



**TOWN OF AURORA  
OPERATIONAL SERVICES DEPARTMENT**

**Request for Tender**

**For**

**CONSTRUCTION OF A NEW FIREHALL  
FOR CENTRAL YORK FIRE SERVICES**

**\*\*\*\*\*ONLINE SUBMISSIONS ONLY\*\*\*\*\***

Request for Tender No.: **2019-13-OPS**

Opening Date: **April 12, 2019**

Closing Date: **May 14, 2019 at 10:00:00 a.m., local time**

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2. Project Manual – Specifications Vol. 2	
3. Construction Drawings (101 Drawings in total)	

## PART I – INTRODUCTION

### 1.1 Invitation to Bidders

This Bid Document is an invitation to prospective Bidders to submit Bids for the supply of all labour, material, and equipment necessary for the Construction of a new Firehall for Central York Fire Services (CYFS), as further described in Part 2 – Special Provisions.

### 1.2 Submissions

The Corporation of the Town of Aurora shall only accept and receive Electronic Bid submissions through the Town's Bidding System, hereafter, called the "**Bidding System**".

Hard-copy bid submissions shall not be accepted.

### 1.3 No Guarantee of Volume of Work or Exclusivity of Contract

The Town makes no guarantee of the value or volume of Work to be assigned to the Contractor. The Contract executed with the successful Bidder will not be an exclusive contract for the provision of the described Work. The Town may contract with others for the same or similar Work to that described in this Bid Document or may obtain the same or similar Work internally.

### 1.4 Procurement By-law Number 6076-18

Procurement By-law Number 6076-18 applies to this Bid Document. All irregularities and non-compliance issues in any Bid will be handled by the Town as described in the Town's Procurement By-law Number 6076-18. The Town's Procurement By-Law is available on the Town of Aurora website: [www.aurora.ca](http://www.aurora.ca)

### 1.5 Definitions

The following definitions shall apply to all Contract documents:

- a) "**Addendum**" or "**Addenda**" means such further additions, deletions, modifications or other changes to the Bid Document;
- b) "**Bid**" means a document submitted by a Bidder in response to this Bid Document, which will be used to form part of the Contract;
- c) "**Bid Document**" means this Request for Tender package in its entirety, inclusive of all schedules, attachments, drawings, specifications, Addenda/Addendum and any other documents referenced herein as being part of this Request for Tender by which Bids are solicited by the Town and will be used to form part of the Contract;
- d) "**Bidder**" means the individual or legal entity submitting a Bid. The definition shall also include any principal, director, officer of that Bidder, bidding directly for Town contracts, or indirectly through another legal entity;
- e) "**Bidding System**" means the Town's online web-based solution for issuing solicitations and/or receiving online bid submissions and posting bid results;
- f) "**Consultant**" means the person, firm or corporation, if any, appointed as such by the Town and is referred to throughout the Contract Documents as if singular in number and neutral in gender;
- g) "**Contract**" means the agreement between the Town and the selected Bidder for the execution and performance of the duties, responsibilities and obligations, as required under this Bid Document and as agreed upon by the parties to complete the Work described in this Bid Document;

- h) **“Contract Administrator”** means the authorized agent or representative designated as such to the Contractor by the Director;
- i) **“Contract Amount”** means the sum of:
  - (i) the products of the estimated quantities of unit price items and the applicable unit prices in the Schedule “A”; and
  - (ii) the lump sum prices in the Schedule “A”;Identified within the Bidding System Schedule of Prices, Summary Table as Subtotal Contract Amount.
- j) **“Contract Documents”** shall consist of the following:
  - a) the terms and conditions of the body of the Contract;
  - b) this Bid Document in entirety;
  - c) the Bid submitted by the Contractor in response to this Bid Document;
  - d) any other written agreements or mutually executed documents between the parties regarding the Work.
- k) **“Contractor”** means the selected Bidder to whom the Contract is awarded and undertaking the execution of the Work under the terms of the Contract and is referred to throughout the Contract Documents as if singular in number and neutral in gender;
- l) **“Council”** means the Council of The Corporation of the Town of Aurora;
- m) **“Day”** means a calendar day;
- n) **“Director”** means the Director of Operational Services, or his/her designate;
- o) **“Electronic Bidding”** means a method of issuing Solicitations and/or receiving written Bids on the Bidding System where the process of issuing and/or receiving Bids by email, or online is considered appropriate and valid;
- p) **“must”** or **“shall”** as used in this Bid Document reflects a mandatory requirement.
- q) **“Other Contractor”** means a person, firm or corporation employed by or having a separate contract directly or indirectly with the Town for work other than that required by the Contract Documents;
- r) **“Place of the Work”** means the designated site or location of the Work;
- s) **“Procurement By-law”** means Town By-law Number 6076-18, as may be amended from time to time;
- t) **“Procurement Services”** means the division or section of a Town Department that is responsible for the procurement of goods, services and construction for the Town;
- u) **“Procurement Manager”** means the Procurement Manager for the Town, or his/her designate;
- v) **“Purchase Order”** means the Town’s written order to a Contractor to procure the Work;
- w) **“Responsible Bidder”** means a Bidder whose reputation, past performance, and business and financial capabilities are such that the Bidder would be judged by the Town to be capable of satisfying the Town’s needs for a specific Contract. A Bidder, as the context requires, that is fully capable to meet all the requirements of the Solicitation or other process and subsequent Contract. Such Bidder shall possess the full capability, including financial and technical, satisfactory past performance, including a satisfactory Town’s Contractor performance evaluation (where applicable) to perform as contractually required and shall be able to fully document the ability to provide good faith performance;

- x) **“Subcontractor”** means a legal entity not under contract with or employed directly by the Town but who supplies services or materials to the Work or parts of the Work under an agreement with the Contractor or under the Contractor with another subcontractor; the term Subcontractor is referred to throughout the Contract Documents as if singular in number and neutral in gender;
- y) **“Substantial Performance of the Work”** means when the Contract is deemed to be substantially performed pursuant to the *Construction Act*, R.S.O. 1990, c. C.30, as such statute is amended or replaced from time to time. If such legislation is not in force or does not contain such definition, Substantial Performance of the Work shall have been reached when the Work is ready for use or is being used for the purpose intended and is so certified by the Town, or, if a Consultant has been appointed, by the Consultant;
- z) **“Total Performance of the Work”** means when the Contract is deemed to be completed pursuant to the *Construction Act*, R.S.O. 1990, c. C.30, as such statute is amended or replaced from time to time. If such legislation is not in force or does not contain such definition, Total Performance of the Work shall have been reached when the entire Work, except those items arising from the provisions of Bid Document, has been performed to the requirements of the Contract Documents and is so certified by the Town, or, if a Consultant has been appointed, the Consultant; “Town” means The Corporation of the Town of Aurora or its authorized agent or representative as designated to the Contractor but does not include the Consultant;
- aa) **“Town”** or **“Owner”** means The Corporation of the Town of Aurora or its authorized agent or representative as designated to the Contractor but does not include the Consultant;
- bb) **“Work”** means the total works and related services performed by the Contractor, or its consultants, agents, permitted assigns and/or Subcontractor, and the provision of equipment and supplies as part of completing the project required by the Contract Documents, and as described in the Bid Document;
- cc) **“Working Day”** means Monday to Friday inclusive, and excludes: (i) Saturday and Sunday; (ii) any statutory holiday recognized by the Town; and (iii) any day that the Town’s main office (Town Hall) is closed;
- dd) **“Working Time”** means in a Working Day each period of time during which a unit of equipment is actively and of necessity engaged in a specific operation and the first two (2) hours of each immediately following period during which the unit is not so engaged but during which the operation is proceeding and during which time the unit cannot practically be transferred to other work but must remain on the site in order to continue with its assigned task and during which time the unit is fully operable.

[End of Part 1]

## **PART 2 – SPECIAL PROVISIONS**

### **2.1 Introduction**

The Corporation of the Town of Aurora (the “Town”) invites Bids for the supply of all labour, material, and equipment necessary for the Construction of a new Firehall for Central York Fire Services (CYFS).

### **2.2 Project Location**

The CYFS Firehall is to be constructed at 300 Earl Stewart Drive, Aurora, Ontario.

### **2.3 Specifications and Drawings**

This Work is to be conducted in accordance with the specifications and drawings as developed by Thomas Brown Architects Inc. (the Consultant), in addition to any other documents forming part of the Bid Documents. The following documents are being provided as attachments that form part of the Contract Documents and which are to be used by the Bidders for reference in relation to this project:

1. Project Manual – Specifications Vol. 1
2. Project Manual – Specifications Vol. 2
3. Construction Drawings (101 Drawings in total)

The Town or the Consultant may provide additional specification and drawing documents through an Addendum, which shall become part of the Bid Documents and form part of the Contract Documents.

### **2.4 Clarifications Regarding Consultant Specifications**

#### **2.4.1 Quality Assurance Statements**

The specifications provided by the Consultant contain “Quality Assurance” statements in various sections. Within these “Quality Assurance” statements, there are often details concerning the amount of experience required by sub-contractors, installers, applicators, etc. Bidders are to note that the selected Contractor shall be responsible for ensuring that each of their sub-contractors, installers, applicators, etc., are in compliance with the experience requirements listed.

### **2.5 Alternate Product Substitution Procedure**

The Consultant’s specifications contain products and materials that are specified by either brand name or manufacturer. Wherever products and materials are specified, it is to be understood that any reference to trade name, brand name, manufacturer’s name, model number and/or catalogue number has been made solely for the purpose of indicating the minimum standard of quality required in material, workmanship and service. Any Bidders that would like to quote equivalent alternate products or materials, to those specified, must submit their proposed alternate product or manufacturer information to the Town, prior to 12:00 p.m. on April 30, 2019. Proposed alternates shall meet or exceed the quality standards of the products specified to be considered by the Town, or its Consultant, and may be accepted at the absolute discretion of the Director. The Town, or its Consultant, shall review any proposed alternates to make sure they meet the quality and performance standards specified. If any products are approved as suitable alternates, the Town will notify all Bidders with an addendum.

The cost of changes in the work of all Specification Sections necessitated by the use of proposed alternates will not be considered or approved as a change in the Work and no increase in the Contract Time will be considered or approved.

When proposing alternate products/materials, the Bidder should submit the following via e-mail to [procurement@aurora.ca](mailto:procurement@aurora.ca):

1. Product Name.
2. A detailed comparison between the properties and characteristics of the specified product or material and the proposed alternate.
3. The Manufacturer's name, contact information and product literature.
4. Performance, technical and test data.
5. Reference standards.
6. Product limitations.
7. List of existing installations.

In making a request for, or implementing into the Work any, alternate products or materials, the Bidder, for the purposes of the Bid, and the Contractor, for the purposes of the Contract, represents that:

1. They have personally investigated the proposed product/material and have determined that the product/material is equal or superior in all respects to that specified.
2. They will provide the same guarantee period for the alternate product/material as for the product/material specified or indicated.
3. They will coordinate the installation of an accepted alternate into the Work, making such changes as may be required for the Work to be complete in all respects.
4. They waive all claims for additional costs or credits related to the alternate.
5. They assume full responsibility when the alternate affects any other part of the Work.
6. They shall ensure that alternates are accommodated by space allotted.

## **2.6 Construction Schedule**

**The anticipated commencement date for this Contract is: June, 2019.**

A proposed construction schedule and sequencing plan for this Contract shall be submitted by the Contractor to the Town and the Consultant for approval. The Contractor shall be required to commence work immediately after receiving written notice from the Town, unless said directions give notice to the contrary and indicate when the Work is to begin.

The anticipated date of substantial completion is October 2020.

All work under the Contract is to have a total completion date of **December 31, 2020.**

## **2.7 Ability to Perform the Work**

Bidders must supply the information requested in Schedules "B", "C" and "D" to the Bid Document. The information provided shall be indicative of the Bidder's ability to provide the services described within this Bid Document and must meet or exceed the requirements contained herein.

### **(a) Staff Experience & Qualifications**

Bidders must complete Schedule "B" to demonstrate that the staff that would be assigned to this project have sufficient experience and qualifications to ensure that the Work is

completed successfully and within the required timeframe.

If requested by the Town during the Bid review process, a Bidder may also be required to provide additional information relating to staff experience and qualifications including resumes, references, etc.

**(b) Company Projects and References**

Bidders must demonstrate that their company has performed the minimum number of projects, as required under Schedule “C”. The Bidder shall include the following information in Schedule “C”:

- i) A minimum of three (3) Construction project references of similar scope and magnitude, preferably including one (1) Emergency Services station for a Municipality. Each of the references are to be of comparable value and complexity, successfully completed by the Bidder in the last five (5) years.
- ii) Include the name of the project, its location, a description of the work, the scope of work performed, the date that the project was undertaken, the date of completion, owner name and address, consultant/architect name, references (including contact name, address and telephone number).

**(c) Subcontractors**

Bidders must complete Schedule “D” and identify all Subcontractors to be utilized on this project as well as the type of work that each Subcontractor would be performing. **Each Subcontractor must be in good standing with the Town (ie: not disqualified from bidding or working on Town projects, not under litigation with the Town, etc.) and must have performed the work that they would be assigned to on this project for a minimum of the last five (5) years.**

The Town reserves the right to approve or reject proposed Subcontractors. If the Town objects to the use of a particular Subcontractor, the Bidder shall propose an alternative Subcontractor for the Town’s approval. If requested by the Town during the Bid review process, a Bidder shall also be required to provide Subcontractor project references to substantiate the background experience of their proposed Subcontractor(s).

Any proposed changes to the approved list of Subcontractors subsequent to Contract award shall be subject to approval by the Town.

The Town may conduct reference checks to confirm that a Bidder has performed the services described within the Bid Document on previous projects in a satisfactory manner. As noted, the Town may also require that a Bidder provide additional references and/or other documentation including staff resumes, staff references, Subcontractor references, etc.

The Town reserves the right, in its sole discretion, to reject a Bid from any Bidder:

- that does not provide the information required in Schedules “B”, “C” and “D” to the Bid Document;
- that does not supply any additional references and/or supporting documentation that is requested by the Town during the Bid review process;
- whose company experience and project references do not meet the requirements outlined in this Bid Document;
- whose Subcontractors do not meet requirements outlined in the Bid Document; or
- whose Subcontractors or staff do not appear to have sufficient experience, qualifications or resources to successfully complete the project, based on the sole opinion of the Town.



The Town also reserves the right, in its sole discretion, to reject a Bid from any Bidder that has performed services in an unsatisfactory manner or not in accordance with specified timeframes as determined by the Town from a reference check or from any other project that comes to the attention of the Town, including any previous projects performed for the Town.

## 2.8 Examination of the Site

Bidders are required to satisfy themselves of the Work to be completed. The submission of a Bid shall be deemed proof that the Bidder is satisfied as to all the provisions of the Contract, of all conditions which may be encountered, what materials will be required to be supplied, or any other matter which may be encountered in the performance of the Contract to a satisfactory conclusion. No claims will be entertained by the Town based on the assertion that the Bidder was not informed as to any of the provisions or conditions covered or intended to be covered by the Contract.

## 2.9 Bonding

### 2.9.1 Bid Bond

Bidders are required to submit the following as part of their Bid:

- a) A Bid Bond surety for ten-percent **(10%)** of the **CONTRACT AMOUNT**;

The Contractor agrees that the Bid Bond will be held as security for the execution and delivery of the Contract, the delivery of the bonds, proof of insurance and all other documents required to be delivered to the Town upon the execution and delivery of the Contract and for the performance by the Contractor of the obligations in the Contract Documents.

In the event that the Contractor fails to comply with any of such obligations, the Town may apply the Bid Bond to remedy such failure.

### 2.9.2 Undertaking to Bond

The Bidder is to complete Schedule "E" Undertaking to Bond and upload it to the electronic submission. Bidders are required to submit the following with their bid:

- a) An Undertaking to Bond to provide a Performance Bond surety for one-hundred percent **(100%)** of the **CONTRACT AMOUNT**;
- b) An Undertaking to Bond to provide a Labour and Materials Payment Bond surety covering fifty-percent **(50%)** of the **CONTRACT AMOUNT**.

The Awarded Bidder is to submit the following upon Contract Award:

1. Form 32 – Performance Bond Under Section 85.1 of the Construction Act
2. Form 31 – Labour and Material Payment Bond Under Section 85.1 of the Construction Act.

### 2.9.3 Bonding Requirements

The Bid Bond, Undertaking to Bond to provide a Performance Bond and the Undertaking to Bond to provide a Labour and Materials Payment Bond **must be valid for a minimum of one hundred and twenty (120) days after the closing date of this Bid Document**.

All bonds shall be provided from a surety company authorized to do business in Ontario.

If the Town is unable to verify the Undertaking to Bond requirements, upon request by the Town, the Bidder shall be given five (5) Days to remedy the verification to the Town's

satisfaction.

Any Bid received that does not satisfy the bonding requirements shall be declared to have a major irregularity and will be rejected as non-compliant.

#### **2.9.4 Bonding Submittals**

The Bid Bond and Undertaking to Bond shall be submitted in the following format:

##### Digital Bonds

For the submittal of a Digital Bid Bond and Undertaking to Bond, the Bidder is to refer to information found on the Surety Association of Canada website. The information on this site includes the following:

- A list of third parties that provide online surety digital bond services such as Mobile Bonds or Xenex. The Town does not endorse or promote any third party digital bond service provider.
- An industry checklist for which the Digital Bonds provided should meet.

All instruction details for accessing authentication should be included with the up-loaded Bond.

