment or compensation required to be paid pursuant to the Workplace Safety and Insurance Act, and the Owner may pay the same and deduct or collect such expenses under the provision of Section 45 hereof, entitled "Monies Due Owner". The Contractor shall, at the time of entering into any contract with the Owner, make a Statutory Declaration or furnish a satisfactory clearance letter from the Workplace Safety and Insurance Board stating that all assessments or compensation payable to the Workplace Safety and Insurance Board have been paid, and the Owner may, at any time during the performance or upon the completion of such contract, require further proof that such assessments or compensation have been paid.

The Contractor shall at all times, be subject to and will be required to observe all rules and regulations which are or may from time to time be imposed by law, as related to all branches of the work under the Contract. The Contractor shall from time to time adopt such approved construction or operating methods in carrying out the work as may be called for due to changing conditions which may be encountered during the progress thereof.

**28. NIGHT, SUNDAY AND HOLIDAY WORK**

The Engineer may order the work to proceed on a two or three eight-hour shift basis if he deems this necessary to speed up the work, or he may order any work to be carried out in whole or in part at night, and the Contractor shall have no claim for extra compensation in respect thereof. No work, however, shall be undertaken at night without the consent in writing of the Engineer.

Whenever, in the judgement of the Engineer, it may be necessary or expedient, in order to preserve and maintain traffic over or on any street or road, to do work at night or after or before the regular time of ending or beginning labour, such night or overtime work shall be performed by the Contractor without additional or extra cost to the Owner beyond the price bid for the work.

No Sunday work will be permitted, except in the case of emergency and then only with the written permission of the Engineer and to such extent as he may judge to be necessary.

The contractor shall, as far as possible, refrain from working on days which are legal holidays. In case he desires

to work on any such holiday, he shall notify the Engineer in writing to that effect at least four (4) days in advance of such holiday, stating those places where the said work will be conducted. If the Contractor fails to give such notice in advance of any holiday, such failure shall be considered as an indication that no work requiring the presence of an Engineer or inspector is to be done by the Contractor on such a holiday.

**29. NOTICE TO CONTRACTOR**

Any notice or communication to the Contractor shall be deemed to be well and sufficiently given and served if handed to the Contractor or any of his clerks or agents, or if posted or sent to the address given in the Agreement, or his domicile or usual place of business, or to the place where the work is to be or is being carried on, or if posted to or left at his last known address, and any papers so left, sent or addressed shall be considered to be, and to have been legally served upon the Contractor. In any written or printed notice to the Contractor in respect of general, special, or other repairs or of any work of any nature required to be done under any of the provisions of the Contract, or of any other matter, it shall not be obligatory upon the Engineer to specify minutely or in detail everything required, nor to specify by measurement the exact extent thereof, or the precise spot or spots where the work or material may be defective or faulty or where any of the requirements of the Specifications have not been observed; but a reference in such notice to the clause or clauses bearing upon the matter, and a description of the locality in general terms, and sufficiently clear, in the opinion of the Engineer, to indicate where the defect or trouble exists, shall be deemed to be, and shall be, ample notice.

**30. RECTIFICATION AND MAINTENANCE**

(a) The contractor guarantees and warrants that with ordinary wear and tear, the work shall, until the end of the period of maintenance, remain in such condition as will meet with the approval of the Engineer, and that he will be responsible for rectifications in a manner satisfactory to the Engineer, and for the cost thereof, of any imperfect work due to or arising from materials, equipment or plant incorporated into or used in the construction thereof, or due to or arising from workmanship or methods of construction, that is discovered by any means at any time prior to the issuance of Final Certificate. The Engineer shall decide as to the nature, extent, cause of, and responsibility for imperfect work and the necessity for and the method of rectification thereof.

- (b) Prior to the expiration of the period of 12 months from the date of completion, the Engineer or his agent shall carry out an inspection of the work and shall notify the Contractor of any imperfections therein disclosed by such inspection provided that the failure of the Engineer or his agent to carry out such an inspection or to give such notification shall not relieve the Contractor or his surety from any responsibility or obligation under, or any term or provision of, the Contract.
- (c) If, as a result of imperfect work for which the Contractor is responsible, the Owner incurs any costs, and without limiting the generality of the foregoing, including cost of Engineering and investigation and all costs of administration, or sustains damage or loss of any kind, the Contractor and his surety or sureties shall be liable to the Owner for such costs, damage and loss. The amount of such costs, damage or loss shall be determined or estimated by the Engineer and, upon such determination or estimation, shall be deemed to be "Monies payable to the Owner" under Section 45 of the General Conditions and may be deducted or collected by the Owner as therein provided for.
- (d) No payment, certificate, document, act, failure to act, statement or representation of, by or on behalf of the Owner or its employees or agents, no dealing, transaction, forbearance or forgiveness which may take place between the Contractor or his surety or sureties and the Owner or its employees or agents and no exercise or forbearance to exercise any of the rights or powers of the Owner or of the Engineer under the Contract, other than the Final Certificate, or a release duly executed by the Owner, shall release the Contractor or his surety or sureties from any term or provision of or any responsibility, obligation or liability under the Contract or otherwise, or shall waive or impair any of the rights and powers of the Owner or of the Engineer.
- (e) The Contractor shall, at any time or times prior to the issuance of the Final Certificate and when required to do so by the Engineer, make such openings, tests, inspections, excavations, examinations, or other investigations in, through, or in the vicinity of the work as the Engineer may direct and shall, if required, make good again, to the satisfaction of the Engineer, any opening, excavations or disturbances of any property, real or personal, resulting therefrom. If, in the opinion of the Engineer, any imperfect work for which the Contractor is responsible is found in the work by such investigations, the cost of such investigations and such making good shall be borne by the Contractor; but if, in the opinion of the Engineer, no such imperfect work is found by such investigations, the said cost shall be borne by the Owner, except as otherwise provided in Section 17 of the General Conditions.

### 31. CONTRACT BONDS

The Contractor shall, unless otherwise directed by the Owner, furnish to the Owner, Contract Bonds in accordance with the requirements of the Information for Tenderers.

### 32. COMMENCEMENT AND COMPLETION

The work shall not be commenced nor shall any material be procured until the Contractor has signed the Contract and obtained or received a written order, or orders, to commence the same, signed by the Engineer, and it shall thereupon be at once begun and continuously carried on to the completion, (subject as herein provided) and shall be completed and full possession thereof given to the Owner within the period provided in the Contract unless an extension of time, in writing, shall be allowed by the Engineer in which case, it shall be carried on to completion and possession given to the Owner within the additional period so allowed.



If ordered by the Engineer, the Contractor and his agents and employees shall be required to work continuously throughout the twenty-four (24) hours of the day for six days per week in the performance of the work under the Contract.

