

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2006-05

Being a by-law to authorize the signing of agreements with
Various contractors for watermain replacements on
Simcoe Street, Lowes Sideroad, Balaclava and Fort Streets.

WHEREAS the Town of Amherstburg deems it necessary to replace existing aging watermains to maintain the integrity of the water supply system; and

WHEREAS the Town of Amherstburg has engaged HGS Limited Consulting Engineers to prepare specifications and perform the tendering process; and

WHEREAS the following contractors were selected at the December 12, 2005 Council meeting for different parts of construction:

Simcoe Street – Smith Contracting	\$426,190.00
Lowes Sideroad – M.R. Dunn Contractors Ltd.	\$ 84,091.00
Balaclava Street – Smith Contracting	\$132,500.00
Fort Street – Smith Contracting	\$302,375.00

WHEREAS HGS Consulting has prepared agreements between the Town of Amherstburg and the various contractors and said agreements are attached hereto as Schedule 'A' (Smith Contracting) and Schedule 'B' (M.R. Dunn Contractors Ltd.) and form part of this By-law.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF

THE TOWN OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:

1. That the Mayor and Clerk be, and they are hereby authorized and instructed, to execute the originals and the copies of the said agreements with Smith Contracting (Schedule A) and M.R. Dunn Contracting (Schedule B) and to affix the Corporate seal thereto.
2. That this By-law shall come into force and take effect on the date of final passage thereof.

Read a first, second and third time and finally passed this 9th day of January, 2006.


MAYOR


CLERK

Certified to be a true copy of By-law
No. 2006-05 passed by Council of the
Town of Amherstburg on the 9th day
of January 2006.

Clerk

SCHEDULE "A"

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 14TH day of December in the year two thousand and five.

by and between

The Corporation of the Town of Amherstburg
hereinafter called the "Owner"

and

Smith Contracting
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

Amherstburg Watermain Replacement 2005 – Simcoe Street, Balaclava Street and Fort Street

(insert here the title of the Work and the Project)

which have been signed by the parties, and which were prepared by **HGS LIMITED**
acting as and hereinafter called "Consultant" and

- (b) do and fulfill everything indicated by this Agreement, and
- (c) Commence the Work by the 1st day of **January** 2006.
and attain Substantial Performance of the Work, as certified by the Consultant, by the
31st day of **May** 2006.

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.)

Specifications

- GENERAL INFORMATION TO TENDERERS**
- SPECIAL INFORMATION TO TENDERERS**
- FORM OF TENDER**
- FORM OF AGREEMENT AND GENERAL CONDITIONS**
- SPECIAL PROVISIONS**
- STANDARD SPECIFICATIONS**
- STANDARD DETAILS**
- WATERMAIN SPECIFICATIONS**
- SEWER SPECIFICATIONS**
- CLARIFICATION NO. 1**

Drawings

<u>Sheet #</u>	<u>Description</u>
1	Index, Legend, Key Plan & Benchmark
2	Plan & Profile – Simcoe Street
3	Plan & Profile – Simcoe Street
4	Plan & Profile – Simcoe Street
5	Plan & Profile – Simcoe Street
6	Plan & Profile – Lowes Sideroad – N.I.C.
7	Plan & Profile – Balaclava Street
8	Plan & Profile – Fort Street
9	Plan & Profile – Fort Street
10	Plan & Profile – Fort Street
11	Standard Details
12	Standard Details
13	Miscellaneous Details

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.*

TENDER 'A' – SIMCOE STREET

<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>
1	SP38	Supply and install watermain PVC Class 150 DR18-900				
		a) 150mm diameter	4	LM	\$ 395.00	\$ 1,580.00
		b) 200mm diameter	4	LM	\$ 425.00	\$ 1,700.00
		c) 300mm diameter	1310	LM	\$ 203.00	\$ 265,930.00
2	SP39	Supply and install valves and boxes				
		a) 150mm diameter	2	Each	\$ 1,015.00	\$ 2,030.00
		b) 200mm diameter	2	Each	\$ 1,370.00	\$ 2,740.00
		c) 300mm diameter	4	Each	\$ 2,515.00	\$ 10,060.00
		d) 300mm x 300mm T.S. & W.V.	1	Each	\$ 5,460.00	\$ 5,460.00
		e) 300mm x 500mm T.S. & W.V.	1	Each	\$ 7,900.00	\$ 7,900.00
3	SP41	Supply and install fire hydrant complete with lead, 150mm valve and box and hydrant tee	9	Each	\$ 3,870.00	\$ 34,830.00
4	SP42	Private water services				
		a) connect existing services	29	Each	\$ 225.00	\$ 6,525.00
		b) install new services to property line	25	Each	\$ 1,075.00	\$ 26,875.00
5	OPSS-701	Replace meter with curb stop and box	25	Each	\$ 433.00	\$ 10,825.00

Continued ...