#### **2.10 Incidental Items**

The following is a partial list of items, the cost of which is to be included in the unit prices of the Bid Document. Without limiting anything else in the Bid Documents, no additional payment will be made for the following:

1. Cost of all bonds, Bid deposits and insurance;
2. Cost of the supply, placement and maintenance of all traffic control devices and personnel as identified by the Traffic Management Plan and associated traffic control drawings, unless a specific payment item exists in the Bid Document;
3. Cost of removing and/or relocating, when required, small signs, fences, mailboxes, waste containers, small posts or other minor obstructions interfering with the construction, unless a specific payment item exists in the Bid Document;
4. Cost of coordinating with Utility companies who may be affected by the project, or who may be required to perform work simultaneous with the work of the Contractor, and with other Contractors working on properties adjoining the work;
5. Cost of supporting and protecting structures and roadway features (traffic signs and/or signals, utility poles, etc.);
6. Cost of maintaining and providing adequate continuity of existing municipal services, and/or the cost of notification of property owners as to temporary, short term disruptions;
7. Cost of equipment, labour and materials required to maintain existing roads, including street flushing and sweeping equipment for dust and mud suppression, whenever required and whenever directed to do so by the Contract Administrator;
8. Cost of preparing, maintaining, updating and providing a detailed project schedule to the Contract Administrator for approval;
9. Cost of organizing, maintaining and administering the Project Safety Committee;
10. Cost of preparing and submitting shop drawings, where required;
11. Cost of all Mobilization and Demobilization;
12. Cost of all survey layout as described in LINES AND GRADES of the Bid Document;

13. Cost of daylighting, supporting and protecting all utilities and underground infrastructure as required for the completion of the Work;
14. Cost of restoring all areas and items that have been disturbed by construction activities and are beyond the work limits identified on the Contract Drawings, described in the Special Provisions or specified by the Contract Administrator;

## 2.11 Insurance

Without restricting the generality of the provision of GENERAL CONDITION - INDEMNIFICATION AND CLAIMS HANDLING, the Contractor to whom the Contract is awarded shall obtain, continuously maintain, pay for and provide, from either the commencement of the services or the signing of the Contract, whichever is sooner, insurance coverage listed below that is taken out with insurance companies licensed to transact business in the Province of Ontario and not otherwise excluded by the Town:

### (a) Commercial General Liability Insurance:

The Contractor shall provide Commercial General Liability (CGL) insurance shall be in the name of the Contractor. The Town and the Consultant shall be added by endorsement as an additional insured. The limits shall be no less than **TEN-MILLION CANADIAN DOLLARS (\$10,000,000.00 CAD)** inclusive per occurrence for, but not limited to, bodily and personal injury including death, products and completed operations, blanket contractual liability, non-owned automobile, sudden and accidental pollution (120-hour reporting) and damage to property including loss of use thereof, with a deductible of not more than **TEN-THOUSAND CANADIAN DOLLARS (\$10,000.00 CAD)**, or as agreed to by the Town.

The CGL insurance shall include Cross Liability and Severability of Interest Clauses, Products and Completed Operations coverage (24 months), Town's & Contractor's Protective and a Standard Non-Owned Automobile endorsement including standard contractual liability coverage.

Should the Contractor decide not to employ Subcontractors for operations requiring the use of explosives for blasting, or pile driving or caisson work, or removal or weakening of support of property, building or land, the liability insurance shall not contain any exclusions or limitations in respect of such operations.

### (b) Automobile Liability Insurance:

The Contractor shall provide Automobile Liability insurance in respect of licensed vehicles shall have limits of not less than **FIVE-MILLION CANADIAN DOLLARS (\$5,000,000.00 CAD)** inclusive per occurrence for bodily injury, death, and damage to property, in the following forms endorsed to provide the Town with not less than thirty (30) days written notice in advance of any cancellation, change or amendment restricting coverage:

- (i) Standard non-owned automobile policy including standard contractual liability endorsement; and
- (ii) Standard Town's form automobile policy providing third party liability and accident benefits insurance and covering licensed vehicles owned or operated by or on behalf of the Contractor.

### (c) Contractors' Equipment Insurance:

The Contractor shall provide All Risks Contractors' Equipment coverage, insuring the full amount of the Contractor's equipment, including all owned, non-owned and mobile equipment.

(d) **Contractor's Pollution Liability Insurance:**

The Contractor shall provide Contractor's Pollution Liability (CPL) insurance is required with limits of not less than **FIVE-MILLION CANADIAN DOLLARS (\$5,000,000.00 CAD)** with the Town, and the Consultant, added as an Additional Insured. This policy shall be maintained from the commencement of the Work until Substantial Performance of the Work has been attained, as set out in the Certificate of Substantial Performance of the Work.

The form of Contractor's Pollution Liability may be an occurrence or claims-made form. Should the policy be on a claims-made form, the Contractor must provide a two (2) year extended reporting period. Should the policy be on an occurrence form, the Contractor must provide a two (2) year completed operations period.

(e) **All Risk Property Insurance / Boiler and Machinery Insurance**

The Contractor shall provide "Broad Form" (Builder's Risk) Property Insurance insuring not less than the sum of 1.1 times the Contract price and the full value, as stated in the Contract, of any products and design services that are specified to be provided for incorporation into the Work, with a deductible not to exceed Five Thousand (\$5,000) or as agreed to by the Town. This policy shall be in the joint names of the Contractor, the Town and the Consultant. The policy shall include sub-contractors as insureds.

The "Broad Form" Property policy shall include Boiler & Machinery coverage during testing and commissioning and business interruption resulting from project delay. The insurance coverage shall not be less than the insurance required by IBC Form 4042 and 4047 or their equivalent replacement. This policy shall not contain an exclusion for "Change in Temperature", including frost or freezing. The "Broad form" property insurance shall be provided from the date of commencement of the Work until the earliest of:

- (i) ten (10) calendar days after the date of Substantial Performance of the Work;
- (ii) on the commencement of use or occupancy of any part or section of the Work unless such use or occupancy is:
  - (A) for construction purposes, habitational, office, banking, convenience store under 465 square metres in area, or
  - (B) parking purposes, or
  - (C) for the installation, testing and commissioning of equipment forming part of the Work;
- (iii) when left unattended for more than thirty (30) consecutive calendar days or when construction activity has ceased for more than thirty (30) consecutive calendar days.

The Contractor shall also provide Boiler & Machinery Insurance and shall have limits of not less than the replacement value of the permanent or temporary boilers and pressure vessels, and other insurable objects forming part of the Work. This insurance coverage shall not be less than the insurance provided by a comprehensive boiler and machinery policy. The deductible is not to exceed **TEN-THOUSAND CANADIAN DOLLARS (\$10,000 CAD)** or as agreed to by the Town. This policy shall be in the joint names of the Contractor, the Town and the Consultant. This policy shall include sub-contractors as insureds. The coverages shall be maintained from commencement of or operation of the boiler and machinery objects insured by the policy and until ten (10) calendar days after the date of Substantial Performance of the Work.

The "Broad form" Property and Boiler and Machinery policies shall provide that, in the case of a loss or damage, payment shall be made to the Town and the Contractor as their respective interests may appear. In the event of loss or damage:

- (i) the Contractor shall act on behalf of the Town for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the Contractor shall proceed to restore the Work. Loss or damage shall not affect the rights and obligations of either party under the Contract except that the Contractor shall be entitled to such reasonable extension of Contract Time relative to the extent of the loss or damage as the Consultant may recommend in consultation with the Contractor;
- (ii) the Contractor shall be entitled to receive from the Town, in addition to the amount due under the Contract, the amount which the Town's interest in restoration of the Work has been appraised, such amount to be paid as the restoration of the Work proceeds in accordance with the progress payment provisions. In addition the Contractor shall be entitled to receive from the payments made by the insurer the amount of the Contractor's interest in the restoration of the Work; and
- (iii) to the Work arising from the work of the Town, the Town's own forces or another contractor, the Town shall, in accordance with the Town's obligations under the provisions relating to construction by the Town or other contractors, pay the Successful Bidder the cost of restoring the Work as the restoration of the Work proceeds and as in accordance with the progress payment provisions.

(f) **Installation Floater (if applicable to the Work)**

The Contractor shall maintain and keep in force at its own expense until the termination of the contract an Installation Floater insuring any and all materials (including labour), supplies, property of the contractor/property of others intended for the installation in connection with repair, completion, erection or improvement of property. The limit for any one loss is not to be less than an amount equal to the maximum value of the property being installed at any one time in the performance of the work being completed.

(g) **Hook Liability Insurance (if applicable to the Work)**

The Contractor shall maintain and keep in force at its own expense until the termination of the Contract Hook Liability insurance insuring any and all materials, supplies, property of the contractor/property of others/property of the Town intended for the construction and or installation in connection with repair, completion, erection or improvement of property. The limit for any one loss is not to be less than an amount equal to the maximum value of the property on "the Hook" at any one time in the performance of the work being completed.

The aforementioned insurance policies shall meet the following requirements:

- Unless specified otherwise, the duration of each insurance policy shall be from the date of commencement of the Work until the end of the warranty period.
- All applicable deductibles under the above-required insurance policies are at the sole expense of the Contractor.
- All policies shall apply as primary and not as excess of any insurance available to the Town.
- The forms of all insurance policies shall in all respects be satisfactory to the Town in its sole and absolute discretion.

- The policies shall be endorsed to provide the Town with not less than thirty (30) Days written notice in advance of any cancellation, change or amendment which restricts coverage such that the requirements in the Contract are no longer met.
- The Contractor shall provide the Town with proof of insurance required herein, by submitting an original Certificate of Insurance upon execution and delivery of the Contract, prior to commencement of the Work and thereafter upon request by the Town.
- If the Contractor fails to provide or maintain insurance as required herein or elsewhere in the Contract Documents, then the Town shall have the right to provide and maintain such insurance. The cost thereof shall be payable by the Contractor to the Town on demand.
- The Contractor shall be responsible for deductible amounts under the policies.

## **2.12 Environmental Consideration and Controls**

**All work described within this Special Provision shall be provided by and at the sole expense of the Contractor.**

### **2.12.1 General**

It is intended that the works proposed be executed in a manner which to the fullest possible extent minimizes any adverse effects on the cultural and natural environment of the project area. Any environmental conditions stated herein must be complied with in all respects. It is a responsibility of the Contractor to ensure that all personnel are sufficiently instructed so that work is carried out in a manner consistent with minimizing environmental impact. Further, it is the responsibility of the Contractor to ensure compliance with any applicable laws, regulations and requirements of any governmental authorities with respect to the Work, including the Lake Simcoe Region Conservation Authority (LSRCA) and the Ministry of the Environment. In the case of any non-compliance or orders being issued with respect to the Work, the Contractor shall be solely responsible for immediately remedying any such non-compliance at its cost and for bringing the Work and the Work area into compliance. If the Contractor fails to take immediate action, the Town or the Contract Administrator may take such action as is considered necessary by the Town or the Contract Administrator to address the issue, including hiring third party consultants and contractors to conduct consultations and work, and deduct the cost and expenses for such action from monies owing to the Contractor.

The Contractor shall confine operations within the limits of the project. All activities shall be confined to the areas requiring actual construction as per the project plans. If an additional area is required by the Contractor for storage or for other construction purposes, the Contractor may obtain such additional area by agreement with the owner of the property, without additional cost to the Town. The Contractor shall provide to the Contract administrator a certified copy of all agreements for the use of private property. The Contractor shall pay for rentals and cost of repairs, where necessary, in connection with the use of private property. The Town shall in no circumstances be liable for any damages arising from such third party agreements and the Contractor shall indemnify the Town with respect to same.

### **2.12.2 Refuelling Areas**

The Contractor shall undertake a detailed review of its proposed route of construction to plan access routes and fuelling areas. Refuelling and maintenance of equipment shall not be undertaken in, or adjacent to, a watercourse. Suitable fuelling and maintenance areas shall be established and all maintenance and fuelling conducted in these areas. The locations of such areas are subject to review and approval by the Contract Administrator.

Procedures for the interception and rapid cleanup and disposal of spillages that do occur shall be submitted to the Contract administrator for review prior to starting Work. All materials required for cleanup of fuel spillages shall be maintained readily accessible on the work site. Any spillages must be reported to the Contract administrator immediately.

### **2.12.3 Erosion and Sedimentation Control**

The Contractor is responsible for supplying, installing and maintaining all erosion and sedimentation control measures that are required to contain sedimentation within the site to the satisfaction of the Contract Administrator and the Lake Simcoe Region Conservation Authority (LSRCA). Should the Contractor allow sediment to enter downstream lands, the Contractor shall be responsible and required to undertake whatever clean-up measures are required to restore the area to its original condition at no additional cost to the Town.

The Contractor shall take all precautions so as not to affect the quality of water as it passes through the area and to prevent eroded material from construction operations from entering into streams, watercourses or onto private property. Appropriate sediment retention measures shall be incorporated in the Work to ensure that sediment discharge to watercourses adjacent to the working area is prevented. These may include sedimentation ponds to which pumped water or run-off is directed prior to discharge to the adjacent watercourse or storm sewer.

As part of the Work to be performed under this Contract, sediment traps shall be constructed downstream of road culverts as required; where run-off from slopes under construction may enter a watercourse or private property; and for receiving the discharge from any dewatering operations. The temporary sediment traps shall be constructed in advance of any Work where eroded materials could enter the watercourse. The overflow rate from settling or sedimentation ponds shall be such that the solids carryover is minimal. The Contractor shall incorporate filter berms or sandbags, as required, to retard and filter run-off prior to discharge to the watercourse or storm sewer.

In general, concentrated run-off from un-stabilized areas shall be intercepted and diverted to stabilized areas under sheet flow conditions. Any water pumped for the purposes of trench excavation or dewatering shall be directed to a settling basin or other device in order to reduce suspended solids content prior to discharge to a storm sewer, drainage ditch or natural watercourse.

The Contractor shall clean and maintain all installed erosion and sediment controls. Sediment traps and silt fencing shall be cleaned when they are approximately fifty percent (50%) filled with sediment, or as directed by the Contract Administrator. Sediment material removed from sediment control devices shall be hauled and disposed of outside of the Place of the Work in areas arranged for by the Contractor.

Sediment traps shall be maintained until embankment slopes and ditches in the area are sodded. The traps shall then be removed and the area restored to its original grade or as shown on the Construction Drawings.

The Contractor shall not permit any excavated materials or other material to be deposited in any watercourses except as indicated in the Contract Documents.

If, in the opinion of the Town or the Contract Administrator, proper erosion and sediment control is not being maintained, the Contractor shall immediately modify its operation to the satisfaction of the Town, or the Contract Administrator. If the Contractor fails to take immediate action, the Town or the Contract Administrator may take such action as is considered necessary by the Town or the Contract Administrator to address the issue, including hiring third party consultants and contractors to conduct consultations and work,

and deduct the cost and expenses for such action from monies owing to the Contractor.

#### **2.12.4 Dewatering Conditions**

Any and all dewatering performed by the Contractor under this Contract shall not exceed 50,000 litres per day and shall be performed at no additional cost to the Town.

Concentrated runoff from un-stabilized areas shall be interrupted and diverted to stabilized areas under sheet flow conditions. Any water pumped for the purpose of trench excavation dewatering shall be directed to a settling basin or other devices to reduce suspended solids to a satisfactory content prior to discharge to a storm sewer or natural watercourse.

It is the Contractor's responsibility to inspect and clean all protective devices and shall be carried out continuously, as required. Clogged filter materials such as crushed stone and filter cloth shall be replaced by the Contractor required to ensure that the protective devices continue to function efficiently.

#### **2.12.5 Restoration**

In general, the entire work site shall be restored to a state equal to or better than original conditions. Restoration shall not be undertaken as a final project task but shall be initiated as soon as backfilling and compaction activities have been completed.

### **2.13 Working Area**

The Contractor is required to confine the Contractor's construction operations within Town lands and shall not enter private lands adjacent to the construction site without the express written permission of the property owners.

The Contractor shall provide good vehicular and pedestrian access at all times to all properties with existing access. Where there is no alternative but to shut off access temporarily to a property, the Contractor shall first notify the persons affected, and shall Work so as to keep the period of inconvenience to a minimum. Notwithstanding, the Town must approve any closure of access, in writing, prior to closing.

If the Contractor enters into an agreement with an individual or external agency for the use of land for the disposal of stumps, fill or for any other reason, a copy of said agreement clearly stating the obligations of all concerned and signed by both parties shall be submitted to the Town.

The Contractor shall comply with all Federal and Provincial Acts and Regulations and Municipal By-laws regarding the use of land for these purposes.

### **2.14 Storage of Machinery**

The Contractor shall be governed by the direction of the Town in all matters connected with or concerning storage of machinery, materials, and supplies along the line of Work and shall at the Contractor's own cost, shift or remove such machinery, materials, and supplies immediately upon notice from the Town and to location or locations acceptable to the Town.

### **2.15 Noise Control**

The Contractor shall observe local by-laws regarding noise, hours of work, etc. in order to minimize noise from the construction site, especially when located close to active business and school areas. Electrically driven machinery, mufflers and sound baffles shall conform to local by-laws. Where generators are required to operate outside normal working hours, the Contractor shall provide and erect noise dampening enclosures as directed by the Town and at the Contractor's sole cost.



## 2.16 Confirmation of Underground Infrastructure

There may be locations where the proposed work in this Contract cross or potentially interfere with existing infrastructure. It is the Contractor's responsibility to locate all existing underground infrastructure sufficiently in advance of project activities and confirm any conflicts so that delays are not experienced. There will be no compensation for locating the existing underground infrastructure by the Contractor, for delays resulting from relocation of existing infrastructure, or for protecting or supporting existing infrastructure as required to carry out the Work.

## 2.17 Warranty Period, Maintenance and Deficiency Holdbacks

A ten-percent (10%) *Construction Act* holdback will be calculated based on the value of work performed and deducted from each payment certificate.

Payments to the Contractor, holdbacks and their release, and certificates of substantial performance and completion under this Contract shall be in full compliance with the provisions of the *Construction Act*.

The Contractor shall be deemed to have made due allowance for executing the requirements of the *Construction Act* in the Contract Amount.

All the Work completed under this Contract, with the exception of all landscape works, shall be guaranteed for a one (1) year period after the date of Substantial Performance, except where longer warranty periods are specified, being the Warranty Period, against faulty materials and workmanship. All landscape works shall be guaranteed for a two (2) year period after the date of Substantial Performance.