In case the Contractor shall fail to complete the work in accordance with the Contract and to the satisfaction of the Engineer, within the time or times specified, the Contractor shall pay to the Owner (in addition to amount payable by the Owner in respect of site supervision of the work), the sum specified in the Contract for each and every day that the work or works shall remain unfinished after the time so specified; which said sum or sums in view of the difficulty of ascertaining the losses which the Owner may suffer by reason of delay in the performance of said works, is hereby agreed upon, fixed and determined by the parties hereto as the liquidated damages that the Owner will suffer by reason of said delay and default, and not as a penalty and the Owner may deduct and retain the amounts of such liquidated damages out of the monies which may be due or become due to the Contractor under the Contract, as provided in Section 45 hereof, entitled "Monies Due Owner".

In the event of delay caused by strikes or combinations on the part of the Workers employed, or by any act of the Owner, or from such other cause as, in the opinion of the Engineer, the Contractor cannot reasonably be held responsible for, or in the event of extra or additional work being ordered by the Engineer, the Engineer may allow such additional time for completion as he may deem fair and reasonable, provided the Contractor applies in writing for an extension of time at the time such delay occurs or such extra or additional work is ordered and satisfies the Engineer that he is justly entitled to a further time allowance.

Notwithstanding the time allowed for completion of the work, if in the opinion of the Engineer, the rate of progress of any part or parts of the work or during any period or periods during which work is being carried on or is required to be carried on is unsatisfactory and if amounts are payable by the Owner in respect of site supervision of the work, traffic control, compensation or damages by reason in the opinion of the Engineer, of such unsatisfactory rate of progress, the Contractor shall be liable to the Owner for the payment of such amounts and such amounts may be deducted by the Owner from any money due or that may become due to the Contractor under the Contract.

No progress or interim estimate or certificate shall release the Contractor or his surety from any responsibility, or be taken as evidence of such release, or as acceptance of any work or material, or as waiver of any condition herein. The whole work and every portion and detail thereof shall, during construction, be protected by the Contractor from damage from any cause whatsoever, and shall at the time of completion, be put and left by the Contractor in good and satisfactory condition, finished in all respects, and at that time, must be fully up to the requirements of the Contract in every particular; all surplus and refuse material and rubbish removed from the vicinity of the works; the premises left in a neat and tidy condition; all damage to adjacent property, pavements, foot-walks, beaches, boulevards and sodding or other things, injured or interfered with by the Contractor or his agents or employees, made good, and every other requirement of the Contract complied with.

In case of the Contractor's failure to finish the work properly and fully, and as required, or in case of the work, or any part thereof, being taken out of his hands, as provided in these General Conditions, the Engineer may proceed to finish the work for him, as his agent in this respect, and at his expense, as provided in Section 49 hereof, entitled "Non-fulfilment of Contract".

### 33. CERTIFICATE OF SUBSTANTIAL PERFORMANCE & COMPLETION

- (a) The Contract shall be considered as substantially performed when
- (1) the works have satisfactorily passed the required inspection and testing and are ready for use or are being used for the purposes intended, and
  - (2) the works are capable of being completed or, where there is a known defect, corrected at a cost of not more than,
    - (i) 3 percent of the first \$500,000 of the contract price plus
    - (ii) 2 percent of the next \$500,000 of the contact price plus
    - (iii) 1 percent of the balance of the contract price.
- (b) Where the works or a substantial part thereof are ready for use or are being used for the purpose intended but part of the works cannot be completed expeditiously for reasons beyond the control of the Contractor or where the Owner and the Contractor agree to delay completion of the works, the cost, as determined by the Engineer, of completing the outstanding work shall be deducted from the contract price in determining substantial performance and the value of the work completed.
- (c) As soon as, in the opinion of the Engineer, the Contract has been substantially performed in accordance with the foregoing, the Engineer will issue a Certificate of Substantial Performance on submission by the Contractor of the following documents.
- (1) A written undertaking by the Contractor to complete expeditiously any outstanding work and to discharge all unfulfilled obligations under the Contract.
  - (2) The Contractor's final claim (except in respect of outstanding work).
  - (3) A release by the Contractor in a form satisfactory to the Engineer releasing the Owner from all further claims relating to the Contract (except in respect of outstanding work).
  - (4) A statutory declaration in a form satisfactory to the Engineer that all liabilities incurred by the Contractor and his sub-contractors in carrying out the Contract have been discharged and that all liens in respect of the Contract and sub-contracts thereunder have expired or have been satisfied, discharged or provided for by payment into Court.
  - (5) A satisfactory clearance certificate from the Workplace Safety and Insurance Board.
- (d) The Engineer shall set out in the Certificate of Substantial Performance the date on which the contract was substantially performed and within seven days after signing the said certificate he shall provide a copy to the Contractor.

- (e) Upon receipt of a copy of the Certificate of Substantial Performance, the Contractor shall forthwith, as required by Section 32 (1) Paragraph 5 of The Construction Lien Act, publish a copy of the said certificate in a construction trade newspaper. Such publication shall include placement in the Daily Commercial News.
- (f) Where the Contractor fails to publish a copy of the Certificate of Substantial Performance as required above within seven days after receiving a copy of the said certificate signed by the Engineer, the Owner may publish a copy of the certificate at the Contractor's expense.
- (g) Except as otherwise provided in Section 31 of The Construction Lien Act, the 45-day period prior to the release of holdback as referred to in Section 38 (f) (3) hereof, shall commence from the date of publication of the Certificate of Substantial Performance as provided for in (e) and (f) above.
- (h) The works shall be deemed to be completed when
  - (1) the works have satisfactorily passed the required inspection and testing, and
  - (2) the cost of completion of all outstanding work and known defects is not more than the lesser of
    - (i) one percent of the contract price, and
    - (ii) \$1,000.00
- (i) As soon as, in the opinion of the Engineer, the works have been completed in accordance with paragraph (h) above, the Engineer will issue a Certificate of Completion on submission by the Contractor of the following documents:
  - (1) The Contractor's final claim (including the value of work completed since the date of the claim referred to in paragraph (c) (2) above.
  - (2) An up-to-date release by the Contractor in a form satisfactory to the Engineer releasing the Owner from all further claims relating to the Contract.
  - (3) An up-to-date statutory declaration in a form satisfactory to the Engineer that all liabilities incurred by the Contractor and his sub-contractors in carrying out the contract have been discharged and that all liens in respect of the Contract and Sub-contracts thereunder have expired or have been satisfied, discharged or provided for by payment into court.
- (j) The Engineer shall set out in the Certificate of Completion the date on which the works were completed and within seven days of signing the said certificate, he shall provide a copy to the Contractor.
- (k) Payment due to the Contractor following issuance of the Certificate of Completion shall be as provided for in Section 38 hereof.