(c) Schedule of Contract Unit Prices.*

<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>
6	OPSS-701	Remove existing fire hydrants and valve box and return to Public Works	4	Each	\$ 500.00	\$ 2,000.00
7		Remove existing valve box and return to Public Works	4	Each	\$ 250.00	\$ 1,000.00
8	SP31	Granular 'A' road base	525	C.M.	\$ 37.00	\$ 19,425.00
9	SP32	Hot Mix, Hot Laid Asphaltic Concrete				
		a) 40 mm HL3	50	Tonne	\$ 87.00	\$ 4,350.00
		b) 50 mm HL4	65	Tonne	\$ 87.00	\$ 5,655.00
10		Driveway restoration				
		a) Granular 'A' (300mm)	120	S.M.	\$ 15.00	\$ 1,800.00
		b) Asphalt (90 mm on 300 mm Granular 'A')	165	S.M.	\$ 50.00	\$ 8,250.00
		c) Concrete (150 mm on 300 mm Granular 'A')	20	S.M.	\$ 68.00	\$ 1,360.00
		d) Brick Pavers (90 mm on 300 mm Granular 'A')	5	S.M.	\$ 95.00	\$ 475.00
11	SP38	Supply and install reducer				
		a) 150 mm x 200 mm	1	Each	\$ 420.00	\$ 420.00
12	SP36	Contingency Allowance	1	L.S.	\$ 5,000.00	\$ 5,000.00
Total Estimated Tender 'A' Price						\$ 426,190.00

Continued ...

(c) Schedule of Contract Unit Prices.

TENDER 'B' – LOWES SIDEROAD – NOT IN CONTRACT

TENDER 'C' – BALACLAVA STREET

<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>
1	SP38	Supply and install watermain PVC Class 150 DR18 – C900 a) 200mm diameter	320	L.M.	\$ 176.00	\$ 56,320.00
2	SP39	Supply and install valves and boxes a) 200mm diameter	1	Each	\$ 1,380.00	\$ 1,380.00
3	SP41	Supply and install fire hydrant complete with lead, 150 mm valve and box and hydrant tee	2	Each	\$ 3,416.00	\$ 6,832.00
4	SP42	Private water services a) connect existing services b) install new service to property line	11 16	Each Each	\$ 223.00 \$ 1,005.00	\$ 2,453.00 \$ 16,080.00
5	OPSS-701	Replace meter with curb stop and box	18	Each	\$ 430.00	\$ 7,740.00
6	OPSS-701	Remove existing fire hydrants complete with water valve and box and return to Public Works	1	Each	\$ 500.00	\$ 500.00
7		Remove existing valve box and return to Public Works	1	Each	\$ 250.00	\$ 250.00
8	SP31	Granular 'A' road base	400	C.M.	\$ 37.00	\$ 14,800.00
9	SP32	Hot Mix, Hot Laid Asphaltic concrete a) 40mm HL3 b) 50mm HL4	135 170	Tonne Tonne	\$ 67.00 \$ 67.00	\$ 9,045.00 \$ 11,390.00

Continued ...

(c) Schedule of Contract Unit Prices.*

<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>
10		Driveway restoration				
		a) Granular 'A' (300 mm)	10	S.M.	\$ 29.00	\$ 290.00
		b) Asphalt (90 mm on 300 mm Granular 'A')	Nil	S.M.	Nil	Nil
		c) Concrete (150 mm on 300 mm Granular 'A')	Nil	S.M.	Nil	Nil
		d) Brick Pavers (90 mm on 300 mm Granular 'A')	Nil	S.M.	Nil	Nil
11		Supply and install reducer				
		a) 150mm x 200mm	1	Each	\$ 420.00	\$ 420.00
12	SP36	Contingency Allowance	1	L.S.	\$ 5,000.00	\$ 5,000.00
Total Estimated Tender 'C' Price						\$ 132,500.00

TENDER 'D' - FORT STREET

<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>
1	SP38	Supply and install watermain PVC Class 150 DR18 - C900				
		a) 150 mm diameter	4	L.M.	\$ 130.00	\$ 520.00
		b) 200 mm diameter	825	L.M.	\$ 241.00	\$ 198,825.00
2	SP39	Supply and install valves and boxes				
		a) 200 mm diameter	4	Each	\$ 1,370.00	\$ 5,480.00
		b) 300 x 200 T.S. and W.V.	1	Each	\$ 4,340.00	\$ 4,340.00
3	SP41	Supply and install fire hydrant complete with lead, 150 mm valve and box and hydrant tee	5	Each	\$ 3,235.00	\$ 16,175.00

Continued ...