A Maintenance Holdback in the amount of five percent (5%) of the value of the Work completed to date shall be withheld from each payment made to the Contractor and shall be held by the Town during the Warranty Period. Should a specific deficiency be noted by the Director during the course of the Work, the Director shall provide written notice thereof and a Deficiency Holdback in an amount sufficient to guarantee rectification of the deficiency may be withheld from the payments made to the Contractor, in addition to the normal Maintenance Holdback. The Deficiency Holdback will be held until the specific deficiency has been rectified.

## 2.18 Liquidated Damages

It is agreed by the parties to the Contract that if all the work called for under the Contract is not completed within the applicable Contract Time or within the completion date set out in the Contract, damage will be sustained by the Town and it is and shall be impracticable and extremely difficult to ascertain and determine the actual damage which the Town shall sustain in the event of and by any reason of such delay and the parties hereto agree that the Contractor will pay to the Town the sum of **Eight Hundred and Seventy Five Canadian Dollars (\$875.00)** for liquidated damages for each and every Working Day's delay in finishing the work beyond the applicable Contract Time prescribed or the date of completion. It is agreed that this amount is an estimate of actual damage to the Town which will accrue during the period in excess of the prescribed date of completion and is not a penalty.

The Town may deduct any amount due under this provision from any monies that may be due or payable to the Contractor on any account with respect to the same Contract. The Liquidated Damages payable under this provision are in addition to and without prejudice to any other right, claim, action or any other remedy that may be available to the Town and does not preclude the Town from seeking damages in excess of the liquidated damages estimate.

## **2.19 Rights and Remedies**

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.

No action or failure to act by the Town or the Town's Consultant shall constitute a waiver of any right or duty afforded under this Contract, nor shall any such action or failure to act constitute an approval of or acquiescence of any breach thereunder, except as may be specifically agreed to in writing.

## **2.20 Traffic Control, Access and Local Streets**

All traffic control operations and activities shall be governed by the guidelines as set out in the Ontario Traffic Manual – Book 7 (latest edition).

A Traffic Protection Plan for worker safety is also required as indicated in the Occupational Health and Safety Act, R.S.O. 1990, c. O.1, as amended ("OHSA").

The road(s) shall be kept open to local traffic at all times and maintained with the existing number of lanes unless specified otherwise in the Contract. A reduction in through lanes may be permitted during off-peak traffic hours with the prior approval of the Contract Administrator and when controlled by methods indicated in the Ontario Traffic Manual – Book 7. In such cases where a temporary reduction in through lanes is permitted, normal traffic flow in each direction shall be resumed when peak traffic hours return and when the day's Work is completed, unless the Contract Administrator approves otherwise, in writing.

Access shall be maintained at all times, regardless of weather or construction staging, to all businesses and residences having access to the road and safe and adequate passage for pedestrians shall be maintained. If the Contractor fails to maintain access, the Contract administrator may take whatever action is deemed necessary and charge the costs and expenses for such action back to the Contractor or deduct such costs and expenses from monies owing to the Contractor.

The Contractor shall supply and install all required construction signage prior to the start of construction. For permanent signs, the Contractor shall refer to Ontario Traffic Manual – Book 5 – Regulatory Signs (latest edition). The Contractor shall also provide appropriate construction speed zone signs (TC-36 and Rb-1A) if required for added safety within the construction area. The Contractor shall remove all construction signs and associated posts, etc., upon the completion of the Contract.

Proper traffic control shall be maintained at all times during construction, including the removal and application of pavement markings as necessary to maintain vehicular traffic in their designated lanes. The Contractor shall be responsible for providing, maintaining and relocating where necessary, sufficient signs, delineators, barricades, lights, flashers, etc., and providing Traffic Control Persons (TCP's) and/or police officers as required, so that motorists and pedestrians are properly directed to ensure safety.

If, in the opinion of the Contract Administrator, proper traffic control is not maintained, the Contractor shall immediately modify its operation to the satisfaction of the Contract Administrator.

If the Contractor fails to take immediate action, the Contract Administrator may take such action as is considered necessary and required and deduct the costs and expenses for such action from monies owing the Contractor.

The performance of such Work under the direction of the Contract Administrator shall in no way relieve the Contractor from any responsibility or damages which may occur during its performance or after such precautions have been carried out by the Contract administrator.

Dust control shall be controlled by the use of water or calcium chloride, or both.

Commencing from the first day of Work, the Contractor shall be responsible for the maintenance of the Work at all times until the Contract has been substantially completed and accepted by the Town. This will include maintenance of the existing roadway within the Contract limits even if the Contractor has not yet begun Work in a particular area. If the Contract Work is not completed prior to seasonal shutdown, it will be the responsibility of the Contractor to maintain and repair, as required, all construction signing, delineation devices, and traffic surfaces, for the safe passage of vehicles and pedestrians during the shutdown period.

Provisions for the passage of pedestrians in the construction area must be by means of ramps, wooden walkways, etc., including all maintenance at all times throughout the duration of the Contract. Special consideration shall be taken by the Contractor to accommodate pedestrians/residents with special needs.

### **2.21 Relocation of Existing Utilities**

Permanent relocations of existing utilities will be undertaken where deemed necessary by the Director and at the sole expense of the Town.

The Director will be the sole determinant as to the requirement for any utility relocation and said relocation shall not relieve the Contractor of the obligations as outlined in SUBCONTRACTORS. **No claims for extra payment will be entertained for delays in the Contractor's Work caused by the necessity to relocate utilities, whether they are to be relocated permanently or temporarily.**

### **2.22 Damage to Existing Utilities and Work Near Utilities**

The Contractor's attention is drawn to the presence of utilities on this project. Existing utilities are not necessarily shown on the Contract Drawings and the locations of any utilities that are shown are indicative only and not guaranteed by the Town. It is the Contractor's responsibility to contact the applicable municipal authorities or utility companies for further information in regard to these utilities, to obtain proper locates, and to exercise the necessary care in construction operations, or take other precautions to safeguard the all utilities from damage. The costs of all damages to utilities caused by the Contractor's operations shall be borne solely by the Contractor.

The Contractor shall ensure that full utility service is not disturbed during the course of construction, by reason of the construction.

The Contractor is responsible for ensuring that any work done in the vicinity of any utility is conducted in compliance with all applicable codes, regulations, and guidelines that govern work in vicinity of the utility.

### **2.23 Property Bars**

Any property bars located within each Work area shall be marked and protected by the Contractor. The Contractor shall be responsible for the maintenance of these property bars and shall have all damaged or missing property bars replaced by a certified Ontario Land Surveyor at the Contractor's sole expense upon completion of the Work and prior to final payment.

## **2.24 Maintain Existing Flows**

It shall be the Contractor's responsibility to maintain flows in the watermain, sanitary sewer, storm sewer and watercourses, any or all of which may exist on the project, throughout the duration of the Contract.

The Contractor shall do such work or use such equipment as necessary to maintain such flows and shall protect the Town against any and all claims involving public liability and/or damage to property which may arise due to the Contractor's failure to control such flows and maintain such facilities.

All costs relating to said works are deemed to be included in the Contract price for the specified item unless expressly stated otherwise in the Special Provisions contained herein.

## **2.25 Water Quality Management System**

The Town of Aurora's water/wastewater division has implemented a Drinking Water Quality Management System for the provision of safe drinking water to meet the legislated requirements of the Ontario Ministry of the Environment's Drinking Water Quality Management Standards ("DWQMS"). All goods and services must meet specific requirements of the DWQMS as it relates to the provision of safe drinking water. A copy of the Town's Drinking Water Quality Management System Policy, Operational Plan and Standard Operating Procedures are available from the Water/Wastewater Division.

[End of Part 2]

## PART 3 - EVALUATION OF BIDS

### 3.1 Stages of Bid Evaluation

The Town reserves the right to consider any and/or all of the following during the evaluation of Bids:

- (a) Information provided in the Bid itself;
- (b) Information provided in response to enquiries of credit, experience and industry references set out in the Bid Document;
- (c) Information received in response to enquiries made by the Town of third parties apart from those disclosed in the Bid in relation to the reputation, reliability, experience and capabilities of the Bidder;
- (d) The manner in which the Bidder provides services to others;
- (e) The experience and qualifications of the Bidder's senior management, and project management; and
- (f) The compliance of the Bidder with the Town's requirements and specifications.

The Bidder acknowledges that the Town has the right to determine, at its discretion, which criteria are relevant and how they are to be applied during the evaluation process of this Bid Document.

The evaluation of Bids will be conducted by the Town in the following three (3) stages:

Stage I will consist of a review to determine which Bids comply with all of the mandatory requirements. Bids, which do not comply with all of the mandatory requirements, may, subject to the express and implied rights of the Town, be rejected and not evaluated further.

Stage II will consist of an evaluation of the submitted pricing of compliant Bids. Subject to the express and implied rights of the Town, the lowest Contract Amount will receive the award.

Stage III will consist of the Town awarding based on the lowest Contract Amount. Subject to Schedule "E", Draft – Contract, the lowest Contract Amount compliant Bid as established under the Evaluation of the Bid will be selected to enter into a Contract for the delivery of the Work.

[End of Part 3]

## PART 4 – INSTRUCTIONS TO BIDDERS

### 4.1 General Information and Instructions

#### 4.1.1 Timetable

The following is the schedule for this Bid Document:

- Opening Date **April 12, 2019**
- Bidder's Deadline for Proposed Alternates **12:00 p.m. on April 30, 2019**
- Bidder's Deadline for Questions **12:00 p.m. on May 6, 2019**
- Deadline for Issuing Addenda **10:00 a.m. on May 9, 2019**
- Closing Date **10:00:00 a.m. (local time) on May 14, 2019**
- Period of validity for which Bids are Irrevocable after Bid Submission Deadline **120 days**

The Bid Document timetable is tentative only and may be changed by the Town in its sole discretion at any time prior to the Bid Closing Date.

#### 4.1.2 Bidders to Follow Instructions

Bidders should structure their submissions in accordance with the instructions in this Bid Document.

#### 4.1.3 Bidders to Obtain Bid Document Only Through Bids & Tenders

This Bid Document is available only through the Electronic Bidding System used by the Town <https://aurora.bidsandtenders.ca>

A Bidder who has not obtained this Bid Document through <https://aurora.bidsandtenders.ca> may have its Bid rejected.

#### 4.1.4 Bids in English

All Bids are to be in English only.

#### 4.1.5 Town's Information in the Bid Document only an Estimate

The Town and its advisors make no representation, warranty or guarantee as to the accuracy of the information contained in the Bid Document or issued by way of Addenda. Any quantities shown or data contained in this Bid Document or provided by way of Addenda are estimates only and are for the sole purpose of indicating to Bidders the general size of the work.

Where the quantities of any unit price item will exceed or be less than the estimated quantity, the Contractor will proceed as required to complete such item and payment shall be based upon the actual quantity at the applicable unit price in SCHEDULE "A", provided that the Contractor shall have first obtained written authorization from the Director to proceed.

It is the Bidder's responsibility to avail itself of all the necessary information to prepare a Bid in response to this Bid Document.

#### 4.1.6 Bidders Shall Bear Their Own Costs

The Bidder shall bear all costs associated with or incurred in the preparation and submission of its Bid including, if applicable, costs incurred for interviews or demonstrations.

## 4.2 Communication after Issuance of Bid Document

### 4.2.1 Bidders to Review Bid Document

Bidders shall promptly examine all of the documents comprising this Bid Document and

- (a) shall report any errors, omissions or ambiguities; and
- (b) may direct questions or seek additional information

in writing on or before the Bidder's Deadline for Questions to the Town via the on-line Bidding System. No communications are to be directed to anyone other than the Town's Procurement Services Division. The Town is under no obligation to provide additional information but may do so at its sole discretion.

It is the responsibility of the Bidder to seek clarification from the Town Procurement Services Division via the online Bidding System on any matter it considers to be unclear. The Town shall not be responsible for any misunderstanding on the part of the Bidder concerning the Bid Document or its process.

### 4.2.2 All New Information to Bidders by way of Addenda

This Bid Document may only be amended by an Addendum, in accordance with this section. If the Town, for any reason, determines that it is necessary to provide additional information relating to this Bid Document, such information will be communicated to all Bidders by Addenda. Each Addendum shall form an integral part of this Bid Document.

Such Addenda may contain important information including significant changes to this Bid Document. Bidders are responsible for obtaining all Addenda issued by the Town.

Bidders shall acknowledge receipt of any Addenda when submitting their Bid through the Bidding System. Bidders shall check a box for each Addendum/Addenda and any applicable attachments that has been issued before a Bidder can submit their Bid submission online.

Addendum/Addenda will typically be issued through the Bidding System, Forty-eight (48) Hours prior to Closing Date.

In the event an Addendum is issued within Forty-eight (48) Hours prior to Closing Date, it may include an extension of the Closing Date. It is the responsibility of the Bidder to have received all Addendum/Addenda that have been issued. Bidders should check online at <https://aurora.bidsandtenders.ca> prior to submitting their Bid and up until Bid Closing Date in the event additional Addendums are issued.

The Town encourages Bidders **not** to submit their Bid **prior to** forty-eight (48) hours before the Bid Closing Date, in the event that an Addendum is issued. If a Bidder submits their bid prior to this or at any time prior to the Bid Closing Date and an Addendum/Addenda is issued by the Town, the Bidding System shall **WITHDRAW** their Bid submission and change their Bid submission to an **INCOMPLETE STATUS (NOT accepted by the Town)** and the Withdrawn Bid can be viewed by the Bidder in the "**MY BIDS**" section of the Bidding System. The Bidder is solely responsible to:

- i) Make any required adjustments to their Bid; and
- ii) Acknowledge the Addendum/Addenda; and
- iii) Ensure the re-submitted Bid is **RECEIVED** by the Bidding System no later than 10:00:00 a.m. (10:00:00 hours) local time, on the Bid Closing Date.

**NOTE:** Additional company contacts are recommended for the reasons outlined below:

- Do **not** invite any additional contacts that you do not want to have access to view, edit, submit and/or withdraw or who may be in direct competition for example (a company may have two divisions that could compete for the same Bid Opportunity).
- You are strongly urged when creating or updating a Bidding System Vendor account to add additional company contacts to create their own login to the Bidding System. This will permit your invited contacts that have created their own login to manage (register, submit, edit and withdraw) Bids which your Company is a Registered Plan Taker for. In the event you are on vacation, or due to illness, etc. these additional contacts may act on your Company's behalf and have the authority to; receive Addendum notifications from the Bidding System, and where permitted by the terms and conditions of the Bid Call Document, to submit Bids electronically through the Bidding System and/or withdraw and/or edit and/or acknowledge Addendum/Addenda, on your behalf.
- If you are invited to bid, it is imperative that you create your login from the link contained in the email invitation. Do NOT go directly to <https://aurora.bidsandtenders.ca> website and create a separate vendor account.

#### **4.2.3 Post-Deadline Addenda and Extension of Bid Submission Deadline**

If any Addendum is issued after the deadline for issuing Addenda, the Town may at its discretion extend the Bid Closing Date for a reasonable amount of time.

### **4.3 Submission of Bids**

#### **4.3.1 Bids Submitted Only in Prescribed Manner**

**ELECTRONIC BID SUBMISSIONS ONLY** shall be received by the Bidding System, no later than the Closing Date listed within the Bid Document.

All Bidders shall have a Bidding System Vendor account and be registered as a Plan Taker for this Bid opportunity, which will enable the Bidder to download the Bid Call Document, to receive Addenda/Addendum email notifications, download Addendums and to submit their Bid electronically through the Bidding System.

Bidders are cautioned that the timing of their Bid submission is based on when the Bid is **RECEIVED** by the Bidding System, **not** when a Bid is submitted by a Bidder, as Bid transmission can be delayed in an **"Internet Traffic Jam"** due to file transfer size, transmission speed, etc.

For the above reasons, the Town recommends that Bidders allow sufficient time to upload their Bid submission and attachment(s) (if applicable) and to resolve any issues that may arise. The Closing Date shall be determined by the Town's Bidding System web clock.

The Bidding System will send a confirmation email to the Bidder advising that their quote was submitted successfully. If you do not receive a confirmation email, contact technical support at Bids&Tenders via email: [support@bidsandtenders.ca](mailto:support@bidsandtenders.ca)

Late Bids shall not be accepted by the Town's Bidding System.

To ensure receipt of the latest information and updates via email regarding this Bid Document, or if a Bidder has obtained this Bid Document from a third party, the onus is on the Bidder to create a Bidding System Vendor account and register as a Plan Taker for the bid opportunity at [aurora.bidsandtenders.ca](https://aurora.bidsandtenders.ca)

Bids submitted in any other manner will be rejected.



#### **4.3.2 Bids Must Be Submitted By Closing Date**

Bids must be submitted on or before the Bid Document Closing Date. Bids submitted after this point in time will be deemed late, disqualified and rejected.

#### **4.3.3 Amending or Withdrawing Bids Prior to Bid Document Closing Date**

At any time prior to the Bid Document Closing Date, a Bidder may amend or withdraw a submitted Bid. The right of Bidders to amend or withdraw includes amendments or withdrawals wholly initiated by Bidders and amendments or withdrawals in response to subsequent information provided by Addenda.

The Bidder is solely responsible to:

- i) make any required adjustments to their Bid; and
- ii) acknowledge the Addendum/Addenda; and
- iii) Ensure the re-submitted Bid is **RECEIVED** by the Bidding System no later than 10:00:00 a.m. local time, on the Bid Closing Date.

#### **4.3.4 Bids Irrevocable after Bids Submission Deadline**

Bids shall remain irrevocable in the form submitted by the Bidder for a period of one hundred and twenty (120) Days running from the moment that the Bid Closing Date has lapsed.

Notwithstanding, the Town may at any time request an extension of the aforementioned period of validity and any Bidder may agree to such a request. The Bid of any Bidders that agree to an extension will remain open for acceptance for the agreed period of time. Rejection of an extension request, failure to provide a response to an extension request within a reasonable period of time, request for withdrawal of a Bid or any associated securities shall constitute the withdrawal or expiry of validity of such a Bid upon the expiry of the aforementioned period of validity.