- (l) On the expiration of a period of 12 months from the date of substantial performance, as set out in the Certificate of Substantial Performance, and after all known imperfect work has been rectified in accordance with the Contract and to the satisfaction of the Engineer and the Engineer is satisfied to the best of his knowledge that the Contractor has discharged all his obligations under the Contract, the Engineer will issue the Final Certificate approving the release to the Contractor of the maintenance security (see section 38 (h) hereof), less any deduction as provided for in the Contract.
- (m) On the expiration of a period of 12 months from the date of substantial performance, as set out in the Certificate of Substantial Performance, the Engineer may approve the release to the Contractor of a part of the maintenance security on such terms and conditions as the Engineer deems advisable notwithstanding that the Final Certificate has not been issued and that all imperfect work has not been rectified in accordance with the Contract.
- (n) The Engineer may in his discretion direct or approve that the works covered by the Contract be divided into two or more parts for the purpose of issuing certificates of completion and releasing holdback monies. In that event, the Contractor shall submit documentation as set out above in respect of each such part.

#### 34. RELEASE OF HOLDBACK TO SUB-CONTRACTORS

Notwithstanding that the Contract as a whole has not yet been substantially performed, the Engineer may, if requested in writing by the Contractor, approve the completion of a sub-contract and the release to a sub-contractor through the Contractor of the 10% holdback retained by the Owner in respect of the work covered by the said sub-contract provided

(a) that the Contractor certifies

- (1) that the said sub-contract has been completed satisfactorily, or
- (2) that the said sub-contract has been completed satisfactorily except for work not exceeding in value the lesser of
  - (i) one percent of the sub-contract price, and
  - (ii) \$1,000.00 and gives reasons why the uncompleted work is still outstanding.

(b) the Engineer is satisfied

- (1) that the said sub-contract has been completed satisfactorily, or
- (2) that the sub-contract has been completed satisfactorily to the fullest extent reasonably possible at that date and that the work remaining to be completed does not exceed in value the sum derived from (a) (2) above.
- (3) that all required or necessary inspection and testing of the works covered by the said sub-contract have been carried out and that the results are satisfactory.

(c) the Contractor has furnished to the Engineer

- (1) a release by the Contractor in a form satisfactory to the Engineer releasing the Owner from all further claims (excepting holdback monies) relating to the said sub-contract.
- (2) evidence satisfactory to the Engineer that the said sub-contractor has discharged all liabilities incurred by him in carrying out the said sub-contract and that all liens in respect of the completed sub-contract have expired or have been satisfied, discharged or provided for by payment into Court.
- (3) a satisfactory clearance certificate or letter from the Workplace Safety and Insurance Board relating to the said sub-contractor.
- (4) the required maintenance security in respect of the said sub-contract as provided for in Section 38A hereof.
- (d) The Engineer retains sufficient money to cover the cost of completing any work which remains uncompleted under the said sub-contract.
- (e) If he so requests, the Engineer is furnished with a photostat copy of the Contract between the Contractor and the said sub-contractor and with a satisfactory statement showing the total amount due from the Contractor to the said sub-contractor.

The Engineer shall, within seven days after he approves a certificate wherein it is certified that the sub-contract has been completed, give a copy of the said certificate to the Contractor and to the sub-contractor concerned.

On receipt of the holdback monies from the Owner, the Contractor shall forthwith pass to the sub-contractor concerned the payment due under the said sub-contract and shall pass to the Engineer a copy of the transmittal letter showing the amount of the said payment.

The period of maintenance for the work carried out under the said sub-contract shall continue until the issuance of the Final Certificate for the Contract.

Release of holdback monies by the Owner in respect of a sub-contract in accordance with the foregoing shall not relieve the Contractor or his surety of any of their responsibilities and shall not be made until a period of 45 days has elapsed from the date of approval to be completed.

### 35. MEASUREMENTS

- (a) Approximate monthly measurements of the works completed under the Contract shall be made by the Engineer at the end of each calendar month except where the work has been delayed or suspended. An authorized representative of the Contractor shall assist the Engineer in taking such measurements and shall furnish all particulars required by the Engineer. The Engineer shall notify the Contractor when such a measurement will be made.
- (b) The said monthly measurements shall not bind the Engineer in any manner in the preparation of his final measurement of the works constructed by the Contractor under this Contract, but shall be construed and held to be approximate only.
- (c) The final measurement shall be prepared in detail as soon as the whole of the works have been completed and this final measurement shall be approved and accepted in writing by the Engineer.

Thereafter, the Completion Payment Certificate shall be issued and payment shall be made in accordance with Section 38 hereof.

### **36. ALTERATIONS, EXTRAS, DEDUCTIONS AND CLAIMS**

The Owner, or the Contract Administrator where so authorized, may, by order in writing, make a Change in the Work without invalidating the Contract. The Contractor shall not be required to proceed with a Change in the Work until in receipt of a Change Order or Change Directive. Upon the receipt of such Change Order or Change Directive the Contractor shall proceed with the Change in the Work.

The Contractor may apply for an extension of Contract Time according to the terms of subsection GC 3.06 (OPSS.MUNI 100), Extension of Contract Time.

If the Change in the Work relates solely to quantities, payment for that part of the Work shall be made according to the conditions specified in clause GC 8.01.02 (OPSS.MUNI 100), Variations in Tender Quantities. If the Change in the Work does not solely relate to quantities, then either the Owner or the Contractor may initiate negotiations upwards or downwards for the adjustment of the Contract price in respect of the Change in the Work pursuant to subsection GC 3.13 (OPSS.MUNI 100), Claims, Negotiations, Mediation or payment may be made according to the conditions contained in clause GC 8.02.04 (OPSS.MUNI 100), Payment on a Time and Material Basis.

The Owner, or Contract Administrator where so authorized, may instruct the Contractor to perform Extra Work without invalidating the Contract. The Contractor shall not be required to proceed with the Extra Work until in receipt of a Change Order or Change Directive. Upon receipt of such Change Order or Change Directive the Contractor shall proceed with the Extra Work.

The Contractor may apply for an extension of Contract Time according to the terms of subsection GC 3.06 (OPSS.MUNI 100), Extension of Contract Time.

Either the Owner or Contractor may initiate negotiations upwards or downwards for the payment for the Extra Work pursuant to subsection GC 3.13 (OPSS.MUNI 100), Claims, Negotiations, Mediation, or payment may be made according to the conditions contained in clause GC 8.02.04 (OPSS.MUNI 100), Payment on a Time and Material Basis.

The Owner, or Contract Administrator where so authorized, may request the Contractor to perform Additional Work without invalidating the Contract. If the Contractor agrees to perform Additional Work, the Contractor shall proceed with such Additional Work upon receipt of a Change Order.

The Contractor may apply for an extension of Contract Time according to the terms of subsection GC 3.06, Extension of Contract Time.

Payment for the Additional Work may be negotiated pursuant to subsection GC 3.13 (OPSS.MUNI 100), Claims, Negotiations, Mediation, or payment may be made according to the conditions contained in clause GC 8.02.04 (OPSS.MUNI 100), Payment on a Time and Material Basis.