(c) Schedule of Contract Unit Prices.*

<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>
4	SP42	Private water services a) connect existing services	36	Each	\$ 225.00	\$ 8,100.00
		b) install new service to property line	29	Each	\$ 1,040.00	\$ 30,160.00
5	OPSS-701	Replace meter with curb stop and box	33	Each	\$ 415.00	\$ 13,695.00
6	OPSS-701	Remove existing fire hydrants complete with water valve and box and return to Public Works	6	Each	\$ 500.00	\$ 3,000.00
7		Remove existing valve box and return to Public Works	4	Each	\$ 250.00	\$ 1,000.00
8	SP31	Granular 'A' road base	100	C.M.	\$ 37.00	\$ 3,700.00
9	SP32	Hot Mix, Hot Laid asphaltic concrete				
		a) 40 mm HL3	40	Tonne	\$ 87.00	\$ 3,480.00
		b) 50mm HL4	50	Tonne	\$ 87.00	\$ 4,350.00
10		Driveway restoration				
		a) Granular 'A' (300mm)	10	S.M.	\$ 29.00	\$ 290.00
		b) Asphalt (90 mm or 300 mm Granular 'A')	50	S.M.	\$ 32.00	\$ 1,600.00
		c) Concrete (150 mm or 300 mm Granular 'A')	10	S.M.	\$ 80.00	\$ 800.00
		d) Brick Pavers (90 mm or 300 mm Granular 'A')	10	S.M.	\$ 60.00	\$ 600.00
11	SP38	Supply and install reducer				
		a) 150 mm x 200 mm	3	Each	\$ 420.00	\$ 1,260.00

Continued ...

(c) Schedule of Contract Unit Prices.*

<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>
12	SP36	Contingency Allowance	1	L.S.	\$ 5,000.00	<u>\$ 5,000.00</u>
Total Estimated Tender 'D' Price						\$ 302,375.00

Summary

Tender 'A' - \$ 426,190.00
Tender 'B' - N.I.C.
Tender 'C' - \$ 132,500.00
Tender 'D' - \$ 302,375.00
\$ 861,065.00

Estimated Contract Price \$ 861,065.00

Eight Hundred Sixty One Thousand Sixty Five ----- xx/100 Dollars in Canadian funds.

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

ARTICLE A-4 PAYMENT

- (a) 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 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.
- (d) 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 P.O. Box 159, 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 5255 County Road 42 *street and number and postal box number if applicable*
Windsor, Ontario **N8N 2M1**
post office or district, province, postal code

The Consultant at 3100 Temple Drive, Suite 100 *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 language shall prevail.

This Agreement is drawn in English at the request of all parties hereto.

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 provisions of the Contract Documents shall ensure 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 deals and by the hands of their proper officers thereunto duly authorized.

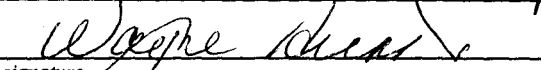
SIGNED, SEALED AND DELIVERED
In the presence of:

OWNER

The Corporation of the Town of Amherstburg


name _____

Wayne Hurst

signature 

Wayne Hurst - Mayor

name and title _____

signature 

David Mailloux - Clerk

name and title _____

witness _____

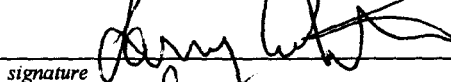
name and title _____

CONTRACTOR

Smith Contracting

Name _____

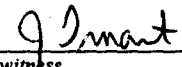
Larry Colautti

signature 
PRESIDENT

name and title _____

signature _____

name and title _____

signature 

witness **Jim Truant Estimator**

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.