#### **4.3.5 Town May Seek Clarification and Incorporate Response into Bid**

The Town reserves the right to seek clarification and supplementary information relating to the clarification from Bidders after the Bid Submission Deadline. The response received by the Town from a Bidder shall, if accepted by the Town, form an integral part of that Bidder's Bid. The Town reserves the right to interview any or all Bidders to obtain information about or clarification of their Bids. In the event that the Town receives information at any stage of the evaluation process which results in earlier information provided by the Bidder being deemed by the Town to be inaccurate, incomplete or misleading, the Town reserves the right to revisit the Bidder's compliance with the Mandatory Requirements and/or adjust the scoring of Rated Criteria.

#### **4.3.6 Clarification of the Bidder**

It is the responsibility of the Bidder to seek clarification of any matter that they consider unclear before submitting a Bid. The Town is not responsible for any misunderstanding of this Bid Document, including the Contract Documents, on the part of the Bidder. Inquiries regarding this Bid Document should be asked via the online Bidding System.

Verbal clarifications will not be interpreted to change the terms of this Bid Document. No employee or agent of the Town is authorized to amend or waive the requirements of the Bid Document in any way unless the amendment or waiver is signed by the Town's designate in the form of an Addendum. Under no circumstances shall the Bidder rely upon any information or instructions from the Town, its employees, or its agents unless the information or instructions are provided in writing in the form of Addenda issued by the Procurement Services Division. Neither the Town, its employees, nor its agents shall be responsible for any information or instructions

given to the Bidder, with the exception of information or instructions provided in writing by Procurement Services Division designate as outlined above. Any information or changes to the requirements of this Bid Document will be sent to each Bidder in the form of an Addendum issued by Procurement Services via the online bidding system.

#### **4.3.7 Bid Document Incorporated into Bid**

All of the provisions of this Bid Document are deemed to be accepted by each Bidder and incorporated into each Bidder's Bid.

### **4.4 Execution of Contract and Notification**

#### **4.4.1 Selection of Bidder and Award**

The Town anticipates that the Town will select a Bidder within one hundred and twenty (120) days of the Bid Closing Date. Notice of selection by the Town to the selected Bidder will be in writing.

The formal Contract (Form of Contract) shall be prepared by the Town and shall be provided to the recommended Bidder. If the selected Bidder fails to properly sign and deliver such Contract to the Town or fails to deliver the bonds, proof of insurance, and all other documents required to be delivered to the Town upon execution and delivery of the Contract within a period of ten (10) Working Days thereafter, or if the selected Bidder withdraws the Bid, the Town may, at its sole option, consider such Bidder to have abandoned the Bid made and refused to enter into the Contract and award the Contract to a different Bidder and at its option:

- a) retain the proceeds of the Bid Bond accompanying the Bid as liquidated damages; and
- b) require the Bidder to pay the Town the difference between the Bidder's Bid and any other bid which the Town accepts if the other Bid is for a larger amount and any cost which the Town may incur by reason of recalling this Bid Document and further the Bidder will indemnify and save harmless the Town, its Director(s), Council members, officers, employees, agents, consultants and partners from and against claims, demands, losses, costs, expenses, damages, actions, suits or proceedings arising from such failure or withdrawal by the undersigned.

The selected Bidder shall execute the Contract in the form attached to this Bid Document and satisfy any other applicable conditions of this Bid Document within ten (10) Working Days of notice of selection. This provision is solely to the benefit of the Town and may be waived by the Town at its sole discretion.

A Bidder who submits conditions, options, variations or contingent statements to the terms set out in the Form of Contract, either as part of its Bid or after receiving notice of selection, may be rejected.

Bidders are reminded that there is a question and answer period available if they wish to ask questions or seek clarification about the terms and conditions set out in the Bid Document.

Consideration for award shall only be undertaken in relation to Bidders who are determined by the Town, in its sole discretion, to be a Responsible Bidder pursuant to the Town's Procurement By-law, and have satisfied all Bid Document requirements.

All awards are subject to the approval of Council (if applicable) and the availability of funds.

The Town hereby reserves the right, privilege, entitlement and absolute discretion, and for any reason whatsoever and any applicable Administrative Policies and/or Procedures to:

- (a) Accept a Bid from any one (1) Bidder or from multiple different Bidders;

- (b) Accept a Bid which is not the lowest Bid submission, or reject a Bid that is the lowest Bid even if it is the only Bid received;
- (c) Accept or reject any and all Bids, in whole or in part;
- (d) Cancel this Bid Document at any time whatsoever, either before or after the Closing Date and Time;
- (e) Accept the Bid deemed most favourable to the interests of the Town or that may provide the greatest value advantage and benefit to the Town based upon and not limited to:
  - Price;
  - Ability and experience;
  - Quality of Work (guarantees and warranties);
  - Service and service location;
  - Experience;
  - Past performance;
  - Completion history (including extended completion dates); and
  - Qualifications.
- (f) With the exception of “Bid Irregularities” defined in the Town’s Procurement By-Law, waive any informalities, requirements, discrepancies, errors, omissions, or any other defects or deficiencies in any Bid Document Form or Bid submission;
- (g) Reject any Bidder who is involved in litigation with the Town, or with whom there is notice of pending litigation between it and the Town, or has any unresolved claims involving the Town that resulted from previous work by the Bidder for the Town;
- (h) Reject any Bidder who was a Consulting firm involved in preparing or assisting in developing the scope of work and/or specifications for the respective project; or
- (i) Reject any Bidder where the Town is of the view that the award to such Bidder would undermine the business reputation of the Town or undermine the public’s confidence in the integrity of the Town’s procurement process as a result of the Town having knowledge or information of criminal or quasi-criminal activity (including, without limitation, knowledge or information in relation to existing criminal or quasi-criminal charges or convictions).

#### **4.4.2 Failure to Enter Into Contract**

In addition to all of the Town’s other remedies, if a selected Bidder fails to execute the Contract or satisfy any other applicable conditions within ten (10) days of notice of selection, the Town may, in its sole and absolute discretion and without incurring any liability, rescind the selection of that Bidder and proceed with the selection of another Bidder.

#### **4.4.3 Notification to Other Bidders of Outcome of Procurement Process**

Once the successful Bidder and the Town execute the Contract, the other Bidders will be notified of the outcome of the procurement process, including the name of the successful Bidder, and the award to the successful Bidder.

All awards are subject to the approval of Council (if applicable) and the availability of funds.

### **4.5 Black-out Period and Confidential Information**

#### **4.5.1 Black-out Period**

Any communication between Bidders and Council members, Town staff, or Town consultants relating to any solicitation, pending Award or submitted Bids, other than to Town staff in the

Procurement Services Division, is prohibited during the period of time from the release of the solicitation up to and including the date that the Contract with the selected Bidder is duly executed and a Purchase Order has been approved by the Procurement Manager. Any such communication in violation of this subsection will entitle the Procurement Manager to disqualify the offending Bidder from consideration for Award.

#### **4.5.2 Lobbying Prohibited**

From the time this Bid Document is released until after the award by the Town, no solicitations or lobbying may be made to any Town staff member, Council member, Town consultant, or to the news media by any director, officer, principal, employee, agent, family relation, or other representative of a Bidder (including any other parties that may be involved in a business relationship with the Bidder) with respect to the merits or value of the Bidder's Bid. Any such communication in violation of this section will entitle the Procurement Manager to disqualify the offending Bidder from consideration for award. This subsection does not apply to presentations or delegations expressly requested by Town staff or by Council, whether in this Bid Document or otherwise.

#### **4.5.3 Bidder Not to Communicate With Media**

A Bidder may not at any time directly or indirectly communicate with the media in relation to this Bid Document or any Contract awarded pursuant to this Bid Document without first obtaining the written permission of the Town Contact.

#### **4.5.4 Confidential Information of Town**

All information provided by or obtained from the Town in any form in connection with this Bid Document either before or after the issuance of this Bid Document: (a) is the sole property of the Town and must be treated as confidential; (b) is not to be used for any purpose other than replying to this Bid Document and the performance of any subsequent Contract; (c) must not be disclosed without prior written authorization from the Town; and d) shall be returned by the Bidders to the Town immediately upon the request of the Town.

### **4.6 Reserved Rights and Governing Law**

#### **4.6.1 Reserved Rights of Town**

The Town reserves the right to:

- (a) make public the names of any or all Bidders;
- (b) request written clarification or the submission of supplementary written information in relation to the clarification request from any Bidder and incorporate a Bidder's response to that request for clarification into the Bidder's bid;
- (c) assess a Bidder's Bid on the basis of
  - (i) a financial analysis determining the actual cost of the Bid when considering factors including quality, service, price and transition costs arising from the replacement of existing goods, services, practices, methodologies and infrastructure (howsoever originally established);
  - (ii) information provided by references;
  - (iii) information received in response to enquiries made by the Town of third parties apart from those disclosed in the Bid;
  - (iv) the Bidder's past performance on previous contracts awarded by the Town;

- (v) the information provided by a Bidder pursuant to the Town exercising its clarification rights under this Bid Document process; or
- (vi) other relevant information that arises during this Bid Document process;
- (d) waive formalities and accept bids which substantially comply with the requirements of this Bid Document;
- (e) verify with any Bidder or with a third party any information set out in a Bid;
- (f) check references other than those provided by any Bidder;
- (g) disqualify any Bidder whose bid contains misrepresentations or any other inaccurate or misleading information;
- (h) disqualify any Bidder or the Bid of any Bidder who has engaged in conduct prohibited by this Bid Document;
- (i) make changes, including substantial changes, to this Bid Document provided that those changes are issued by way of Addenda in the manner set out in this Bid Document;
- (j) select any Bidder other than the Bidder whose bid reflects the lowest price to the Town or the highest score;
- (k) cancel this Bid Document process at any stage;
- (l) cancel this Bid Document process at any stage and issue a new Bid Document for the same or similar deliverables;
- (m) accept any Bid in whole or in part; or
- (n) reject any or all Bids;

The above reserved rights are in addition to any other express rights or any other rights which may be implied in the circumstances and the Town shall not be liable for any expenses, costs, losses or any direct or indirect damages incurred or suffered by any Bidder or any third party resulting from the Town exercising any of its express or implied rights under this Bid Document.

By submitting its bid, the Bidder authorizes the collection by the Town of the information set out under (e) and (f) in the manner contemplated in those subparagraphs.

#### **4.7 Standard Specifications**

The Ontario Provincial Standard Specifications (OPSS) and the Town of Aurora Specifications, as stated at the time of Bid Document issuance by the Town, shall govern the Work covered under this Contract except as noted in the Special Provisions. All Contractors proposing to bid on this Contract will be required to obtain their own copies of the current Specifications in effect for this Contract. Town Specifications where they exist shall prevail over the OPSS.

#### **4.8 Contract Price**

The Contract Price shall be the final sum of:

- i) the products of the actual quantities of unit price items that are incorporated in the Work and completed, as confirmed by count and measurement by the Town, and the applicable unit prices in the SCHEDULE "A"; and
- ii) the lump sum prices in the SCHEDULE "A" – Rate Bid Form for lump sum items that are incorporated in the Work and completed.

#### **4.9 Taxes and Duties**

The Bid prices shall include excise taxes in force for the duration of the Contract, and EXCLUDE the Harmonized Sales Tax (HST).

#### **4.10 Irregularities or Unbalanced Bids**

Bids which are late, incomplete, conditional or that contain additions not called for, reservations, conditions or irregularities of any kind, may be rejected as non-compliant.

Bids that contain prices which are so unbalanced as will adversely affect the interests of the Town may be rejected.

If a Bidder has failed to enter a price for an item of Work set out in Schedule "A", such Bidder shall, unless specifically stated otherwise in the Bid Document, be deemed to have allowed elsewhere in Schedule "A" for the cost of carrying out the said item of Work. Unless otherwise agreed to by the Town in writing, no increase shall be made in the Contract Amount on account of such omission.

#### **4.11 Intellectual Property Indemnity**

The Bidder/Contractor, as the case may be, shall indemnify and hold harmless the Town (and its affiliates, elected officials, directors, officers, employees and agents) (collectively, the "Indemnified Parties") from and against all actions, suits, claims, demands, liens, proceedings and judgments which may be brought against or made upon the Indemnified Parties, and against all liabilities, damages, losses, costs, charges and expenses (including legal expenses) which may be incurred, sustained or suffered by the Indemnified Parties, resulting from or arising out of the infringement (actual or alleged) by the Bid submitted by the Bidder or by any deliverables provided under the Contract of the intellectual property rights of any person.

#### **4.12 Waiver of Claim**

By submitting a Bid, the Bidder acknowledges the Town's rights under this section and absolutely waives any right or cause of action against the Town and its Consultants by reason of the Town's failure to accept the Bid submitted by the Bidder, whether such right or cause of action arises in Contract, negligence, or otherwise.

#### **4.13 Limitation of Claim**

Without limiting the generality of the foregoing, the Bidder, by submitting a Bid, agrees that it will not claim damages in excess of an amount equivalent to the reasonable costs incurred by the Bidder in preparing its Bid in relation to all matters relating to, or resulting from, this Bid Document or Contract A or in respect of the competitive Bidding process, and the Bidder, by submitting a Bid, waives any claim for loss of profits if the Contract is not awarded to the Bidder for any reason whatsoever.

#### **4.14 Workplace Safety & Insurance Board (WSIB) & Government Sales Tax Compliance**

The Contractor shall adhere to Workplace Safety & Insurance Board and the Government Sales Tax requirements.

[End of Part 4]

## **PART 5 – GENERAL CONDITIONS**

### **5.1 Order of Precedence**

In the event of any inconsistency or conflict in the contents of the following documents, such documents shall take precedence and govern in the following order:

- a) Terms and conditions of the body of the Contract;
- b) Purchase Order;
- c) Bid Document;
- d) Bid Submitted by the Bidder.

In the event of any inconsistency or conflict in the contents of the following documents, such documents shall take precedence and govern in the following order:

- a) Addenda;
- b) Special Provisions;
- c) General Conditions;
- d) Information and Instructions to Bidders;
- e) Contract Drawings, including specifications and drawings developed by the Consultant;
- f) Standard Specifications (OPSS);
- g) Standard Drawings (Town of Aurora);
- h) Standard Drawings (OPSD).

In the event of any inconsistency or conflict in the contents of the drawings, the following order shall apply:

- a) figured dimensions shown on a drawing shall govern even though they may differ from dimensions scaled on the same drawing;
- b) drawings of larger scale shall govern over those of smaller scale of the same date.

As between documents within the same of the aforementioned categories, documents of a later date shall govern.

### **5.2 Documents**

5.2.1 The Form of Contract shall be signed by the Town and the Contractor.

5.2.2 The Bid Documents are complementary and what is required by any one shall be as binding as if required by all.

5.2.3 The intent of the Bid Documents is to include the labour, products, services and construction machinery and equipment necessary for the performance of the Work in accordance with the Bid Documents. Without extra charge, the Contractor shall supply products and construction machinery and equipment and perform the Work and services consistent with, covered by or properly inferable from the Contract documents, as determined by the Director.

- 5.2.4 The Contractor shall keep one (1) copy of current Contract and shop drawings at the place of the Work in good order and available to the Town, Consultant, if any, and their respective representatives.
- 5.2.5 Drawings, specifications, models and copies thereof furnished by the Town are and shall remain its property with the exception of the signed contract sets belonging to each party to the Contract. Such documents and models are to be used only with respect to the Work and are not to be used on other work. Such documents and models are not to be copied or devised in any manner without the written authorization of the Town.
- 5.2.6 If the Contractor has any doubt as to the meaning or intent of the Contract Documents, it shall at once notify the Town and the Consultant, if any.

### **5.3 Consultant**

- 5.3.1 It is agreed by the Contractor that the Town may appoint from time to time such person, firm or corporation (the "Consultant") as the Town may deem proper to visit the site to familiarize itself with the material to be furnished and the progress and quality of Work. The Contractor shall furnish all reasonable aid and assistance required by the Town and the Consultant, if any, for the observation of the material and the Work and all parts of the same, free of cost to the Town, including all facilities and test samples.
- 5.3.2 The Consultant will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs required for the Work in accordance with the applicable construction safety legislation, other regulations or general construction practice. The Consultant will not be responsible for or have control or charge over the acts or omissions of the Contractor, its Subcontractors or their respective agents, employees or other persons performing any of the Work.
- 5.3.3 If, through the omission, default, neglect or delay or other cause on the part of the Contractor, more visits of the Work by the Consultant or the Town are rendered necessary than are reasonably required, the Town may in every case charge such time for extra visits to the Contractor at the actual cost thereof and travelling expenses, which costs and expenses shall be payable by the Contractor on demand.
- 5.3.4 If a Consultant has been appointed by the Town, the Consultant will be, in the first instance, the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by the Contractor.
- 5.3.5 Claims, disputes and other matters in question relating to the performance of the Work or the interpretation of the Contract Documents shall be referred initially to the Consultant, if any, in writing for decision. The Consultant will have authority to reject work which in the opinion of the Consultant does not conform to the requirements of the Contract Documents. Whenever the Consultant considers it necessary or advisable, it will have authority to require special inspection or testing of work whether or not such work be then fabricated, installed or completed.

### **5.4 Delays**

- 5.4.1 The Contractor shall not have any claim for compensation or damages against the Town for any stoppage or delay from any cause whatever.
- 5.4.2 Should a stoppage or delay be caused by or result from the action or neglect of any Other Contractor, or be caused by or result from the work being taken out of the hands of any Other Contractor by the Town under the provisions of any contract made with such Other



Contractor, the Town may give notice in writing to the Contractor to stop the Work.