**37. VALUATION OF VARIATIONS**

- (a) The Engineer shall determine the amount, if any, to be added to, or deducted from, the sum named in the Tender, in respect of any extra or additional work done, or work omitted by his order. All such work shall be valued at the prices as set out in the Schedule of Items and Prices and the Schedule of Additional Unit Prices if, in the opinion of the Engineer, the same shall be applicable.
- (b) If the Contract does not contain any prices applicable to the extra, additional, or omitted work, then the Contractor and the Engineer may agree on a price for such work, in which case the price shall be comparable to prices quoted on work of a similar nature.
- (c) If the methods of evaluating extra as described in (a) or (b) herein are clearly inapplicable, then the Engineer may direct that extra work shall be done by the Contractor on a cost-plus basis providing for payment as follows:
  - (1) The actual cost of all labour, including allowance for holiday pay, unemployment insurance, levy by Workplace Safety and Insurance Board, and other contributions made by the employer to an employee as required by law or a contract, required directly for the performance of extra work plus 15% of the same.
  - (2) The actual cost of materials including transportation charges required directly in the extra work, plus 15% of the same.
  - (3) A reasonable rental to be agreed upon before the work is begun for machinery and heavy equipment, such as tractors, bulldozers, ditching machines, air compressors, concrete mixers and grades, for the actual time required in operation for the performance of the extra work, to which no percentage shall be added.

If the Contractor is directed to carry out extra or additional work on a cost-plus basis and he proposes to have such work or a part thereof carried out by a Sub-Contractor or a sub-Sub-Contractor, he shall notify the Engineer to that effect before commencing the said work. Provided that the contractors involved have first been approved by the Engineer, the Contractor may claim payment from the Owner for such work as follows:

- (i) In respect of work carried out by the Contractor's own forces, and amount equal to the sum of the amounts provided for under (1), (2) and (3) above.
- (ii) In respect of work carried out by a Sub-Contractor's forces, an amount equal to the sum of the amounts provided for under (1), (2) and (3) above plus 5% of such sum.
- (iii) In respect of work carried out by a sub-Sub-Contractor's forces, an amount equal to the sum of the amounts provided for under (1), (2) and (3) above plus a further 5% of the total so obtained.
- (d) The compensation provided for above shall be payment in full for all charges including superintendence, overhead and the use of small tools and profit.

No compensation for extra work or material shall be allowed unless such work or material is ordered in writing by the Engineer. Whenever any extra work is being performed in accordance with (c) herein, the Contractor shall, each working day, report to the Engineer, in writing, in full detail, the amount and cost of the labour and materials supplied and used in carrying out each order for extra work on the preceding

working day, and no claim of or compensation for extra work or materials will be considered or allowed unless such report shall have been made. The Engineer will not allow any compensation for the cost of repairs to equipment of any kind or for damage to anything used in performing any such extra work or making any such alterations.

**38. BOOKS AND RECORDS OF THE CONTRACTOR**

- (a) The Contractor shall keep proper books and records showing names, trades, and address of all workers in his employ and wages paid to, and the time worked by such workers; also records, books and invoices showing all costs, expenditures, payments, settlements, receipts and balances in connection with the construction of the works.
- (b) All records of the Contractor relevant to the valuation of the works including payrolls, time books of account, invoices, and statements, shall be maintained on the site or at some other place approved by the Engineer and shall be open at all reasonable times for inspection by the Engineer. The Contractor shall in every way, assist such inspection for the purpose of establishing and determining labour costs, the cost of extra work, and progress payments to be made.

**39. PAYMENT**

- (a) The Contractor shall submit to the Engineer at the end of each calendar month, a fully itemized statement showing the estimated value of the permanent work executed up to the end of the month based on the unit prices shown in the Contract and the section covering Valuation of Variations, together with a fully itemized statement of the value of major items of material and equipment on site for incorporation into the permanent works.
- (b) From each monthly statement including the statement based on the final measurement, the Engineer shall prepare a Monthly Payment Certificate and will include therein so much as he considers fair and reasonable in respect of the value of the work executed and of the major items of material and equipment on site.
- (c) Ten percent (10%) of all monies due the Contractor in accordance with the Monthly Payment Certificate up to a limit of 10% of the Contract Price, shall be retained by the owner except as may be otherwise noted and shall be termed the holdback.
- (d) The Monthly Payment Certificate will show the Engineer's gross valuation of the work performed and materials supplied, the deduction of the appropriate amount of holdback, the previous payments to the Contractor and the amount due to him.
- (e) No progress estimate or payment shall be held to bind the Engineer in his valuation of the work on its completion and the Engineer may on any Monthly Payment Certificate, make correction or modification to any previous certificate he has made.
- (f) At the time of issuance by the Engineer of the Certificate of Substantial Performance in accordance with section 33(c) of the General Conditions, the Engineer shall
  - (1) notify the Contractor of the value of the maintenance security required by Section 38A.



- (2) prepare a Substantial Performance Payment Certificate showing:
- the value of work complete to date
  - the value of outstanding or uncompleted work
  - the value of the required maintenance security
  - the amount of the 10% holdback (allowing for any previous releases of holdback to the Contractor in respect of completed subcontracts and deliveries of pre-selected equipment)
  - the amount due the Contractor.
- (3) Prepare a payment certificate releasing to the Contractor the 10% holdback due in respect of work performed up to the date of substantial performance. Subject to the provisions of The Construction Lien Act and the submission by the Contractor of the documents required by Section 33(c) hereof, such holdback shall become payable after 45 days from the date of publication of the Certificate of Substantial Performance.
- (g) At the time of issuance by the Engineer of the Certificate of Completion in accordance with Section 33(i) of the General Conditions, the Engineer shall
- (1) Prepare a Completion Payment Certificate showing
- the Final Contract Price.
  - the amount of the further 10% holdback (based on the value of further work completed over and above the value of work completed shown in the Substantial Performance Payment Certificate referred to in (f) above).
  - the amount due the Contractor.
- (2) Prepare a Payment Certificate releasing to the Contractor the further 10% holdback. Subject to the provisions of The Construction Lien Act and the submission by the Contractor of the documents required by Section 33(i) hereof, such further 10% holdback shall become payable after 45 days from the date of completion of the works as established by the Certificate of Completion.
- (h) If, when the Engineer issued the Final Certificate at the end of the period of maintenance (see Section 33(1) hereof), any monies are still being retained by the Owner as maintenance security or for other reasons, the Engineer will issue a Final Payment Certificate releasing the monies due the Contractor.

#### 40. PAYMENT ON A TIME AND MATERIALS BASIS

Daily Work Records, prepared as the case may be by either the Contractor's representative or the Contract Administrator reporting the labour and Equipment employed and the Material used on each Time and Material project, should be reconciled and signed each Day by both the Contractor's representative and the Contract Administrator. If it is not possible to reconcile the Daily Work Records, then the Contractor shall submit the un-reconciled Daily Work Records with its claim, whereby the resolution of the dispute about the Daily Work Records shall not be resolved until there is a resolution of the claim.

**Payment for Work**

Payment as herein provided shall be full compensation for all labour, Equipment, and Material to do the Work on a Time and Material Basis except where there is agreement to the contrary prior to the commencement of the Work on a Time and Material Basis. The payment adjustments on a Time and Material basis shall apply to each individual Change Order authorized by the Contract Administrator.