SCHEDULE "B"

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 14th day of December in the year two thousand and five.

by and between

The Corporation of the Town of Amherstburg
hereinafter called the "Owner"

and

M. R. Dunn Contractors 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

Amherstburg Watermain Replacement 2005 – Lowes Sideroad

(insert here the title of the Work and the Project)

which have been signed by the parties, and which were prepared by **HGS LIMITED**
acting as and hereinafter called "Consultant" and

- (b) do and fulfill everything indicated by this Agreement, and
- (c) Commence the Work by the 1st day of **January** 2006.
and attain Substantial Performance of the Work, as certified by the Consultant, by the
31st day of **May** 2006.

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.)

Specifications

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SPECIAL INFORMATION TO TENDERERS
FORM OF TENDER
FORM OF AGREEMENT AND GENERAL CONDITIONS
SPECIAL PROVISIONS
STANDARD SPECIFICATIONS
STANDARD DETAILS
WATERMAIN SPECIFICATIONS
SEWER SPECIFICATIONS
CLARIFICATION NO. 1**

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5	Plan & Profile – Simcoe Street - N.I.C.
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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.

<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>
1	SP38	Supply and install Watermain PVC Class 150 DR 18-C900				
		a) 150mm diameter	2	L.M.	\$ 233.00	\$ 466.00
		b) 200mm diameter	10	L.M.	\$ 240.00	\$ 2,400.00
		c) 300mm diameter	170	L.M.	\$ 278.00	\$ 47,260.00
2	SP39	Supply and install Valves and Boxes				
		a) 200mm diameter	1	Each	\$ 1,120.00	\$ 1,120.00
		b) 300mm diameter	2	Each	\$ 2,200.00	\$ 4,400.00
3	SP41	Supply and install fire hydrant complete with lead, 150mm valve and box and hydrant tee	1	Each	\$ 2,950.00	\$ 2,950.00
4	SP42	Private Water Services				
		a) connect existing services	3	Each	\$ 500.00	\$ 1,500.00
		b) install new service to property line	9	Each	\$ 1,100.00	\$ 9,900.00
5	OPSS-701	Replace meter with curb stop and box	1	Each	\$ 275.00	\$ 275.00
6	OPSS-701	Remove existing fire hydrants complete with water valve and box and return to public works	1	Each	\$ 110.00	\$ 110.00

Continued ...
3

(c) Schedule of Contract Unit Prices.*

<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>
7		Remove existing valve box and chamber and return to Public Works	2	Each	\$ 55.00	\$ 110.00
8	SP31	Granular 'A' road base	80	C.M.	\$ 45.00	\$ 3,600.00
9	SP32	Hot Mix, Hot Laid Asphaltic Concrete				
		a) 40mm HL3	10	Tonne	\$ 100.00	\$ 1,000.00
		b) 50mm HL4	13	Tonne	\$ 100.00	\$ 1,300.00
10		Driveway Restoration				
		a) Granular 'A' (300mm)	20	S.M.	\$ 15.00	\$ 300.00
		b) Asphalt (90mm on 300mm Granular 'A')	30	S.M.	\$ 40.00	\$ 1,200.00
		c) Concrete (150mm on 300mm Granular 'A')	20	S.M.	\$ 50.00	\$ 1,000.00
		d) Brick Pavers (90mm on 300mm Granular 'A')	Nil	S.M.	Nil	Nil
11	SP38	Supply and install reducer 150mm x 200mm	1	Each	\$ 200.00	\$ 200.00
12	SP36	Contingency Allowance	1	L.S.	\$ 5,000.00	\$ 5,000.00
Estimated Contract Price						\$ 84,091.00

Eighty Four Thousand, Ninety One ----- xx/100 Dollars in Canadian funds.

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

ARTICLE A-4 PAYMENT

- (a) 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 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.
- (d) 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 P.O. Box 159, 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 485 Little Baseline Road *street and number and postal box number if applicable*
Tecumseh, Ontario **N8N 2L9**
post office or district, province, postal code

The Consultant at 3100 Temple Drive, Suite 100 *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 language shall prevail.

This Agreement is drawn in English at the request of all parties hereto.

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 provisions of the Contract Documents shall ensure 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 deals 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

Wayne Hurst

signature

Wayne Hurst - Mayor

name and title

signature

David Mailloux - Clerk

name and title

witness

name and title

CONTRACTOR

M.R. Dunn Contractors Ltd.

name

signature
MICHAEL R. DUNN, PRES.

name and title

signature

name and title

witness

name and title

signature
RICK SOLCZ, P. ENG.

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.