- 5.4.3 Should the amount authorized for the Work be at any time expended prior to the completion of the Work, the Contractor may, on receiving a notice in writing from the Town to such effect, stop the Work; but in any case the Contractor shall not be entitled to any further payment for work done after the service of the notice above referred to until the additional necessary funds shall have been further authorized, nor shall the Contractor have any claim for compensation or damages for the said suspensions of payment or cancellation of the remaining Work.
- 5.4.4 The Town may stop any portion of the Work if for any reason the requisite approvals from any applicable governmental or municipal authority are not available.
- 5.4.5 The Town or the Consultant may stop any portion of the Work if, in its judgment, the weather is such as to prevent the same from being properly done.
- 5.4.6 Upon written notice from the Town or the Consultant, the Contractor shall discontinue or delay any or all work of base, foundation or paving construction on any section of the road if, in the opinion of the Town, the foundation is not sufficiently compacted or settled for surfacing of the work in question and the work shall not be resumed until the Town shall in writing so direct.
- 5.4.7 When the Work under the Contract is discontinued for any reason by or with the written consent of the Town and will not be resumed until the following working season or for any extended period, when directed by the Town, the Contractor shall open and place the roadway in a passable, safe and satisfactory condition for public travel and the roadway shall not again be closed to traffic or traffic thereon obstructed without written authority of the Town.

## **5.5 Extension of Contract Time**

- 5.5.1 An extension of the Contract Time may be granted by the Town as the result of delays caused by:
  - (a) unusual delay by common carriers;
  - (b) abnormal inclement weather;
  - (c) general strikes;
  - (d) work stoppages pursuant to DELAYS
  - (e) Changes in the Work pursuant to CHANGES IN THE WORK; and
  - (f) any other cause beyond the Contractor's reasonable control (other than financial incapacity).
- 5.5.2 Such extension of Contract Term may be for such time as the Town may set and the Town shall fix the terms on which said extension may be granted, which terms may include a charge for engineering and other expenses actually incurred by the Town during the time covered by said extension.
- 5.5.3 Such extension of Contract Term shall be deemed to be in full compensation for any loss or injury sustained by the Contractor by reason of any delay caused as aforesaid and the Contract shall not be invalidated by the granting of such extension.
- 5.5.4 Application for an extension of Contract Time as herein provided shall be made by the Contractor to the Town not later than two (2) Days following the commencement of the delay and at least fifteen (15) Days prior to the date of completion fixed by the Contract. The date of expiry of all bonds or other security furnished to the Town by the Contractor

shall be extended, at the expense of the Contractor, to at least two (2) months beyond the extended date of completion and the Contractor shall provide to the Town evidence satisfactory to the Town of such extension of the date of expiry.

- 5.5.5 For the purposes of this section (EXTENSION OF CONTRACT TERM), a delay caused by abnormal inclement weather means, as determined by the Town or, if a Consultant has been appointed, by the Consultant, the Contractor is prevented by inclement weather or other conditions resulting immediately therefrom for at least five (5) hours in a Working Day from proceeding with at least sixty percent (60%) of the normal labour and equipment force engaged on any component of the Work which, if delayed, will delay the completion of the Work as determined by the Town or, if a Consultant has been appointed, by the Consultant.

The Town shall grant a one (1) Working Day extension of the Contract Time for each day of delay caused by abnormal inclement weather. The Town may furnish to the Contractor a weekly statement showing the number of days lost due to delay caused by abnormal inclement weather in the preceding week, the number of Working Days by which the Contract Time is extended by reason of delay caused by abnormal inclement weather and the number of Working Days remaining to complete the Contract. The Contractor will be allowed one (1) week in which to file a written protest setting forth in what respect the weekly statement is incorrect, otherwise the Contractor shall be deemed to have accepted the statement and to have made an application for extension of the Contract Time in accordance with such weekly statement.

## **5.6 Default and Termination**

- 5.6.1 Any of the following shall be considered to be an "Act of Default" by the Contractor:
- (a) Failure to comply with the terms and conditions of the Contract, and such failure is not remedied within ten (10) Days after written notice of such failure by the Town.
  - (b) Breach of Privacy or Confidentiality.
  - (c) Assignment, transfer, conveyance, sublet, or disposition of the Contract or the Contractor's right, title, or interest therein to any person without the prior written consent of the Town.
  - (d) Failure to comply with all federal, provincial and municipal laws and regulations applicable to the Work.
  - (e) Commencement of any proceeding under bankruptcy, creditor protection or similar law in respect of the Contractor, or appointment of a receiver, receiver-manager or liquidator in respect of the Contractor.
- 5.6.2 Where an Act of Default occurs, the Town reserves the right, in its sole discretion and upon providing written notice to the Contractor, to immediately terminate the Contract.
- 5.6.3 The Town reserves the right, in its sole discretion, to terminate the Contract, in whole or in part, without cause, upon providing thirty (30) Days prior written notice to the Contractor.
- 5.6.4 Upon receipt of a notice of termination hereunder, the Contractor shall immediately cease performance of the Work (unless otherwise directed by the Town in writing) and promptly remove all Contractor and Subcontractor equipment from the Town's property.
- 5.6.5 In the event of termination hereunder, the City shall not incur any liability whatsoever to the Contractor except for payment for the goods and/or services that have been satisfactorily delivered or performed by the Contractor up to the effective date of termination.

## **5.7 Disputes**

- 5.7.1 Differences between the parties to the Contract as to the interpretation, application or administration of the Contract or any failure to agree where agreement between the parties is called for, other than a failure to agree on the method of valuation, measurement and change in the Contract Price pursuant to VALUATION AND CERTIFICATION OF CHANGES IN THE WORK which are not resolved in the first instance by decision of the Town or the Consultant pursuant to the provisions of CONSULTANT, if applicable, shall be settled in accordance with this General Condition.
- 5.7.2 The Contractor shall give oral notice of any dispute immediately upon becoming aware of the situation giving rise to such dispute.
- 5.7.3 The Contractor will provide written notice of any dispute within seven (7) days after the commencement of the work giving rise to the dispute. Such notice shall include particulars of the matter in dispute, the extent and value of the claim and the relevant provisions of the Contract Documents.
- 5.7.4 If so directed by the Town, the Contractor will continue to perform the Work in accordance with the instructions of the Town or the Consultant, if any.
- 5.7.5 The Contractor shall submit to the Town a detailed statement of its claims not later than thirty (30) days after completion of the Work which is the subject of the dispute, identifying the item or items in respect of which the dispute has arisen, the grounds upon which a claim is made and all records substantiating such claim.
- 5.7.6 The Contractor shall promptly submit, at the request of the Town, such further and other information and documentation as the Town considers necessary to assess the claim.
- 5.7.7 If the Contractor fails to comply with the provisions for notices and claims within the times stipulated in respect of any dispute, the Contractor will not be entitled to proceed with any claim in respect of such dispute.
- 5.7.8 If the Contractor has complied with all of the provisions of this General Condition and the Town and the Contractor cannot resolve the dispute, the dispute shall be determined by the appropriate judicial tribunal.

## **5.8 Force Majeure**

Neither the Town nor the Contractor shall be liable for default or delay in the performance of obligations under the Contract due to causes beyond the reasonable control of (and not due to the fault or negligence of) the party affected, including, without limitation, natural disasters, plagues, epidemics, war, insurgence, terrorism, and power outages. The Contractor shall give the Town prompt written notice when any such cause has or appears likely to delay deliveries and/or performance of the Work, and shall take appropriate action to avoid or minimize such delay. If any such default or delay threatens to impair the Contractor's ability to meet delivery requirements for materials, supplies and/or services, the Town shall have the right, without any liability to the Contractor, to terminate the portion or portions of the Contract so affected upon written notice to the Contractor.

## **5.9 Assignment**

The work to be performed under the Contract, or any part thereof, or any monies payable under the Contract shall not be transferred, assigned or otherwise disposed of by the Contractor without the written authority of the Town. It is further agreed that the said written authority shall not, under any circumstances, relieve the Contractor of its liabilities and obligations under the Contract. For

the purposes of the Contract, an assignment shall include any transfer in the majority of ownership or controlling interest in the Contractor, whether through the sale of shares, direct acquisition of assets, or otherwise.

### **5.10 Independent Contractor**

The parties hereto agree that the relationship between the Town and the Contractor is that of an independent Contractor and nothing contained herein shall be construed as creating an employer-employee relationship, a joint venture, a partnership, or any other type of relationship. The Contractor, as an independent contractor has agreed to assume all risk associated with its activities under this Contract.

### **5.11 Other Contractors**

- 5.11.1 The Town reserves the right to enter the property on which the Work is located by such agents or Other Contractors as it may elect for the purpose of constructing or installing collateral work as the Town may see fit.
- 5.11.2 The Contractor shall co-ordinate the Work of the Contract with the work of Other Contractors and connect to such work as specified or shown in the Contract Documents.
- 5.11.3 The Contractor shall report to the Town and the Consultant, if any, any apparent deficiencies in Other Contractors' work which would affect the Work of the Contract immediately when they come to its attention and shall confirm such report in writing. Failure by the Contractor to so report shall invalidate any claims against the Town by reason of the deficiencies of Other Contractors' work.
- 5.11.4 The Contractor hereby agrees not to interfere with or prevent the performance of such collateral work by the agents or Other Contractors of the Town or to claim any extra compensation or damages by reason of delays or hindrances which may be caused by the construction or installation of such collateral works.
- 5.11.5 Entry by the Town, its agents or Other Contractors does not constitute acceptance of the Work and does not relieve the Contractor of its responsibility to complete the Contract.
- 5.11.6 The placing, installation and connection of collateral work by the Town, its agents or Other Contractors on and to the Contractor's Work does not relieve the Contractor of its responsibilities under the Contract including any warranties.

### **5.12 Subcontractors**

- 5.12.1 The Contractor agrees to preserve and protect the rights of the parties under the Contract with respect to Work to be performed under subcontract and to:
  - (a) enter into contracts or written agreements with its Subcontractors to require them to perform their work in accordance with and subject to the terms and conditions of the Contract Documents; and
  - (b) be as fully responsible to the Town for acts and omissions of its Subcontractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by it.

The Contractor therefore agrees that it will incorporate the terms and conditions of the Contract Documents into all subcontract agreements it enters into with its Subcontractors.

- 5.12.2 Nothing contained in the Contract Documents shall create a contractual relationship between a Subcontractor and the Town.

- 5.12.3 The Contractor shall include under this contract in the Bid, an allowance for the administrative work involved in the co-ordination of the Bidder's Subcontractor(s) and shall be responsible for the final structural and operative condition of these works.
- 5.12.4 The Contractor agrees to be responsible for payment of any employees or Sub Contractors engaged, and when requested, shall furnish evidence to the satisfaction of the Town that such amounts have been paid in full. The Town shall have the right to withhold payment of such sum or sums of money due to the Contractor that would be sufficient to cover any default in this regard.
- 5.12.5 The Town reserves the right to approve all proposed Subcontractors and where the Town objects to the use of any proposed Subcontractor the Bidder shall use another Sub Contractor deemed to be acceptable to the Town in its sole discretion. Any proposed changes to the approved list of Subcontractors subsequent to Contract award shall be subject to the approval of the Town, in its sole discretion. The Contractor may be required to produce a schedule of references for all or any proposed Subcontractors. The Contractor shall only use those Subcontractors approved by the Town and shall be held fully responsible to the Town for the acts and omissions of its Subcontractors.

### **5.13 Changes in the Work**

- 5.13.1 The Town, without invalidating the Contract, may make changes in the Work with the Contract Amount and Contract Term being adjusted accordingly by written order in the form prescribed by the Town.
- 5.13.2 No changes in the Work shall be proceeded without a written order in the form prescribed by the Town and signed by the Town and no claim for a change in the Contract Amount or change in the Contract Term shall be valid unless so ordered in writing, in a form prescribed and signed by the Town, and at the same time valued or agreed to be valued as provided in VALUATION AND CERTIFICATION OF CHANGES IN THE WORK.

### **5.14 Valuation and Certification of Changes in the Work**

- 5.14.1 When a change in the Work is proposed or required, the Contractor shall present to the Town and the Consultant for approval its claim for a change in the Contract Price and change in Contract Time with appropriate documentation in a form acceptable to the Town and the Consultant, if any. The Town or the Consultant, if any, will satisfy itself as to the correctness of such claim and, if approved by the Town, a written change order shall be issued to the Contractor amending the Contract Price and Contract Time as appropriate.
- 5.14.2 If the type of work involved in a change in the Work is included in the items contained in the Schedule of Items and Unit Prices it shall be performed on the same payment basis as the original work or, if applicable under TIME & MATERIAL, pursuant to that provision and the applicable rates.
- 5.14.3 If the type of work involved in a Change in the Work is not included in the items contained in the Schedule of Items and Unit Prices and the Town and the Contractor fail to agree on the method of valuation, measurement and change in the Contract Price:
- (a) the Town may require that the Change in the Work be performed on a time and materials basis; or
  - (b) the Town in the first instance may determine the method of valuation, measurement and change in the Contract Price and shall issue a written order for the change and the Contractor shall perform the Change in the Work as so ordered; final determination of the method of valuation, measurement and change in the Contract

Price will be determined by the appropriate judicial tribunal and pending such final determination the Director will make progress estimates of the value of the Work performed in accordance with the method of valuation, measurement and change in the Contract Price determined by the Town; or

- (c) the method of valuation, measurement and change in the Contract Price will be determined by the appropriate judicial tribunal.

5.14.4 If the Town requires that the Change in the Work be performed on a time and materials basis pursuant to the above, the following provisions shall apply:

- (a) For the purposes of this article:

"Cost of Labour" means the amount of wages, salary and Payroll Burden paid or incurred directly by the Contractor to the extent actively and necessarily engaged in carrying out the Change in the Work based on the recorded time and hourly rates of pay for labour, but shall not include any payment or costs incurred for general supervision, administration or management time spent on carrying out the Change in the Work or any wages, salary or Payroll Burden for which the Contractor is compensated by any payment made by the Town for equipment. The Contractor shall be compensated for the Cost of Labour as follows:

- i) The Contractor shall be compensated for the Cost of Labour for any work performed on a time and material basis at the agreed upon hourly rates of pay for labour.
- ii) The Contractor shall be entitled to increase the total Cost of Labour for any work performed on a time and material basis by the agreed upon percentage for labour profit and overhead.

The Cost of Labour as described above shall be considered full payment for the Cost of Labour for all Changes in the Work performed on a time and material basis. The Contractor shall not make any claim for any additional compensation for the Cost of Labour.

"Cost of Equipment" means the amount of wages, and Payroll Burden paid or incurred directly by the Contractor to the extent actively and necessarily engaged in carrying out the Change in the Work based on the recorded time and the agreed upon hourly rates of pay for equipment.

The Contractor shall be compensated for the Cost of Equipment as follows:

- iii) The Contractor shall be compensated for the Cost of Equipment for any work performed on a time and material basis at the agreed upon hourly rates of pay for equipment.
- iv) The Contractor shall be entitled to increase the total Cost of Equipment for any work performed on a time and material basis by the agreed upon percentage for equipment profit and overhead.

The Cost of Equipment as described shall be considered full payment for the Cost of Equipment for all Changes in the Work performed on a time and material basis. The Contractor shall not make any claim for any additional compensation for the Cost of Equipment.

"Cost of Material" means the cost of material purchased by the Contractor to carry out the Change in the Work as shown by itemized invoices and the cost of material

from the Contractor's stock used to carry out the Change in the Work, valued at current prices.

The Contractor shall be entitled to increase the total Cost of Material for any work performed on a time and material basis by the agreed upon percentage for materials profit and overhead.

- (b) Work performed on a time and materials basis shall be subject to all the terms, conditions, specifications and provisions of the Contract.
- (c) Daily work records prepared by the Town or the Consultant, if any, and reporting the labour and equipment employed and the material used to perform the Change in the Work shall be reconciled and signed by the Contractor's representative each day.
- (d) Except where there is agreement to the contrary prior to the commencement of the Change in the Work, the compensation as herein provided shall be accepted by the Contractor as compensation in full for all costs and expenses arising out of the Change in the Work and no other payment or allowances will be made in respect of such Change in the Work.
- (e) When equipment is transported to or from the site of the Work solely for the purpose of carrying out the Change in the Work, payment will be made by the Town only in respect to the transporting units. When equipment is moved under its own power it shall be deemed to be working. The method of moving the equipment and the rates shall be subject to the approval of the Town.
- (f) Where the Contractor arranges for the Change in the Work to be carried out by Sub-Contractors and has received approval prior to the commencement of such work, the Town will pay the Contractor the cost of the work on a time and materials basis as herein provided. No further mark-up will be paid regardless of the number of times the work has been assigned or sublet and no mark-up will be paid to any associate or affiliate as defined by the Securities Act, R.S.O. 1990, c. S.5, as amended.
- (g) Notwithstanding any other provision of this Contract, no payment shall be made to the Contractor for or in respect of hand tools or equipment that are tools of the trade.
- (h) Each month, the Contractor may submit an invoice to the Town covering work performed to carry out the Change in the Work during the preceding month and to the extent that the work covered by the invoice can be verified by the Town, the invoice will be processed by the Town for payment.
- (i) The final invoice shall be submitted by the Contractor within thirty (30) Days after the completion of the Change in the Work.
- (j) Separate invoices shall be submitted in triplicate for each Change in the Work. Each invoice shall include the requisition number and covering dates of the work and shall itemize separately, labour, materials and equipment and submitted with the invoice shall be invoices for materials.
- (k) The Town may approve for payment other reasonable and appropriate charges for food, lodging and similar items.

### **5.15 Transportation and Delivery**

The Contract Amount shall include F.O.B. destination, freight prepaid and allowed.

## **5.16 Purchase Order / Invoices**

- 5.16.1 The Purchase Order number shall appear on all documentation relating to the Contract, including, but not limited to, invoices and delivery/packing slips. Invoices that do not include the applicable Purchase Order number, item number and order description shall not be processed, and shall be returned to the Contractor until the appropriate information is provided.
- 5.16.2 All invoices shall be sent either by mail to the Town of Aurora, Accounts Payable, 100 John West Way, Box 1000, Aurora, ON, L4G 6J1 or via e-mail to [payables@aurora.ca](mailto:payables@aurora.ca).
- 5.16.3 No work shall commence until the signed Purchase Order has been received by the Contractor and written permission has been given by the Town.