**Payment for Labour**

The Owner shall pay the Contractor for labour employed on each Time and Material project at 135% of the Cost of Labour up to \$3,000, then at 120% of any portion of the Cost of Labour in excess of \$3,000.

The Owner shall make payment in respect of Payroll Burden for Work on a Time and Material Basis at the Contractor's actual cost of Payroll Burden.

At the Owner's discretion, an audit may be conducted in which case the actual Payroll Burden so determined shall be applied to all Time and Material work on the Contract.

**Payment for Material**

The Owner shall pay the Contractor for Material used on each Time and Material project at 120% of the Cost of the Material up to \$3,000, then at 115% of any portion of the Cost of Material in excess of \$3,000.

**Payment for Equipment  
Working Time**

The Owner shall pay the Contractor for the Working Time of all Equipment, other than Rented Equipment and Operated Rented Equipment, used on the Work on a Time and Material basis at The 127 Rates with a cost adjustment as follows:

Cost \$10,000 or less - no adjustment;

Cost greater than \$10,000 but not exceeding \$20,000 - payment \$10,000 plus 90% of the portion in excess of \$10,000;

Cost greater than \$ 20,000 - \$19,000 plus 80% of the portion in excess of \$20,000.

The Owner shall pay the Contractor for the Working Time of Rented Equipment used on the Work on a Time and Material Basis at 110% of the invoice price approved by the Contract Administrator up to a maximum of 110% of The 127 Rate. This constraint shall be waived when the Contract Administrator approves the invoice price prior to the use of the Rented Equipment.

The Owner shall pay the Contractor for the Working Time of Operated Rented Equipment used on the Work on a Time and Material Basis at 110% of the Operated Rented Equipment invoice price approved by the Contract Administrator prior to the use of the Equipment on the Work on a Time and Material Basis.

**Standby Time**

The Owner shall pay the Contractor for Standby Time of Equipment at 35% of The 127 Rate or 35% of the invoice price whichever is appropriate. The Owner shall pay reasonable costs for Rented Equipment where this is necessarily retained in the Working Area for extended periods agreed to by the Contract Administrator. This shall include Rented Equipment intended for use on other work, but has been idled due to the circumstances giving rise to the Work on a Time and Material Basis.

In addition, the Owner shall include the Cost of Labour of operators or associated labourers who cannot be otherwise employed during the standby period or during the period of idleness caused by the circumstances giving rise to the Work on a Time and Material Basis.

The Contract Administrator may require Rented Equipment idled by the circumstances giving rise to the Work on Time and Material Basis to be returned to the lessor until the work requiring the equipment can be resumed. The Owner shall pay such costs as a result from such return.

When Equipment is transported, solely for the purpose of the Work on a Time and Material Basis, to or from the Working Area on a Time and Material basis, payment shall be made by the Owner only in respect of the transporting units. When Equipment is moved under its own power it shall be deemed to be working. The method of moving Equipment and the rates shall be subject to the approval of the Contract Administrator.

#### **Payment for Hand Tools**

Notwithstanding any other provision of this Section, no payment shall be made to the Contractor for or in respect of Hand Tools or equipment that are tools of the trade.

#### **Payment for Work By Subcontractors**

Where the Contractor arranges for Work on a Time and Material Basis, or a part of it, to be performed by Subcontractors on a Time and Material basis and has received approval prior to the commencement of such work, in accordance with the requirements of subsection GC 3.09 (OPSS.MUNI 100), Subcontracting by the Contractor, the Owner shall pay the cost of Work on a Time and Material Basis by the Subcontractor calculated as if the Contractor had done the Work on a Time and Material Basis, plus a markup calculated on the following basis:

20% of the first \$3,000; plus  
15% of the amount from \$3,000 to \$10,000; plus  
5% of the amount in excess of \$10,000.

No further markup shall be applied regardless of the extent to which the work is assigned or sublet to others. If work is assigned or sublet to an associate, as defined by the *Securities Act*, no markup whatsoever shall be applied.

#### **Submission of Invoices**

At the start of the Work on a Time and Material Basis, the Contractor shall provide the applicable labour and Equipment rates not already submitted to the Contract Administrator during the course of such work.

Separate summaries shall be completed by the Contractor according to the standard form "Summary for Payment of Accounts on a Time and Material Basis." Each summary shall include the Change Directive or Change Order number and covering dates of the work and shall itemize separately the labour, Materials, and Equipment. Invoices for Materials, Rented Equipment, and other charges incurred by the Contractor on the Work on a Time and Material Basis shall be included with each summary.

Each month the Contract Administrator shall include with the monthly progress payment certificate, the costs of the Work on a Time and Material Basis incurred during the preceding month all in accordance with the contract administrative procedures and the Contractor's invoice of the Work on a Time and Material Basis.

The final "Summary for Payment of Accounts on a Time and Material Basis" shall be submitted by the Contractor within 60 Days after the completion of the Work on a Time and Material Basis.

#### **Payment Other Than on a Time and Material Basis**

Clause GC 8.02.04 (OPSS.MUNI 100) does not preclude the option of the Contract Administrator and the Contractor negotiating a Lump Sum Item or unit price payment for Change in the Work, Extra Work, and Additional Work.

#### **Payment Inclusions**

Except where there is agreement in writing to the contrary, the compensation, as herein provided, shall be accepted by the Contractor as compensation in full for profit and all costs and expenses arising out of the work, including all cost of general supervision, administration, and management time spent on the work, and no other payment or allowance shall be made in respect of such work.

#### **41. SUSPENSION OF WORK**

The Engineer may, by an order in writing, at any time, stop or suspend any part of the work, or direct any portion to be commenced or completed in priority to any other part or portion, or may cancel the order to proceed with the work, or with any part thereof, and the Contractor shall not thereby be entitled to any additional payment, or to claim for loss of profit or anticipated profit, or for damages or otherwise howsoever, by reason of such order except as may be allowed in accordance with Section 14 hereof. When in the opinion of the Engineer, it is deemed advisable for any reason to discontinue the work, or any part thereof, for the winter, the Contractor must, on notice from the Engineer of the required discontinuation, forthwith place the work in proper and satisfactory condition for the accommodation and safety of the public and for the effectual protection of the work against damage from rain, snow, frost, ice, wind or other causes, and must so maintain the work.

When work is ordered or permitted by the Engineer to be done during freezing weather, the Contractor shall provide the necessary means for heating, and all the materials required in the work shall be heated. Unless otherwise directed in writing by the Engineer, all masonry, concrete, painting, roadway and other work liable to be injuriously affected by frost, or which cannot, in the opinion of the Engineer, be satisfactorily proceeded with because of the condition of the weather, must be put in proper and satisfactory condition and be carefully and well protected from damage by frost at all times - all at the cost and expense of the Contractor.

