

CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 1999-24

Being a By-law to authorize the execution of a construction contract.

WHEREAS the Corporation of the town of Amherstburg has proposed the construction of parking lots on William Street and Dalhousie Street, and sewer replacement on Sandwich Street North; and

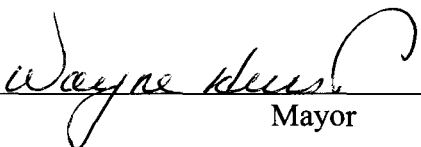
WHEREAS tenders were called for the proposed works by the engineering firm of Hanna, Ghobrial & Spencer Ltd., and the low tender received from D'Amore Construction (Windsor) Limited in the amount of \$97,563.00, plus G.S.T.

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


1. That the entering into by the Corporation of the Town of Amherstburg of a contract in the form annexed hereto with D'Amore Construction (Windsor) Limited for the construction of parking lots on William Street and Dalhousie Street, and sewer replacement on Sandwich Street North, in the Town of Amherstburg, be hereby approved, ratified, and confirmed.
2. That the Mayor and Clerk be authorized to execute the said Contract and to affix the Corporate Seal thereto.
3. That this By-law shall come into force and effect on the final date of passing thereof.

FINALLY PASSED this 26th day of April , 1999.

1



Mayor



Clerk

1st Reading: April 26, 1999

2nd Reading: April 26, 1999

3rd Reading: April 26, 1999

AGREEMENT BETWEEN OWNER AND CONTRACTOR
for use when unit prices form the basis of payment and to be used
only with the General Conditions of the Unit Price Contract.

This Agreement made on the day of

in the year nineteen hundred and Ninety Nine

by and between

The Corporation of the Town of Amherstburg

hereinafter called the "Owner".

and

D'Amore Construction (Windsor) Ltd.

hereinafter called the "Contractor"

witnesses: that the parties agree as follows

ARTICLE A-1 THE WORK

The Contractor shall:

(a) perform the Work required by the Contract Documents for Sandwich Street Sewer
(insert here the title of the Work and the Project)

Replacement/Dalhousie and William Street Parking Lots

which have been signed by the parties, and which were prepared by Hanna, Ghobrial and Spencer Ltd.

..... acting as and hereinafter called "Consultant" and

(b) do and fulfill everything indicated by this Agreement, and

(c) commence the Work by the day of 19⁹⁹

and attain Substantial Performance of the Work, as certified by the Consultant, by the .. 15th

day of May 19⁹⁹

ARTICLE A-2 CONTRACT DOCUMENTS

The following is an exact list of the Contract Documents referred to in Article A-1 of this Agreement and as defined in item 2 of DEFINITIONS. This list is subject to subsequent amendments in accordance with the provisions of the Contract and agreed upon between the parties. Terms used in the Contract Documents which are defined in the attached DEFINITIONS shall have the meanings designated in those DEFINITIONS.

(Insert here, attaching additional pages if required, a list identifying the Contract Documents including: the Agreement, General Conditions, Supplementary Conditions, Definitions, drawings, giving drawing number, title, date, revision date or mark, and specifications, giving a list of contents with section numbers and titles, number of pages, and date or revision marks. Clearly identify modifications to the Contract Documents.)

Specification

No. of Pages

General Information to Tenderers	7
Special Information to Tenderers	9
Form of Tender	8
Form of Agreement	26
Special Provisions	29
Sewers	20
Standard Specifications	3

Drawings

* See attached Item 2.8 - List of Drawings

ARTICLE A-3 CONTRACT PRICE

- (a) The quantities shown in the Schedule of Contract Unit Prices are estimated. The Contract Price shall be the final sum of the products of the actual quantities that are incorporated in, or made necessary by the Work, as confirmed by count and measurement, and the appropriate Contract Unit Prices, together with any adjustments that are made in accordance with the provisions of the Contract Documents.
- (b) The Estimated Contract Price shall be the sum of the products of the estimated quantities and the appropriate Contract Unit Prices in the Schedule.
- (c) Schedule of Contract Unit Prices.*

* See attached Form of Tender

<u>Item</u>	<u>Spec. No.</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Contract Unit Price</u>	<u>Estimated Total Price</u>
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Continues . . .