## **5.17 Payment**

- 5.17.1 Unless otherwise approved, at the conclusion of each calendar month, the Contractor shall submit to the Director a summary of the quantities of Work performed to-date. The quantities submitted shall include any and all extra work performed during that period.
- 5.17.2 Upon review and certification by the Director or the Consultant, a Payment Certificate will be prepared for signature of the Contractor. The Payment Certificate will detail the quantities of Work completed, unit prices, estimated quantities and costs of Work performed to-date. The *Construction Act* holdback, Maintenance Holdback and Deficiency Holdback will be itemized and deducted from the calculated cost of Work completed to-date.
- 5.17.3 Progress Certificate payments shall be made to the Contractor within thirty (30) days of receipt of a Payment Certificate that is signed by the Contractor and certified by the Director, or the Consultant.

## **5.18 Certificates and Payments**

- 5.18.1 A progress estimate in writing will be made by the Contractor once a month of the amount of work done and material furnished and of the value thereof according to the terms of the Contract. No such progress estimate or amount or quantity shall be required to be made by strict measurement or with exactness, but may be approximate only.
- 5.18.2 Based upon the progress estimate and provided that no notice of a lien under applicable lien legislation has been received by the Town, the Town shall make payment to the Contractor in accordance with the provisions in this Bid Document.
- 5.18.3 Upon application of the Contractor and where the Town or, if a consultant has been appointed, the consultant, finds that Substantial Performance of the Work has been reached, the Town or the consultant, as the case may be, will issue a "Certificate of Substantial Performance" of the Work. The date of Substantial Performance of the Work shall be as stated in the certificate. Subject to the provisions of WORKPLACE SAFETY & INSURANCE and provided that no notice of a lien under applicable lien legislation has been received by the Town, the Town will make payment to the Contractor. The Contractor, at its expense, shall cause the "Certificate of Substantial Performance" of the Work to be published in a construction trade paper and shall provide proof of publication to the Town.
- 5.18.4 Following the issuance of the "Certificate of Substantial Performance" of the Work, the Town will issue a certificate for payment of statutory holdback monies. The statutory holdback monies authorized by this certificate shall become due and payable on the day



following the expiration of the statutory limitation period stipulated in the lien legislation applicable to the Place of the Work providing that no notice of lien under applicable lien legislation has been received by the Town and that the Contractor has submitted to the Town:

- (a) a sworn statement that all accounts for labour, subcontracts, products, construction machinery and equipment and other indebtedness which may have been incurred by the Contractor in the Substantial Performance of the Work and for which the Town might in any way be held responsible have been paid in full except statutory holdback monies properly retained;
- (b) a release by the Contractor in a form satisfactory to the Town releasing the Town from all further claims relating to the Contract except for claims for work performed after the date of Substantial Performance of the Work and claims pursuant to DISPUTES made prior to Substantial Performance of the Work and still unsettled; and
- (c) satisfactory evidence of compliance by the Contractor and its Subcontractors with the Workplace Safety & Insurance Board requirements.

Release of the statutory holdback shall not relieve the Contractor or its surety from any obligations hereunder.

5.18.5 Upon application of the Contractor and where the Town or, if a Consultant has been appointed, the Consultant finds that Total Performance of the Work has been reached, the Town or the consultant, as the case may be, will issue a certificate of Total Performance of the Work and certify for payment the remaining monies due to the Contractor under the Contract less holdback monies which are required to be retained by statute or are otherwise held back pursuant to the Bid Documents. The date of Total Performance of the Work shall be as stated in the certificate. Subject to the provisions of WORKPLACE SAFETY & INSURANCE, and provided that no notice of lien under applicable lien legislation has been received by the Town, the Town shall make payment to the Contractor in accordance with the provisions of the Bid Document.

5.18.6 The release of the remaining statutory holdback monies shall become due and payable on the day following the expiration of the statutory limitation period stipulated in the lien legislation applicable to the Place of the Work providing that no notice of lien under applicable lien legislation has been received by the Town and that the Contractor has submitted to the Town:

- (a) a sworn statement that all accounts for labour, subcontracts, products, construction machinery and equipment and other indebtedness which may have been incurred by the Contractor in the performance of the Work and for which the Town might in any way be held responsible have been paid in full except statutory holdback monies properly retained;
- (b) a release by the Contractor in form satisfactory to the Town releasing the Town from all further claims except claims pursuant to DISPUTES made prior to Total Performance of the Work and still unsettled; and
- (c) satisfactory evidence of compliance by the Contractor and its Subcontractors with workplace safety & insurance requirements.

Release of the statutory holdback shall not relieve the Contractor or its surety from any obligations hereunder.

- 5.18.7 No payment made by the Town under the Contract or partial or entire use or occupancy of the Work by the Town shall constitute an acceptance of Work or products which are not in accordance with the requirements of the Bid Documents.
- 5.18.8 All certificates issued by the Town shall be to the best of its knowledge, INSTRUCTIONS and belief. By issuing any certificate the Town does not confirm the correctness or completeness of the Work.
- 5.18.9 As of the date of the final certificate for payment as set out in the certificate of Total Performance of the Work, the Contractor expressly waives and releases the Town from all claims against the Town including without limitation those that might arise from the negligence or breach of contract by the Town except those made pursuant to DISPUTES prior to the Contractor's final application for payment and still unsettled.
- 5.18.10 The Contractor shall not be entitled to claim, demand or receive any interest upon any payments on account of delay in approval by the Director or the Town.
- 5.18.11 Subject to Part IV and V of the *Construction Act*, all monies payable to the Town by the Contractor under any stipulation herein may be retained out of any monies due or which may become due from the Town to the Contractor under the Contract or any other contract with the Town, or otherwise howsoever, or may be recovered from the Contractor or its sureties, or any or either of them, as a debt due to the Town; and under the discretion of the Director 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.
- 5.18.12 Prior to final payment hereunder and before issuance of the final certificate therefore, the following conditions shall have been met:
- (a) the guarantees required in the specifications shall have been received by the consultant, if any, and the Town;
  - (b) manufacturers' guarantees covering rated output, efficiency and performance for all operating equipment forming part of the Work shall have been received by the consultant and the Town;
  - (c) complete operating and maintenance instructions for equipment and apparatus furnished under the Contract and all record drawings as required by the specifications forming part of the Work shall have been received by the consultant and the Town;
  - (d) the completion of all Work including, without limitation, patching and the furnishing of missing material, and acceptance thereof by the Town;
  - (e) where applicable, the Town shall have received:
    - i) all Contractor's record drawings, as built drawings, records and related data;
    - ii) all permits, licenses, approvals, certificates and authorizations required by any authority having jurisdiction over the Work or the Place of the Work; and
    - iii) proof that all claims, including taxes, arising from or in respect of the Work and any liens arising from the same which shall have been claimed, filed or recorded have been finally and conclusively satisfied and released;
    - iv) all of which shall be in form and substance satisfactory to the Town; and
  - (f) The Town shall have received a certificate of the Contractor addressed to the Town certifying that the Work has been completed in accordance with the Bid Documents.

5.18.13 In the event that any portion of the Work is defective or is not performed in accordance with the Bid Documents, the Town may retain as a holdback an amount equal to twice the estimated cost which the Town, or if a consultant has been appointed, the consultant, estimates will be incurred to correct the Work until the Work has been corrected to the satisfaction of the Town.

## **5.19 Taxes and Duties**

5.19.1 The Contractor shall pay the government sales taxes, customs duties and excise taxes with respect to the Contract.

5.19.2 Where an exemption or recovery of government sales taxes, customs duties or excise taxes is applicable to the Contract, the Contractor will apply for such exemption or refunds to the appropriate taxing authority and shall immediately submit to the Town a statement of exemption or refunds claimed and benefits received and in any event prior to Substantial Performance of the Work.

5.19.3 The Town reserves the right to make deductions from progress payments to compensate for the estimated benefit from decreased tax costs. Such deductions will be set off from payments to the Contractor pending receipt of a statement of benefits resulting from a decrease in tax costs at which time a final adjustment will be made.

5.19.4 Any increase or decrease in costs to the Contractor due to changes in such taxes and duties after the date of the Bid, which were not anticipated at the time of bidding, shall increase or decrease the Contract Price accordingly provided that a claim for increase in costs shall be submitted prior to Substantial Performance of the Work.

5.19.5 The Town agrees to pay to the Contractor the Harmonized Sales Tax in the manner provided by the provisions of the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended. The Contractor agrees to provide the Town with all information and other assistance necessary to enable the Town to obtain any input tax credit to which it may be entitled and if the Contractor does not do so, the Town may withhold amounts otherwise due as payment.

5.19.6 Subject to the above condition, the Town shall pay to the Contractor amounts owing in respect of the Harmonized Sales Tax on the earlier of:

- (a) the day on which payment is made; and
- (b) the last day of the calendar month immediately after the month in which Substantial Performance of the Work was attained.

However, no Harmonized Sales Tax is payable in respect of any holdback amount until the earlier of:

- (c) the date upon which the holdback becomes due; and
- (d) the date upon which it is paid.

5.19.7 Taxes will be applied to the prices submitted as specified in the relevant sections of the Bid Document or in the Schedule of Items and Unit Prices provided in the Bid Document.

This section applies notwithstanding anything to the contrary in the Bid Documents.

## **5.20 Laws, Notices, Permits and Fees**

5.20.1 The laws of the Place of the Work govern the Work.

5.20.2 The Contractor shall, and shall ensure that it's Subcontractors, obtain the permits, licenses and certificates and pay the fees required for the performance of the Work which are in

force at the date of bid closing, but this shall not include the obtaining of permanent easements or rights of servitude.

- 5.20.3 The Contractor shall give the required notices and comply with and enforce the laws, ordinances, rules, regulations, codes and orders of the authorities having jurisdiction which are or become in force during the performance of the Work and which relate to the Work, to the preservation of the public health and the environment and to construction safety.
- 5.20.4 The Contractor shall review the Bid Documents. If it comes to the Contractor's attention that the Bid Documents are not in compliance with the applicable laws, ordinances, rules, regulations and codes relating to the Work or require modification by the authorities having jurisdiction, the Contractor shall notify the Town and the consultant, if any, in writing requesting direction immediately upon the requirement for such variance or change becoming known to the Contractor.
- 5.20.5 If the Contractor fails to notify the Town and the consultant, if any, in writing and obtain its direction as required in the above condition and performs work knowing it to be contrary to any laws, ordinances, rules, regulations, codes and orders of the authorities having jurisdiction, the Contractor shall be responsible for and shall correct the violations thereof and shall bear the costs, expense and damages attributable to its failure to comply with the provisions of such laws, ordinances, rules, regulations, codes and orders.
- 5.20.6 The Contractor will be responsible for removal and disposition of all excavated material including all necessary approvals, consents and permits.

## **5.21 Patent Fees**

The Contractor shall pay the royalties and patent licence fees required for the performance of the Contract. It shall hold the Town harmless from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the Contractor's performance of the Contract which are attributable to an infringement or an alleged infringement of a patent of invention by the Contractor or anyone for whose acts it may be liable.

## **5.22 Workplace Safety & Insurance Board Compliance**

- 5.22.1 Within ten (10) Working Days after award of the Contract and prior to commencing the Work and prior to receiving payment on Substantial Performance of the Work and Total Performance of the Work or any holdbacks retained, the Contractor shall provide evidence of compliance with the requirements of the province of Ontario with respect to the *Workplace Safety and Insurance Act, 1997*, S.O. 1997, c. 16, Sched. A, as amended (the "WSIA") and the Workplace Safety & Insurance Board, including payments due thereunder.
- 5.22.2 At any time during the term of the Contract, when requested by the Town, the Contractor shall provide such evidence of compliance by itself and its Subcontractors.
- 5.22.3 If the Contractor at any time fails to pay any assessment or compensation required to be paid with respect to the *WSIA* and the Workplace Safety & Insurance Board, the Town may pay such assessment or compensation and charge the cost thereof to the Contractor.
- 5.22.4 The Contractor hereby indicates that it understands and agrees that IT IS NOT, nor is anyone hired by the Contractor, covered by the Town under the *WSIA*. The Contractor shall be responsible for, and shall pay all dues and assessments payable under the *WSIA*, the *Employment Insurance Act*, S.C. 1996, c. 23, as amended, or any other Act, whether Provincial or Federal, in respect of itself, its employees and operations.

5.22.5 The Contractor agrees that information on coverage under the *WSIA* can be obtained directly from the Workplace Safety & Insurance Board.

### **5.23 Indemnification and Claims Handling**

5.23.1 The Contractor covenants and agrees that the Contractor will from time to time and at all times hereafter well and truly save, defend, and keep harmless and fully indemnify the Town, its officers, employees, servants, and agents from and against all actions, suits, claims, executions and demands which may be brought against or made upon the Town, its officers, employees, servants, and agents, or any of them, and of, from and against all loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the Town, its officers, employees, servants and agents, or any of them, by reason or on account or in consequence of the execution and performance or maintenance of the said Work and/or the non-execution, or imperfect execution of the Work, and/or the condition of the job site, adjoining lands and highways used in connection with the performance of the Work, and/or the supply or non-supply of plant and material for the Work, and/or any act or omission of the Contractor or its agent, any Subcontractor, employee, worker or other person for who the Contractor is in law responsible, and will pay to the Town and to each such officer, employee, servant or agent on demand any loss, costs, damages and expenses which may be sustained, incurred or paid by the Town or by any of its officers, employees, servants and agents in consequence of any such action, suit, lien, execution or demand and any moneys paid or payable by the Town or any of its officers, employees, servants or agents in settlement or in discharge or on account thereof,

PROVIDED that on default of such payment all such last mentioned loss, costs, damages and expenses and all such moneys so paid or payable may be deducted from any moneys of the Contractor then remaining in the possession of the Town on account of the Contract Work or from moneys payable by the Town to the Contractor on any account whatever or may be recovered from the Contractor or its Surety in any court of competent jurisdiction as moneys paid at their request; and the Contractor hereby authorizes and empowers the Town, or its Solicitors for the time being, to defend, settle or compromise any of such actions, suits, claims, liens, executions or demands as the Town or its Solicitor may deem expedient, and hereby agrees to ratify and confirm all the acts of the Town or its Solicitor in that behalf, and to pay to such Solicitor on demand his reasonable costs of any such defence, settlement and/or compromise, and that in default of such payment the same may be deducted from any moneys payable by the Town to the Contractor on any account whatever;

PROVIDED, HOWEVER, that the Contractor at the expense of the Contractor may take charge of and conduct the defence in the name of the Town to any such action, suit, claim, lien, execution or demand.

5.23.2 The Contractor shall respond to and deal with all third-party claims in a prompt, courteous and efficient manner. The Contractor shall contact all third-party claimants and acknowledge receipt of all third-party claims by telephone within one (1) Working Day, and in writing within three (3) Working Days upon being notified in writing of the third-party claim. The Contractor shall immediately upon receipt of any third-party claim, the Town Clerk in the Town's Corporate Services Department with notice of the third-party claim. The Contractor shall also provide the Town Clerk with copies of all correspondence between the Contractor or its agents and the third-party claimant.

- 5.23.3 The Contractor shall not advise the third-party claimant that the Town is responsible for their claim.
- 5.23.4 If, in the sole discretion of the Town, a claim is not being dealt with in a manner satisfactory to the Town, the Town may appoint an insurance adjuster or other person to investigate, resolve and/or settle any third-party claims arising from this Contract and the Contractor shall be required to reimburse the Town for any and all fees and charges with respect to same.
- 5.23.5 Notwithstanding the above, the Town at its sole discretion may withhold funds in the amount of any third-party claim received plus the greater of one-thousand dollars (\$1,000.00) or twenty-five percent (25%) of the amount claimed, from monies owing or payable to the Contractor by the Town under this Contract or any other contract with the Town, which includes, but is not limited to, any holdback funds that become due, for the purpose of handling or settling any outstanding claims in relation to Work under this Contract or any other work performed by the Contractor.

## **5.24 General Instructions for Work on Town Property**

- 5.24.1 The Contractor shall keep one copy of the Contract at the work site.
- 5.24.2 The Contractor shall coordinate all work with the Town's representative to ensure minimum disruption of public service and inconvenience to occupants of and visitors to the public building.
- 5.24.3 The Contractor shall ensure that there is no interference with the use of and safe passage to and from public buildings, public sidewalks and roads without the prior written approval of the Town. Material shall not be stored in or obstruct roadways, sidewalks or passageways without the prior written approval of the Town. The Contractor shall not interfere with or damage privately or publicly-owned adjacent property.
- 5.24.4 Prior to and during the performance of Work, the Contractor shall establish the location of existing utility lines, and shall ensure the same are protected and maintained.
- 5.24.5 Where alternations are necessary, the Contractor shall ensure the new and old work shall be joined, cut, removed, patched, repaired or finished in a professional and workmanlike manner to the satisfaction of the Town.
- 5.24.6 The Contractor shall provide and maintain temporary facilities and services required to carry out the work. All such temporary facilities and services shall be removed by the Contractor upon completion of the work.
- 5.24.7 The Contractor shall only use new products unless otherwise specified in the Contract. The Contractor shall deliver and store material and equipment to manufacturers' instructions, with manufacturers' labels and seals intact. When material or equipment is specified by standard or performance specifications, the Contractor shall, upon request by the Town, obtain from the manufacturer an independent testing laboratory report, stating that the material or equipment meets or exceeds specified requirements.
- 5.24.8 The Contractor shall keep the work site clean and hazard-free throughout the work period, and shall provide for proper storage, removal and disposal of garbage. All debris shall be transported to an authorized dump, waste treatment site or recycling facility by the Contractor, and disposed of in accordance with applicable by-laws, laws and regulations (all at the Contractor's expense).
- 5.24.9 The Contractor shall make such explorations and probes as are necessary to ascertain any protective measures required before proceeding with demolition and removal.