#### **42. SUB-LETTING**

The Contractor shall keep the work under his personal control, and shall not assign, transfer, or sub-let any portion without first obtaining the written consent of the Engineer. The consent of the Engineer to any such assignment, transfer, or sub-letting, shall not, however, relieve the Contractor of any responsibility for the proper commencement, execution, and completion of the work according to the terms of the Contract. If the Engineer consents to any such assignment, transfer or sub-letting, the Contractor shall, either in person or through an accredited agent, receive all notices, communication, orders, instructions, or legal service, as if he were performing the work with his own plant and his own men.

**43. USE OF HYDRANTS AND WATER**

The contractor shall make his own arrangements for a supply of water to be used in carrying out the Contract, and shall bear all costs for water and temporary connections unless otherwise specifically provided for in the Contract.

The Contractor shall comply with the regulations of the authority supply the water regarding the use and care of hydrants. Any damage to hydrants caused by the Contractor's operations shall be his responsibility. In the event the Contractor fails to make good such damage, the Engineer will have the necessary repairs made and will retain the cost from monies due the Contractor.

The Contractor shall bear the cost of all water used in the testing and chlorination of all installations.

**44. SETTING OUT**

The Engineer will provide the Contractor in writing with bench marks and points of reference to be used by him in setting out the works. The Owner will be responsible only for the correctness of the information so supplied.

From these bench marks and points of reference, the Contractor will do his own setting out. The setting out by the Contractor shall include but shall not be limited to the preparation of grade sheets, the installation of centre line stakes, grade stakes, off-sets, site rails and screens.

The Contractor shall be responsible for the true and proper setting out of the works and for the correctness of the position, levels, dimensions and alignment of all parts of the works, and for the provision of all necessary instruments and labour in connection therewith. The Contractor shall not be responsible for the correctness of the information supplied by the Engineer as herein provided for. If at any time during the progress of the works, any error shall appear or arise in the position, levels, dimensions or alignment of any part of the works, the Contractor shall, at his own expense, rectify such error to the satisfaction of the Engineer, unless such error is based on incorrect data supplied in writing by the Engineer. The checking of the setting out of any line or level by the Engineer shall not in any way relieve the Contractor of his responsibility for the correctness thereof and the Contractor shall carefully protect and preserve all bench marks, stakes and other things used in setting out the works.

**45. ASSISTANCE**

The Contractor is to furnish the Engineer or any of his assistants, with any reasonable help which he or they may require at any time in checking the work. He shall also furnish the said parties, or any of the Inspectors, at all times, with convenient means of access to all parts of the works, and also with all required assistance to facilitate thorough examination of the same, and inspection, culling and removal of doubtful or defective material, and for any other purpose required in connection with the said works or in the discharge of their respective duties, for which services no additional allowance will be made.

**46. OTHER'S RIGHTS**

The Contractor must afford all necessary and reasonable facilities to the Owner, or any of its employees or workers, as well as to any company, corporation or person owning or operating any railway, tramway, wires, pipes or conduits or works or property, on, along, or near the line of the works, or in their vicinity; he shall notify all such parties before interfering with any of their property, rights or privileges and must work in harmony with them; otherwise he shall notify the Engineer in writing of his failure so to do, or of any difficulty that may at any time arise which he may be unable to overcome, in which case the Engineer shall deal with the matter as in his judgement may seem right or proper, and the Contractor shall abide by the decision and the direction of the Engineer. Any property of such parties which the Engineer orders to be moved by the Contractor must be handled with care, and must be neatly piled up and preserved free from injury or loss, and must be properly and satisfactorily replaced, all of which must be done by the Contractor without extra charge (unless specifically provided for in the Contract) and to the satisfaction of the Engineer. The Engineer shall have the right, at any time before or during the construction, or after the completion of the work, to open up any portion of the work or works, or the ground or roadway, or to grant permission for such opening to be made or left by the Contractor, as he, the Engineer, may deem advisable, for the purpose of examining, repairing or laying any water, gas or other pipe, sewer, drain, track or other underground or surface construction or to cause any such work as he may deem necessary or advisable to be done, and such permission, or the exercise of such rights, either by the Engineer or by any other person or corporation having the requisite authority (either statutory or otherwise), shall not relieve the Contractor from any of his responsibilities or obligations nor shall the opening up of any portion of the work for these or any other purpose, or by any other parties, relieve the Contractor of such responsibilities or obligations, except only for the portion of the work actually torn up and destroyed, and then only in case the Contractor applies in writing for such relief at the time the work is being done, or within ten (10) days afterwards, and can furnish sufficient cause, in the opinion of the Engineer, why such relief should be granted.

**47. MONIES DUE OWNER**

All monies payable to the Owner by the Contractor under any stipulation herein or to the Workplace Safety and Insurance Board, may be retained out of any monies then due, or which may become due, from the Owner to the Contractor under this or any other Contract with the Owner, or otherwise howsoever, or may be recovered from the Contractor or his surety jointly or severally, in any court of competent jurisdiction, as a debt to the Owner, and the Owner shall have full power to withhold any estimate or certificate if circumstances arise which may indicate to it the advisability of so doing, though the sum to be retained may be unascertained.

**48. WORKERS' RIGHTS**

All persons in the employ of the Contractor or Sub-Contractor or other person doing or contracting to do the whole or any part of the work contemplated by the Contract, shall be paid fair wages and shall have hours of work in conformity with any Provincial Act and any regulations under such Act that relate to wages, hours of work or other labour conditions and in any event, shall be paid not less than the wages prevailing in the locality of the work.

In case of a dispute as to the rate or amount of wages to be paid under the Contract to any mechanic, workers, labourer, truck owner or driver, the matter shall be referred to the Engineer for a decision.

In case the Contractor or his agents fail to pay any mechanic, worker, labourer or truck owner or driver, employed by him in the execution of this Contract, (or in case any truck owner so employed by him fails to pay any driver) the rate of wages hereinbefore provided, the Owner may pay any balance necessary to make up this amount, and charge it to the Contract. The provisions of this section shall not, however, apply to any work which is of necessity done away from the site.

So far as is practicable, local labour shall be given preference in carrying out the work under this Contract. The Contractor shall not favour and shall not refuse employment to or otherwise discriminate against any person because of that person's race, colour, religion or national origin or because that person has made a complaint or given information with respect to an alleged failure by the Contractor or a Sub-Contractor to comply with the provisions hereof.

#### **49. LIENS**

The Contractor and his surety, executors, administrators, successors and assigns, (if assignment is approved as herein provided) and any and all other parties in any way concerned, shall fully relieve and indemnify the Owner and all its officers, servants and employees from any and all liability or expenses in respect to any claim which may be made for a lien or charge at law or in equity or to any claim or liability or to any attempted attachment for debt, garnishee, process or otherwise. The owner shall not in any case be liable to any greater extent than the amount owing by it to the Contractor, his executors, administrators, successors and assigns, pursuant to this Contract.

#### **50. REMOVAL OF PERSONNEL**

Should any superintendent, foreman, mechanic or worker employed on or about the work or in connection therewith, give any just cause for complaint (of which the Engineer shall be the sole judge), the Engineer may instruct the Contractor to remove such person from the works forthwith.