(c) Schedule of Contract Unit Prices* continued...

<u>Item</u>	<u>Spec. No.</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Contract Unit Price</u>	<u>Estimated Total Price</u>
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Estimated Contract Price _____
\$ 97,563.00

.....
..Ninety..Seven..Thousand, Five Hundred & Sixty Three-- dollars in Canadian funds.

* If space for listing items is insufficient, annex a list and make reference thereto.

ARTICLE A-4 PAYMENT

The Owner shall pay the Contractor in Canadian funds for the performance of the Contract, the amounts being determined by actual measured quantities of the individual work items contained in the Schedule of Contract Unit Prices in Article A-3(c) of this Agreement, and measured in accordance with the methods of measurement given in the specifications.

- b) Subject to applicable legislation and the provisions of the Contract Documents, and in accordance with legislation and statutory regulations respecting holdback percentages and, where such legislation or regulations do not exist or apply, subject to a holdback of ten percent (10 %), the Owner shall:
- (1) make monthly payments to the Contractor on account of the work performed as certified by the Consultant, and
 - (2) upon Substantial Performance of the Work as certified by the Consultant pay to the Contractor the unpaid balance of holdback monies then due, and
 - (3) upon Total Performance of the Work as certified by the Consultant pay to the Contractor the unpaid balance of monies then due.
- (c) In the event of loss or damage occurring where payment becomes due under the property and boiler insurance policies, payment shall be made to the Contractor in accordance with the provisions of GC 20 – INSURANCE.

If the Owner fails to make payments to the Contractor as they become due under the terms of this Contract or in an award by arbitration or court, interest of twelve percent (12 %) per annum on such unpaid amounts shall also become due and payable until payment. Such interest shall be calculated and added to any unpaid amounts monthly.

ARTICLE A-5 RIGHTS AND REMEDIES

- (a) The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- (b) No action or failure to act by the Owner, Consultant or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

ARTICLE A-6 RECEIPT OF AND ADDRESSES FOR NOTICES

Communications in writing between the parties or between them and the Consultant shall be considered to have been received by the addressee on the date of delivery if delivered by hand to the individual or to a member of the firm or to an officer of the corporation for whom they are intended or if sent by post or by telegram, to have been delivered within five (5) working days of the date of mailing, dispatch or of delivery to the telegraph company when addressed as follows:

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

The Contractor at 2501 Ouellette Avenue
..... street and number and postal box number if applicable
Windsor, Ontario N8X 1L5
.....
..... post office or district, province, postal code

The Consultant at 3100 Temple Drive
..... street and number and postal box number if applicable
Windsor, Ontario N8W 5J6
.....
..... post office or district, province, postal code

ARTICLE A-7 LAW OF THE CONTRACT

The law of the Place of the Work shall govern the interpretation of the Contract.

ARTICLE A-8 LANGUAGE OF THE CONTRACT

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

This Agreement is drawn in English at the request of all parties hereto; ce marché est rédigé en anglais à la demande de toutes les parties.

*Complete this statement by striking out inapplicable term if the Contract Documents have been prepared and issued in both official languages of Canada.

ARTICLE A-9 SUCCESSION

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

In witness whereof the parties hereto have executed this Agreement under their respective corporate seals and by the hands of their proper officers thereunto duly authorized.

SIGNED, SEALED AND DELIVERED
in the presence of:

OWNER

The Corporation of the Town of Amherstburg

name

signature

name and title

signature

name and title

CONTRACTOR

D'Amore Construction (Windsor) Ltd.

name

signature

name and title

signature

name and title

witness

name and title

witness

name and title

N.B. Where legal jurisdiction, local practice, or Owner or Contractor requirement calls for proof of authority to execute this document, proof of such authority in the form of a certified copy of a resolution naming the person or persons in question as authorized to sign the Agreement for and on behalf of the corporation or partnership, parties to this Agreement, should be attached.