- 5.24.10 The Contractor shall protect existing structures, furnishings and persons by providing and maintaining adequate temporary protective coverings during the performance of the work. The Contractor shall be responsible for any injury to person, damage to existing structures and furnishings as a result of the Work. Any damage occurring as a result of the Work shall be repaired or replaced by the Contractor at the Contractor's expense and to the satisfaction of the Town (in its sole discretion).
- 5.24.11 The Contractor shall provide and maintain adequate fire protection in accordance with the regulations and requirements of the Town' Fire and Emergency Services.
- 5.24.12 The Contractor shall provide and arrange for traffic control where necessary for delivery of materials, removal of garbage, or any other activity related to the work as required by applicable by-laws, laws and regulations.
- 5.24.13 The Contractor shall take the necessary precautions to keep dust, dirt and noise to an acceptable level as direct by the Town or as required by the applicable by-laws, laws and regulations.
- 5.24.14 The Contractor shall provide suitable protection for all entrances and exit ways into all buildings, all fresh air intakes, telephone, hydro, and mechanical rooms, elevators shafts and all plumbing, against dust, dirt, water and fumes.
- 5.24.15 The Contractor shall provide canvas tarps from ground to roof for all entrance and exit ways, floors, walls and all standing fixtures against spillage of materials and/or damage during the work period.
- 5.24.16 The Contractor shall not store materials or use a truck or other equipment in a manner which would load the structure beyond its design capacity.
- 5.24.17 The Contractor shall ensure that all persons employed or engaged by the Contractor by the Contractor to perform the work use designated existing sanitary facilities and not undress, use profane language or make coarse gestures which on Town property.
- 5.24.18 The Contractor shall be responsible for and take every precaution reasonable in the circumstances for the protection of all workers associated with the Work (whether employed by the Contractor, the Town or a third party), and for the protection of all other persons. The Contractor shall ensure that all persons employed or engaged by the Contractor to perform the work are supervised by a competent person and trained to perform the specific tasks of their jobs in a healthy and safe manner, and that documentation to support such training remains current during the work period.
- 5.24.19 The Contractor shall ensure that all tools, equipment and machinery brought to the work site shall be used, stored and maintained properly in accordance with applicable laws, regulations and industry standards.
- 5.24.20 The Contractor shall ensure that all materials brought to the work site shall be used, stored, handled, transported and disposed of properly in accordance with applicable laws, regulations and industry standards, All materials delivered to the Town or used in conjunction with the Work shall have applicable Material Safety Data Sheets in accordance with Workplace Hazardous Material Information Systems ("WHMIS") regulations in the Province of Ontario. Applicable Material Safety Data Sheets shall be available for inspection at the work site at all times while such materials are present.
- 5.24.21 The Contractor shall notify the Town of all hazardous materials delivered to the Town or used in conjunction with the Work, including without limitation, all products controlled federally and/or provincially under WHMIS or Transportation of Dangerous Goods

regulations, and all designated substances as defined in the Occupational Health and Safety Act, R.S.O. 1990, c. O.1 and Regulations.

## **5.25 Protection of Work and Property**

- 5.25.1 The Contractor shall protect the Work and the Town's property and property adjacent to the Place of the Work from damage and shall be responsible for damage which may arise as the result of its performance or failure to perform under the Contract.
- 5.25.2 Should the performance or non-performance by the Contractor under the Contract result in damage to the Work, the Town's property or property adjacent to the Place of the Work, the Contractor shall be responsible for the making good of such damage at its expense.

## **5.26 Damages and Mutual Responsibility**

- 5.26.1 If the Town should suffer damage in any manner because of any wrongful act or neglect of the Contractor or of anyone for whom the Contractor is responsible in law, then the Town shall be reimbursed by the Contractor for such damage.
- 5.26.2 If the Contractor has caused damage to an Other Contractor while carrying out the Work, the Contractor agrees upon due notice to settle with such Other Contractor by agreement or arbitration, if such other Contractor will so settle. If such Other Contractor sues the Town on account of damage alleged to have been so sustained, the Town shall notify the Contractor and may require the Contractor to defend the action at the Contractor's expense. If a final order or judgment against the Town arises therefrom the Contractor shall pay or satisfy it and pay the costs incurred by Town.

## **5.27 Contractor's Responsibilities and Control of the Work**

- 5.27.1 The Contractor shall have complete control of the Work and shall effectively direct and supervise the Work so as to ensure conformance with the Bid Documents. The Contractor shall be solely responsible for construction means, methods, sequences and procedures and for coordinating the various parts of the Work under the Contract.
- 5.27.2 The Contractor shall be solely responsible for construction safety at the Place of the Work and for compliance with the rules, regulations and practices required by the applicable construction safety legislation.
- 5.27.3 The Contractor shall have the sole responsibility for the design, erection, operation, maintenance and removal of temporary structural and other temporary facilities and the design and execution of construction methods required in their use. The Contractor shall engage and pay for registered professional engineering personnel skilled in the appropriate disciplines to perform these functions where required by law or by the Bid Documents and in all cases where such temporary facilities and their method of construction are of such a nature that professional engineering skill is required to produce safe and satisfactory results.
- 5.27.4 The Contractor shall review the Bid Documents and shall promptly report to the Town and the consultant any error, inconsistency or omission it may discover. If the Contractor does discover any error, inconsistency or omission in the Bid Documents it shall not proceed with the work affected until it has received corrected or missing information from the Town or the consultant. Additional work necessary due to the failure of the Contractor to obtain clarification shall be performed at the Contractor's expense.
- 5.27.5 The Contractor shall prepare and update as required a construction schedule in a form acceptable to the Town indicating the timing of the major activities of the Work such



schedule to be prepared by the Contractor and approved by the Town prior to the commencement of construction. The schedule shall be designed to ensure conformance with the required Contract Time. The Contractor shall perform the Work in accordance with the approved schedule. The Contractor shall give the Town at least twenty-four (24) hours' notice prior to any anticipated deviation from the approved schedule provided that any extension of the Contract Time shall be subject to the provisions of Extension of Contract Time.

## **5.28 Superintendence**

- 5.28.1 The Contractor shall employ a competent supervisor and necessary assistants who shall be in attendance at all times at the Place of the Work while work is being performed.
- 5.28.2 The supervisor shall be satisfactory to the Town and the consultant, if any, and shall not be changed except for good reason and only then after consultation with the Town and the consultant, if any.
- 5.28.3 The supervisor shall represent the Contractor at the Place of the Work and instructions given to him or her by the Town and/or consultant, if any, shall be held to have been given to the Contractor.

## **5.29 Labour and Products**

- 5.29.1 Unless otherwise stipulated elsewhere in the Bid Documents, the Contractor shall provide and pay for labour, products, tools, construction machinery and equipment, water, heat, light, power, transportation and other facilities and services necessary for the performance of the Work in accordance with the Contract.
- 5.29.2 Products provided shall be new unless otherwise specified in the Bid Documents. Products which are not specified shall be of a quality best suited to the purpose required and their use and shall be subject to the approval of the Town.
- 5.29.3 The Contractor shall maintain good order and discipline among its employees engaged on the Work and shall not employ on the Work anyone not skilled in the task assigned to him or her.
- 5.29.4 Whenever the Town or its consultant, if any, shall inform the Contractor in writing that any person performing the Work, in its opinion:
  - a. is incompetent or disorderly;
  - b. interferes with the ability of the Contractor, Subcontractors or other contractors to perform the Work;
  - c. carries on an unlawful activity;
  - d. acts in a manner inconsistent with the timely completion of the Work;
  - e. injures or attempts to injure any person or property; or
  - f. is not using all reasonable efforts to work safely, such person or persons shall be discharged from the Work and shall not again be employed on the same without the Town 's written consent.
- 5.29.5 If, in the opinion of the Town or its consultant, if any, the force of workers, either in numbers or character, or the equipment or materials of the Contractor is not adequate or appropriate for carrying out the Contract in its entirety, and if the Town or its consultant, if any, shall notify, in writing, the Contractor thereof, setting forth the matters complained of and the remedy required then the Contractor shall forthwith increase or change the force of workers or provide such further or other equipment or materials as required by the Town's, or consultant's, notice, all at the Contractor's expense.

- 5.29.6 If the Contractor omits, neglects, or refuses to comply with the instructions in writing of the Town or the consultant, as to any portion or portions of the Work, the Town may, at its option, proceed to do the work required and for that purpose may hire such workers and procure such equipment and materials as may be necessary therefor, and may also make use of any equipment or materials belonging to the Contractor found on the site of the Work, and the expense thereof will be proper charge against the Contractor.
- 5.29.7 The Contractor is responsible for ensuring that all equipment supplied by it or by any Subcontractor under the Contract complies with the requirements of the Contract and in particular with the requirements of the specifications for equipment, and that all suppliers of such equipment comply with such requirements. Failure on the part of a supplier to comply with such requirements shall not relieve the Contractor of responsibility for ensuring that the requirements of the Contract are fulfilled.

### **5.30 Subsurface Conditions**

- 5.30.1 The Contractor agrees that it is fully informed regarding all of the conditions affecting work to be done and labour and materials to be furnished for the completion of the Contract, and that this information was secured by personal investigation and research and not from the data received from the Town, the consultant or their respective representatives.
- 5.30.2 The Contractor acknowledges that any data received from the Town was compiled for the use of the Town. No responsibility will be assumed by the Town for the correctness or completeness of the data and should any such data be found to be incorrect or incomplete, the Contractor shall have no claim on that account.

### **5.31 Use of the Work**

- 5.31.1 The Contractor shall confine its apparatus, the storage of products, and the operations of its employees to limits indicated by laws, ordinances, permits or the Bid Documents and shall not unreasonably encumber the premises with its products, construction equipment and machinery.
- 5.31.2 The Contractor shall not load or permit to be loaded any part of the Work with a weight or force that will endanger the safety of the Work.

### **5.32 Cleanup and Final Cleaning of the Work**

- 5.32.1 The Contractor shall at all times maintain the Work in a tidy condition and free from the accumulation of waste products and debris, other than that caused by the Town, other contractors or their respective employees.
- 5.32.2 Upon attaining Substantial Performance of the Work, the Contractor shall remove its surplus products, tools, construction machinery and equipment not required for the performance of the remaining work. The Contractor shall also remove waste products and debris other than that caused by the Town, other contractors or their respective employees, and leave the Work clean and suitable for occupancy by the Town unless otherwise specified.
- 5.32.3 Total Performance of the Work shall not be attained until the Contractor has removed its surplus products, tools, construction machinery and equipment. The Contractor shall also have removed waste products and debris, other than that caused by the Town, other contractors or their respective employees.

5.32.4 Before the Work shall be accepted by the Town, the Contractor shall put the highway in satisfactory condition for operation. All rubbish and surplus material resulting from the Work shall be removed or disposed of as directed by the Town.

### **5.33 Inspection of the Work**

5.33.1 The Town, the consultant, if any, and their authorized agents or representatives shall at all times have access to the Work. If parts of the Work are in preparation at locations other than the Place of the Work, the Town, the consultant, if any, and their authorized agents or representatives shall be given access to such Work whenever it is in progress.

5.33.2 If Work is designated for special tests, inspections or approvals in the Bid Documents or by the Town's and/or the consultant's instructions or the laws or ordinances of the Place of the Work, the Contractor shall give the Town and the consultant, if any, timely notice requesting inspection. The Contractor shall arrange for inspections by other authorities and shall give the Town and the consultant, if any, timely notice of the date and time.

5.33.3 Unless otherwise stated elsewhere in this Contract, the cost of normal and customary testing of all materials shall be borne by the Town. Provided there are no defective works, the Town shall bear all inspection and testing costs. However, in the event the works are found to be defective, all subsequent inspection, survey and testing costs shall be borne by the Contractor.

5.33.4 If the Contractor covers or permits to be covered work that has been designated for special tests, inspections or approvals before such special tests, inspections or approvals are made, given or completed, the Contractor shall, if so directed, uncover such Work, have the inspections or tests satisfactorily completed and make good such Work at its own expense.

5.33.5 The Town or the consultant, if any, may order any part or parts of the Work to be specially examined should it believe that such work is not in accordance with the requirements of the Bid Documents. If, upon examination such work is found not in accordance with the requirements of the Bid Documents, the Contractor shall correct such work and pay the cost of examination and correction. If such work is found in accordance with the requirements of the Bid Documents, the Town shall pay the cost of examination and replacement.

5.33.6 The Contractor shall furnish promptly to the Town and the consultant two (2) copies of certificates and inspection reports relating to the Work.

### **5.34 Rejected Work**

5.34.1 Defective work, whether the result of poor workmanship, use of defective products, or damage through carelessness or other act or omission of the Contractor or any of its Subcontractors and whether incorporated in the Work or not, which has been rejected by the Town or the consultant as failing to conform to the Bid Documents shall be removed promptly from the Place of the Work by the Contractor or such Subcontractor and be replaced or re-executed promptly in accordance with the Bid Documents at the Contractor's or such Subcontractor's expense.

5.34.2 Other contractors' work destroyed or damaged by such removals or replacements shall be made good promptly at the Contractor's expense.

5.34.3 If in the sole opinion of the Town or the consultant, if any, it is not expedient to correct defective work or the Work is not performed in accordance with the Bid Documents, the Town may deduct from the monies otherwise due to the Contractor, the difference in value

between the work as performed and that called for by the Bid Documents, the amount of which shall be determined by the Director.

- 5.34.4 The Town or consultant, if any, shall not have any power to waive obligations of the Contract for the furnishing by the Contractor of good material and of its performing good work as herein described and in full accordance with the Bid Documents. No failure or omission of the Town or the consultant, if any, to condemn any defective work or material shall release the Contractor from the obligation to at once tear out, remove and properly replace the same at any time upon the discovery of said defective work or material, at the Contractor's expense. In case the Contractor should refuse or neglect to remove any rejected work or material within forty-eight (48) hours after written notice from the Town, such work or material may be removed by order of the Town and at the sole Contractor's expense.

### **5.35 Shop Drawings**

- 5.35.1 The term "shop drawings" means drawings, diagrams, illustrations, schedules, performance charts, brochures and other data which are to be provided by the Contractor to illustrate details of a portion of the Work.
- 5.35.2 The Contractor shall arrange for the preparation of clearly identified shop drawings as called for by the Bid Documents or as the Town or the consultant, if any, may reasonably request.
- 5.35.3 Prior to submission to the Town and the consultant, if any, the Contractor shall review all shop drawings. By this review the Contractor represents that it has determined and verified all field measurements, field construction criteria, materials, catalogue numbers and similar data and that it has checked and coordinated each shop drawing with the requirements of the Work and of the Bid Documents. The Contractor's review of each shop drawing shall be indicated by stamp, date, and signature of a responsible person.
- 5.35.4 The Contractor shall submit shop drawings to the Town and the consultant, if any, with reasonable promptness and in orderly sequence so as to cause no delay in the Work or in the work of other contractors. Shop drawings shall be submitted in the form of reproducible transparencies or prints as the Town or the consultant, if any, may direct. At the time of submission the Contractor shall notify the Town and the consultant in writing of any deviations in the shop drawings from the requirements of the Bid Documents.
- 5.35.5 The Town and the consultant, if any, will review and return shop drawings with reasonable promptness. The Town's and the consultant's review will be for conformity to the design concept and for general arrangement only and such review shall not relieve the Contractor of responsibility for errors or omissions in the shop drawings or of responsibility for meeting all requirements of the Bid Documents unless the Contractor has notified the Town and the consultant, if any, in writing of a deviation in the shop drawings from the Bid Documents and such deviation has been specifically approved in writing by the Town and the consultant, if any.
- 5.35.6 The Contractor shall make any changes in shop drawings which the Town and the consultant, if any, may require consistent with the Bid Documents and resubmit unless otherwise directed by the Town and the consultant, if any. When resubmitting, the Contractor shall notify the Town and the consultant, if any, in writing of any revisions other than those requested by the Town and the consultant, if any.

### **5.36 Lines and Grades**

- 5.36.1 Prior to commencement of construction, the Contractor will locate on site those property bars, baselines and benchmarks which are necessary to delineate the Place of the Work and to lay out the Work, all as shown on the Bid Documents. The Contractor shall notify the Town and the consultant of the location of such property bars, baselines and benchmarks so that the same may be reviewed by the Town and the consultant, if any.
- 5.36.2 The Contractor shall be responsible for the preservation of all property bars while the Work is in progress, except those property bars which must be removed to facilitate the Work. Any property bars disturbed, damaged or removed by the Contractor's operations shall be replaced under the supervision of an Ontario Land Surveyor, at no extra cost to the Town.
- 5.36.3 At no extra cost to the Town, the Contractor shall provide the Town and the consultant, if any, with such materials and devices as may be necessary to review the lay out of the baseline and benchmarks, and as may be necessary for inspection of the Work.
- 5.36.4 The Contractor shall provide qualified personnel to lay out and establish all lines and grades necessary for construction. The Contractor shall notify the Town and the consultant, if any, of any layout work carried out, so that the same may be reviewed by the Town or the consultant, if any.
- 5.36.5 It is the Contractor's responsibility to ensure that items of work to be inspected are completed to the correct lines and grades. The costs for repeated inspections or surveys caused by the Contractor's failure to have the items of work correctly finished when notice is given to the Engineer shall be charged to the Contractor at the rates normally charged for such work by the Engineer. Charges incurred by the Contractor under the provisions of this section shall be withheld by the Town from payments made to the Contractor, or otherwise collected by the Town from the Contractor.
- 5.36.6 The Contractor shall install and maintain substantial alignment markers and secondary benchmarks as may be required for the proper execution of the Work. The Contractor shall supply one (1) copy of all alignment and grade sheets to each of the Town and the consultant, if any.
- 5.36.7 The Contractor shall assume full responsibility for alignment, elevations and dimensions of each and all parts of the Work, regardless of whether the Contractor's layout work has been reviewed by the Town and the consultant, if any.
- 5.36.8 All stakes, marks and reference points provided by the Town or the consultant, if any, shall be carefully preserved by the Contractor. In the case of their destruction or removal, such stakes, marks and reference points will be replaced by the Contractor at no extra cost to the Town.