#### **51. NON-FULFILMENT OF THE CONTRACT**

If, in the opinion of the Engineer, and at any time or times prior to the issuance of the Final Certificate, the Contractor neglects or fails to commence work within seven (7) days after the date of the Engineer's written order to commence work, or becomes bankrupt or insolvent, or compounds with his creditors, or commits any act of insolvency, or transfers, assigns or sub-lets the Contract or any part thereof without the written consent of the Engineer, or has not executed or is not executing the work or any part thereof in a sound and workmanlike manner and in accordance with the Contract, or is not performing the work so as to ensure its completion within the time stipulated in the Contract, or has failed to complete the works with the said time, or fails or refuses to take down, re-build, repair or rectify any imperfect works for which the Contractor is responsible, or fails to remove any condemned material or to replace such material with proper material, or fails to comply with any reasonable order given to him by the Engineer, or abandons the work, or fails to observe or perform any of the provisions of the Contract, then in each and any such case, the Engineer shall, after giving the Contractor 48 hours written notice, have the right and power, at his discretion without process or action at law, to take possession and control of the whole work, or any part or parts thereof specified in the said notice, from the Contractor, and the Contractor upon receiving the said notice, shall give possession and control of the said work, or the part or parts thereof specified in the said notice, peaceably to the Engineer, and the Engineer may employ such means as he may deem necessary or advisable to complete the work to his satisfaction with such changes therein as in the Engineer's opinion, are necessary or advisable by reason of the Contractor's non-fulfilment of the Contract as set out herein. In the event of any emergency in any manner due to the Contractor's non-fulfilment of the Contract as set out above or in Section 30 (a) hereof, the Engineer shall have the

right and power at his discretion without process or action at law or any notice to the Contractor to take possession and control of the works, or any part thereof, from the Contractor and the Engineer may take such measures as he may deem necessary or advisable to deal with the emergency and the decision of the Engineer as to the existence of such an emergency shall be final. If, in the event of any emergency as aforesaid, the Engineer takes measures in regard thereto as provided for above, he shall notify the Contractor thereof as soon after the commencement of the emergency as is practicable. The Contractor and his surety in every case provided for above, shall be liable for all loss, damage, expense, expenditures and cost which may be incurred by reason of the Engineer's exercise of the rights and powers provided for herein. If the said loss, damage, expense, expenditure or cost exceeds the sum which would have been payable under the Contract if the same had been completed by the Contractor, the Contractor or his surety shall pay the amount of such excess to the Owner together with the amount of liquidated damages from the date fixed for the completion of the work, and the same may be deducted or collected by the Owner as provided for in Section 45 entitled "Monies Due Owner". All the powers of the Engineer with respect to the determination of any doubts, disputes and differences, and the determination of the sum or sums, or balance of money to be paid to or received from the Contractor of any stipulation in the Contract may be enforced by legal proceedings and judgement, or order of court, without prejudice to any other remedy herein contained.

In case possession and control of the work, or any part thereof, is taken from the Contractor as herein provided the relative obligations of the Owner and the Contractor and his surety in respect of the Contract shall not be affected nor shall the completion of the work be delayed; all property, materials, articles and things whatsoever including all machinery, tools, plant and equipment, and all rights proprietary or otherwise, licences, powers and privileges, whether relating to or affecting real or personal property, acquired, possessed or provided by the Contractor for the purpose of the work, or by the Engineer under the provisions of this Contract, shall be employed by the Owner as fully as they might have been used, exercised and employed by the Contractor, and the Owner may sell or otherwise, the whole or any portion or number of such property, materials, articles and things, at such price or prices as it may deem fit and retain the proceeds of any sale or disposition and all other amounts then or thereafter due the Owner by the Contractor on account of or in part satisfaction of any loss, damage, expense or cost which the Owner may sustain or has sustained by reason aforesaid. If any balance of the contract price, or any other money payable by the Owner hereunder, shall remain in the hands of the Owner upon the completion of the measures taken by the Engineer and the fulfilment of the Contract, the same shall be payable to the Contractor or the person legally representing him, but neither the Owner nor any officer, employee or agent hereof shall be liable or accountable to the Contractor or his surety in any way for the manner in which, or the price at which, the said work or any portion thereof, may have been or may be done or completed by the Engineer.

Neither an extension of time for any reason beyond the date fixed herein for the completion of the Contract, nor the payment for any portion of the work shall be deemed to be a waiver by the Engineer or the Owner of their rights under the Contract.

## 52. **BRIBERY**

Should the Contractor or any of his agents give or offer any gratuity to, or attempt to bribe the Owner, or any officer or servant of the Owner or any agent of the Engineer, the Owner shall be at liberty to cancel the Contract forthwith, or to direct the Engineer to take the whole or any part of the works out of the hands of the Contractor, under the same provisions as those specified in the proceeding section hereof.



### 53. DISPUTES

#### (a) Contractor's Claims

Any claim which the Contractor may have against the Owner based on any dispute or difference of any kind whatsoever arising out of the Contract or work shall not be grounds for delay in the work but shall be referred by the Contractor in writing to the Engineer not later than fifteen (15) days after the Contractor becomes aware of the circumstances giving rise to such dispute or difference. Such reference to the Engineer shall contain a concise statement of the relevant facts. The Engineer may require additional information.

The claim shall be settled by the Engineer who shall communicate his decision in writing to the parties within sixty (60) days of the reference and such decision shall forthwith be given effect by the parties, and the Contractor shall proceed with the works with all due diligence in accordance therewith whether or not such claim shall be referred to arbitration as hereinafter provided.

Except in those circumstances where it is provided in the Contract that the decision of the Engineer shall be final, any dispute or difference persisting after the delivery of the Engineer's decision or after the expiry of the period of sixty (60) days aforementioned, whichever shall first occur, shall, within thirty (30) days, be referred to arbitration in accordance with the Provincial Arbitration Act and as herein provided.

The arbitration shall be by a board of three members except as provided for in the following paragraph hereof.\* Either party shall notify the other party in writing of its desire to submit the dispute or difference to arbitration

and the notice shall contain the name of the first party's appointee to the arbitration board. The recipient of the notice shall within fourteen (14) days, inform the other party of the name of its appointee to the arbitration board. The two members so selected, shall within fourteen (14) days of the appointment of the second of them, appoint a third person who shall be the chairman.

\*Alternatively, the arbitration board may consist of a sole arbitrator provided that

- (i) The Owner and the Contractor so agree, and
- (ii) The Owner and the Contractor agree upon the person to be appointed as sole arbitrator.

Either party may appeal from the arbitration award.

Reference to arbitration by the Contractor as herein provided shall be a condition precedent to any legal action by him with respect to any dispute or difference of any kind whatsoever which the Contractor may have with the Owner arising out of the Contract or work.

#### (b) Owners Claims

Any claim which the Owner may have against the Contractor based on any dispute of difference of any kind whatsoever arising out of the Contract or work may, at the option of the Owner, and after notification in writing to the Contractor, be settled in accordance with the procedure set out in sub-section (a) hereof and the provisions thereof shall apply, the necessary changes having been made.

**54. SPECIFICATION EXPLANATION**

- (a) The Specifications may be of the simplified abbreviated type and include incomplete sentences. "The Contractor shall", "in conformity therewith", "as noted on the Drawings", "according to the plans", "a", "an", "the" and "all" are intended. Omitted works or phrases shall be supplied by inference in the same manner as they are when a "note" occurs on the drawings.
- (b) Whenever the words "approved", "satisfactory", "reviewed", "directed", "submitted", "inspected" or similar words and phrases are used, it shall be assumed that the words "Engineer or his representative" follows the verb as the object of the clause such as "approved by the Engineer or this representative".
- (c) All reference to standard specifications or manufacturer's installation directions shall mean the latest edition thereof.

**55. EMERGENCY TELEPHONE NUMBER**

The Contractor shall have a representative from his staff on call, 24 hours a day, seven (7) days a week. The representative should be familiar with the project, and be able to handle any emergency that may arise during the course of the construction.

## **APPENDIX A**

### **SUBMISSION ENVELOPE**

Complete the required information on the following Tender envelope cover sheet and firmly affix to the Tender submission envelope.

SUBMITTED BY:

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# TENDER

**SUBMITTED TO:** TOWN OF AMHERSTBURG – TOWN HALL (UPPER LEVEL)  
271 SANDWICH STREET SOUTH  
AMHERSTBURG, ONTARIO  
N9V2A5

**ATTENTION:** CLERKS DEPARTMENT

**PROJECT:** REPAIR AND IMPROVEMENT TO THE LEO BEAUDOIN DRAIN  
PWD-MD-2012-006  
PP-PS-17-18

**CLOSING:** THURSDAY, SEPTEMBER 28, 2017 AT 11:00AM

THIS PORTION TO BE COMPLETED BY THE TOWN OF AMHERSTBURG

RECEIVED DATE: \_\_\_\_\_ RECEIVED TIME: \_\_\_\_\_ RECEIVER'S INITIALS: \_\_\_\_\_ SUBMITTER'S INITIALS: \_\_\_\_\_

## APPENDIX B

### TOWN OF AMHERSTBURG ACCESSIBLE CUSTOMER SERVICE STANDARDS POLICY

#### **Disruption of Services**

If there is a disruption in a particular facility or service used to allow a person with a disability to access goods or services, the Town will give notice of the disruption to the public by posting the reason for the disruption, the anticipated duration of the disruption, and alternative facilities or services that may be available. This posting will be in a conspicuous place on the premises of the Town of Amherstburg, the Town website and/or by other reasonable methods in the circumstances. If the Town anticipates a disruption, the Town will provide a reasonable amount of advance notice of the disruption. If the disruption is unexpected, notice will be provided as soon as possible.

#### **Training**

The Town will ensure that all persons to whom the *Accessible Customer Service Standards Policy* applies to receive training as required. The amount and format of training given will be tailored to suit each person's interactions with the public and his or her involvement in the development of policies, procedures and practices pertaining to the provision of goods and services. This training includes, but is not limited to, the Town's policies, procedures and practices pertaining to the provision of goods and services to customers with disabilities and how to assist customers with disabilities in accessing the Town's goods and services. The Town will keep records of this training.

#### **Feedback**

Feedback from the public is welcomed as it may identify areas that require change and encourage service improvements. Feedback or complaints may be given by telephone, in person, in writing, or in electronic format or through other methods.

Information about the Town's feedback policy and process is posted on the Town's website ([www.amherstburg.ca](http://www.amherstburg.ca)).

If a complaint is received regarding the accessibility of the Town's goods and services, it will be reviewed by the relevant division or department. These will be reviewed for the purpose of resolving the issue and to improve the Town's understanding of its customer's needs.

Feedback will be responded to within three (3) business days of its receipt by the Town.

#### **Availability of Documents**

This policy will be made available upon request in a format that takes into account the person's disability to any person to whom it provides goods or services as well as on the Town of Amherstburg website.

#### **Background and Purpose**

*The Accessibility for Ontarians with Disabilities Act, 2005 (AODA)* is a Provincial Act with the purpose of developing, implementing and enforcing standards that enhance the ability of persons with disabilities to access the goods and services that are available to others. Accessibility Standards for Customer Service is the first standard to be passed as a regulation and become law in Ontario. Under this standard designated private and public sector organizations must develop certain policies, procedures and practices pertaining to customer service to persons with disabilities.

#### **What is Accessible Customer Service?**

Persons with disabilities may require assistance or accommodation in the way that goods and services are provided to them. The type of accommodation provided may vary depending on the customer's unique needs.

#### **Accessible Customer Service Policy Statement**

The Town of Amherstburg is committed to providing quality goods and services that are accessible to all persons that we serve.

## **Exclusions**

This Accessible Customer Service Standards Policy shall not apply during any period where Council has declared a "State of Emergency" as defined under the **Emergency Management Act**.

## **GENERAL PRINCIPLES**

### **The Provision of Goods and Services to Persons with Disabilities**

The Town of Amherstburg will use reasonable efforts to ensure that the Town's goods and services are provided in a manner that:

- a. Respects the dignity and independence of persons with disabilities;
- b. Provides goods and services to persons with disabilities in an integrated manner with those who do not have disabilities unless an alternative measure is necessary and
- c. Provides an opportunity equal to that of persons without disabilities to obtain, use or benefit from the Town's goods and services.

When communicating with a person with a disability, the Town will do so in a manner that takes into account the person's disability.

### **Assistive Devices, Service Animals and Support Persons**

Persons with disabilities may use assistive devices, support persons or service animals to assist them in accessing the Town's goods and services.

The Town will allow people to use their personal assistive device to access services. The Town will also ensure that staff is familiar with how to use or how to access information on the use of the assistive devices which are available in their respective area of responsibility.

If a person with a disability is accompanied by a service animal, the Town will permit the person to enter the premises with the animal and keep it with him or her, unless the animal is otherwise excluded by law from the premises.

If the service animal is excluded by law from the premises, the Town will look to other available measures to enable the person with a disability to obtain, use or benefit from the Town's goods and services.

If it is not readily apparent that the animal is a service animal, the Town may ask the person with a disability for a letter from a physician or nurse confirming that the person requires the animal for reasons relating to his or her disability. The Town may also, or instead, ask for a valid identification card signed by the Attorney General of Canada or a certificate of training from a recognized guide dog or service animal training school.

It is the responsibility of the person with a disability to ensure that his or her service animal is kept in control at all times.

If a person with a disability is accompanied by a support person, they are permitted to enter the premises together and are not prevented from having access to each other while on the premises.

The Town may require a person with a disability to be accompanied by a support person while on Town premises in situations where it is necessary to protect the health or safety of the person with a disability or the health and safety of others on the premises.

Where fees for goods and services are advertised or promoted by the Town of Amherstburg, it will provide advance notice of the amount payable, if any, in respect of the support person.