### **5.37 Protection Against Claims for Labour and Material**

- 5.37.1 The Contractor covenants and agrees that it will pay or cause to be paid all accounts for labour, material, equipment and supplies together with accounts for equipment rental, accounts for freight incurred and for all other supplies furnished, and for all work done under the Contract (collectively, the "Accounts"), and it will indemnify and save harmless the Town at all times from all claims in relation hereto. It is agreed that the Contractor shall furnish the Town with satisfactory evidence that all Accounts have been duly paid, and in case such evidence is demanded by and not furnished to the Town, such amount as may in the opinion of the Town be necessary to pay such Accounts may be retained from the money due to the Contractor under the Contract until satisfactory evidence is furnished that all Accounts have been paid in full. The Contractor covenants and agrees

that the Town shall have the right (but not the obligation) to pay any Accounts and charge the same to the Contractor and failing payment thereof the Town may deduct the amounts paid from any monies due or which may become due to the Contractor. If the Town receives a notice of lien in respect of the Work, in addition to all amounts for which the Contractor may otherwise be liable to pay the Town and without prejudice to any other remedy available to the Town, the Contractor shall pay to the Town the amount of twenty-five percent (25%) of the lien amount to be retained as a holdback until the Town is satisfied that all Accounts have been paid in full and any liens have been discharged.

- 5.37.2 The Town shall be at liberty in its discretion to pay all arrears, or wages and salaries which are in arrears for a period of more than one (1) week and deduct the same from the monies due or which may become due to the Contractor. The production of a statutory declaration by any worker or employee setting forth the amount of wage or salary claimed to be due shall be sufficient authority to the Town for the payment of the amount claimed.
- 5.37.3 When the liabilities of the Contractor under the Contract exceed the monies owing by the Town, the Contractor or its surety shall pay all such claims as are certified by the Director.

### **5.38 Maintaining Roadways and Detours**

- 5.38.1 The Contractor shall at all times carry out the Work in a manner that will create the least interference with traffic consistent with the faithful performance of the Work. The Contractor shall not close any portion of the highway except by written order of the Director and, when such closure is so authorized, the Contractor, at its own cost and expense, shall furnish, erect and maintain such barriers, lights and notices and employ such watchman or watchmen as are legally necessary, or as the Director may direct, for the prevention of accidents.
- 5.38.2 The Contractor shall at its own expense save from injury all trees on or adjoining the highway unless the Director shall otherwise direct, and shall handle carefully and satisfactorily replace, at its own expense, all fences which it may be necessary to remove in order to carry on the Work.
- 5.38.3 Whenever the roadway is under construction and traffic is maintained within the limits of the highway or carried on detours constructed by the Contractor or its agents or arranged through private property, the Contractor shall maintain at its expense a safe road for traffic. In no case will the Town pay for the construction of these detours.
- 5.38.4 Where the highway is closed and traffic diverted entirely off the right-of-way on to an established road allowance, the Contractor, at its expense, shall carefully barricade, light and protect all points where traffic may enter by other public roads, highways or other entrances. The Contractor, at its expense, shall supply a watchman to protect barricades and direct traffic for each end of the enclosed area and shall ensure that a watchman shall be on duty at each end of the said ends for twenty-four (24) hours of every day of the closure. The Contractor agrees to sign, light and maintain such approved detours as may be used during the said closure of highway.

### **5.39 Inspection of Books, Payrolls, Accounts and Records**

The Town and/or the Ministry of Labour may inspect and audit the books, payrolls, accounts and records of the Contractor at any time during the period of the Contract and at any time thereafter as deemed necessary, and the Contractor shall supply certified copies of payrolls and any other records required by the Town as and when called for. The Contractor shall also preserve all original records pertaining in any way to the work of the Contract. The Contractor shall require

that all Subcontractors be subject to the provision of the above. Records must be kept for one (1) year after final payment is made.

#### **5.40 Occupational Health and Safety Act, Environmental Protection Act, Ontario Water Resources Act and Fisheries Act (Canada)**

- 5.40.1 The Contractor acknowledges that it is aware of the provisions of the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, as amended, the *Environmental Protection Act*, R.S.O. 1990, c. O.1, as amended, the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40 and the *Fisheries Act*, R.S. 1985, c. F-14, as amended, (Canada) and the regulations, policies and guidelines thereunder and agrees to comply with, and cause to be complied with, the provisions thereof as such statutes, regulations, policies and guidelines may be amended or replaced from time to time including, without limiting the generality of the foregoing, all of the obligations of the constructor and employer under the *Occupational Health and Safety Act* and regulations, as applicable, in respect of the Work and any obligation to obtain any approval or permit required under the *Environmental Protection Act* or the *Ontario Water Resources Act* or the *Fisheries Act* (Canada) or regulations, policies and guidelines thereunder in respect of the Work and further agrees to handle and dispose of all materials in accordance with such legislation.
- 5.40.2 The Contractor shall do, cause to be done or refrain from doing any act or thing as directed by the Town or the Consultant, if any, if at any time the Town or the Consultant, if any, considers that any situation or condition is unsafe, damaging to the environment the provisions of the *Occupational Health and Safety Act*, the *Environmental Protection Act*, the *Ontario Water Resources Act*, the *Fisheries Act* (Canada) or any other applicable statutes, regulations, policies or guidelines. If the Contractor fails to comply with such direction, the Town may:
- (a) take action to remedy the situation or condition and the cost thereof shall be payable by the Contractor on demand and failing payment thereof, the Town may deduct the costs thereof from monies which are due or may become due to the Contractor; or
  - (b) terminate the Contract pursuant to Default and Termination.
- 5.40.3 Notwithstanding the foregoing, the act or failure to act by the Town shall not in any way derogate from the responsibility of the Contractor under the Contract.
- 5.40.4 The Contractor shall indemnify and hold harmless the Town, the Consultant, if any, and their respective agents and employees from and against claims, demands, losses, costs, damages, actions, suits or proceedings (including by any government agency) arising as a result of any violation or alleged violation of the *Occupational Health and Safety Act*, the *Environmental Protection Act*, the *Ontario Water Resources Act* or the *Fisheries Act* (Canada) or the regulations, policies and guidelines thereunder, as such statutes, regulations, policies and guidelines may be amended or replaced from time to time.
- 5.40.5 The Contractor shall file a Notice of Project, as required by the *Occupational Health and Safety Act*, with the Ministry of Labour and shall post the Notice of Project at the Place of the Work.

#### **5.41 Occupancy by the Town**

The Town reserves the right to take possession of and use any completed or partially completed portion of the Work provided that the Town does not interfere unreasonably with the Contractor's performance of the Work. Such possession or use shall not be construed as acceptance of the Work or any part thereof.

## **5.42 Non-Resident**

5.42.1 If the Contractor is non-resident in Ontario or Canada:

- (a) it shall obtain from the Retail Sales Tax Branch a certificate showing that the Contractor has registered with the Retail Sales Tax Branch and shall submit such certificate to the Town on or before execution of the Contract; and
- (b) it shall not commence work or order any materials or equipment for the Contract until it has registered with the Retail Sales Tax Branch; and
- (c) it shall obtain all necessary approvals, consents, permits, licences, certificates, registrations and other authorizations prior to execution of the Contract.

5.42.2 The Contractor shall ensure that all Subcontractors whom it proposes to use for carrying out any of the Work required by the Contract and who are non-resident in Ontario or Canada have:

- (a) registered with and have complied with the requirements of the Retail Sales Tax Branch before they commence any such work; and
- (b) obtained all necessary approvals, consents, permits, licences, certificates, registrations and other authorizations prior to execution of the subcontract.

## **5.43 Warranty Period, Maintenance and Deficiency Holdbacks**

The Contractor agrees to correct promptly, at its own expense, defects or deficiencies in the Work which appear prior to and during the warranty period specified.

The Warranty Period shall continue beyond the stated terms until all deficiencies have been rectified to the sole satisfaction of the Director. Should the Warranty Period be extended beyond the stated terms due to deficiencies remaining to be rectified, the Director may at its sole discretion reduce the five percent (5%) Maintenance Holdback to an amount deemed sufficient to guarantee rectification of the remaining deficiencies.

The Contractor shall ensure that the materials and works are operating properly at all times during the Warranty Period. Any defective work to be repaired or replaced which is deemed by the Director, in his/her sole discretion, to be the fault of the Contractor, whether the result of poor workmanship, use of defective materials, damage through carelessness or other act of the Contractor, and which has been so declared by written notice from the Town, shall be promptly repaired or replaced to the satisfaction of the Director.

The carrying out of replacement work and making good of defects shall be executed at times convenient to the Town and may require work outside normal working hours at the Contractor's expense.

If the Town, at any time, considers required repair work to be an emergency, the Contractor shall be required to commence repairs within two (2) hours of notice. Should the Contractor fail to commence repairs as noted, the Town shall arrange for this work to be done at the Contractor's sole expense and no additional payment shall be made to the Contractor due to this requirement. Any expenses and costs incurred by the Town in arranging for such emergency work to be completed may be deducted from monies owed to the Contractor.

The Contractor agrees to correct and pay for damage resulting from corrections made under the requirements of contained in this subsection.

The Engineer's inspection fees related to such repair or replacement, after the Certificate of Substantial Performance has been issued, shall be the responsibility of the Contractor, and shall be deducted by the Town from monies owed the Contractor. Such charges shall not be applicable



to the normal inspections of the Works required from time to time or inspections by the Engineer prior to final acceptance of the Works but only for the time incurred by the Engineer regarding the actual repair or replacement works that are the Contractor's responsibility.

The Contractor agrees to correct and pay for damage resulting from corrections made under the requirements of contained in this subsection.

Specified warranty periods shall not be construed as limiting any provisions under this Contract dealing with indemnification and claims handling.

The remedies of the Town set forth above shall not deprive the Town of any action, right or remedy otherwise available to it for breach of any provisions of the Bid Documents and the periods referred to above, or such longer time as may be specified elsewhere, shall not be construed as a limitation on the time in which the Town may pursue such other action or remedy.

#### **5.44 Evaluation of Performance**

Upon completion of the Contract by the Contractor, a written performance evaluation of the Contractor may be completed by the relevant Director and the Procurement Manager and the evaluation shall be placed in the Town file corresponding to the Contractor. A copy of the evaluation and supporting documentation may be made available to persons requesting Town references for a future contract and also may be reviewed and may form part of the criteria when considering the Town's future award of contracts.

5.44.1 In a case where an interim performance evaluation is done prior to the completion of the Contract and where the interim evaluation has determined the Contractor performance to be unsatisfactory for any reason, a Director or the Procurement Manager may request an interim evaluation meeting with a Contractor to discuss any deficiencies and to establish a time for their rectification.

5.44.2 A Contractor deemed, in the sole opinions of the relevant Town staff and the Procurement Manager, to have poor or unsatisfactory performance of the Contract may:

- (a) be refused the award of a future contract;
- (b) have Town staff recommend that Council not award a future contract to the Contractor; or
- (c) be placed on a probationary period.

A probationary period may specify additional requirements as determined by the Procurement Manager, including the requirement of additional contract performance security or interim performance evaluations to ensure that the terms of a future contract are strictly adhered to.

#### **5.45 Municipal Freedom of Information and Protection of Privacy Act**

The Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, as amended, applies to information provided to the Town by a Bidder. A Bidder should identify any information in its Bid or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by the Town. The confidentiality of such information will be maintained by the Town, except as otherwise required by law or by order of a court or tribunal. Bidders are advised that their Bids will, as necessary, be disclosed on a confidential basis, to the Town's advisers retained for the purpose of evaluating or participating in the evaluation of their Bids.

By submitting any personal information requested in this Bid Document, Bidders are agreeing to the use of such information as part of the evaluation process, for any audit of this procurement

process and for contract management purposes. Where the personal information relates to an individual assigned by the successful Bidder to provide the Work, such information may be used by the Town to compare the qualifications of such individual with any proposed substitute or replacement. If a Bidder has any questions about the collection and use of personal information pursuant to this Bid Document, questions are to be submitted to the Town Clerk (Telephone 905-727-1375).

#### **5.46 Accessibility – Accessibility for Ontarians with Disabilities Act, 2005 (“AODA”)**

In accordance with s. 6 of Ontario Regulation 429/07 (Accessibility Standards for Customer Service), every provider of goods and services shall ensure that every person who deals with members of the public or participates in the developing of the service providers policies, practices and procedures governing the provision of goods and services to members of the public, shall be trained on the following:

- a) How to interact and communicate with persons with various types of disability;
- b) How to interact with persons with disabilities who use assistive devices or require the assistance of a guide animal, or a support person;
- c) How to use assistive device equipment that is available on Town premises that may help in the provision of accessible goods or services;
- d) What to do if a person with a particular type of disability is having difficulty accessing the provider's goods or services; and
- e) Information on the policies, practices and procedures governing the provision of goods and services to people with disabilities.

Contracted employees, third party employees, agents and others that provide services to the public on behalf of the Town must meet the requirements of Ontario Regulations 429/07 and 191/11 with regard to training under the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11 (the “AODA”).

A document describing your training policy or procedure, a sample copy of training and details of training dates and attendees must be submitted to the Town of Aurora, within fourteen (14) Days of the notice of award of the Contract, but in any event prior to the commencement of any Work. Proponents may contact the Town of Aurora Accessibility Advisor: (905) 727-3123, Ext: 4212, for suppliers of Accessibility Training.

In accordance with subsection 5(1) of Ontario Regulation 191/11 (Integrated Accessibility Standards), the Town will incorporate accessibility criteria and features when procuring or acquiring goods, services or facilities, except where it is not practicable to do so.

[End of Part 5]

SCHEDULE "E"  
DRAFT - FORM OF CONTRACT

THIS CONTRACT made (in triplicate) this \_\_\_\_ day of \_\_\_\_\_, 2019.

BETWEEN:

\_\_\_\_\_  
hereinafter called the "Contractor"

PARTY OF THE FIRST PART

- and -

**THE CORPORATION OF THE TOWN OF AURORA**  
hereinafter called the "Town"

PARTY OF THE SECOND PART

**WHEREAS** on [Month, Day, Year], the Town called for Bids via Request for Tender No. 2019-13-OPS for the supply of all labour, material, and equipment necessary to Construct a New Firehall for Central York Fire Services (CYFS), as per the attached Bid Documentation, a copy of which is attached hereto as **Appendix "A"**.

**AND WHEREAS** the Contractor submitted a Bid dated **[Insert Date]** in response to the Town's call for Bids, a copy of which is attached hereto as **Appendix "B"** and is hereinafter referred to as the "Bid Document";

**AND WHEREAS** the Director of Operational Services accepted the Bid and awarded the Contract to the Contractor on **[Insert Date]** based on the Contractor's Bid;

**NOW THEREFORE THIS CONTRACT WITNESSETH** that in consideration of the promises, covenants and other terms and conditions hereinafter contained and the sum of Two Dollars (\$2.00) of lawful money of Canada now paid by each of the parties hereto to the other (the receipt and sufficiency whereof is hereby acknowledged), the parties hereby covenant, promise and agree each with the other as follows:

1. **The Contractor hereby covenants and agrees** to provide and supply at the Contractor's own expense all and every kind of labour, appliance, equipment, and material required for the Work and shall complete the Work in strict accordance with the description, specifications, terms, requirements and in accordance with the timelines set out in the Contract for an amount not to exceed **[\$insert amount]**, including all disbursements and expenses, but excluding any Goods and Services Tax/Harmonized Sales Tax ("GST/HST"). The Contractor shall also provide any associated services and fulfil any obligations, including warranty service, as set out in this Contract.

No payment in excess of the sums set out in this section shall be made without the Town's approval, in strict accordance with the Town's requisite purchasing policies and procedures or, where required, by the Council of the Town.

The Town shall compensate the Contractor for services and products requested by the Town, provided and invoiced, to the satisfaction of the Director, in accordance with the prices, rates, terms and limitations set out in Appendix "A" and "B".

The Town shall not be required to pay for any administration fees charged by or through the Contractor, except where otherwise agreed.

The Contractor agrees and acknowledges that Town shall not be liable or obligated to pay for Work or products rejected by the Town as defective or containing imperfections, or to accept such Work or products, until the defects or imperfections have been repaired in a permanent manner to the satisfaction of the Town in its sole discretion.

The Contractor acknowledges and agrees that the acceptance of Work or products that is defective or otherwise containing imperfections or the payment of any monies for such Work or products by the Town shall not be construed as an acceptance of any defective Work or product by the Town. The acceptance of or payment for such defective Work or product by the Town shall not reduce or otherwise affect the liability of the Contractor to make good or replace such defective Work or product.

2. **The Contractor further covenants and agrees** to undertake and perform the Work in a proper workmanlike manner and to complete the Work to the satisfaction of the Director.
3. **Indemnification:** The Contractor further covenants and agrees that the Contractor will from time to time and at all times hereafter well and truly save, defend, and keep harmless and fully indemnify the Town, its officers, employees, servants, and agents from and against all actions, suits, claims, executions and demands which may be brought against or made upon the Town, its officers, employees, servants, and agents, or any of them, and of, from and against all loss, costs, charges, damages, liens and expenses which may be sustained, incurred or paid by the Town, its officers, employees, servants and agents, or any of them, by reason or on account or in consequence of the execution and performance or maintenance of the said Work and/or the non-execution, or imperfect execution of the Work, and/or the condition of the job site, adjoining lands and highways used in connection with the performance of the Work, and/or the supply or non-supply of plant and material for the Work, and/or any act or omission of the Contractor or its agent, any Subcontractor, employee, worker or other person for who the Contractor is in law responsible, and will pay to the Town and to each such officer, employee, servant or agent on demand any loss, costs, damages and expenses which may be sustained, incurred or paid by the Town or by any of its officers, employees, servants and agents in consequence of any such action, suit, lien, execution or demand and any moneys paid or payable by the Town or any of its officers, employees, servants or agents in settlement or in discharge or on account thereof,

PROVIDED that on default of such payment all such last mentioned loss, costs, damages and expenses and all such moneys so paid or payable may be deducted from any moneys of the Contractor then remaining in the possession of the Town on account of the Contract Work or from moneys payable by the Town to the Contractor on any account whatever or may be recovered from the Contractor or its Surety in any court of competent jurisdiction as moneys paid at their request; and the Contractor hereby authorizes and empowers the Town, or its Solicitors for the time being, to defend, settle or compromise any of such actions, suits, claims, liens, executions or demands as the Town or its Solicitor may deem expedient, and hereby agrees to ratify and confirm all the acts of the Town or its Solicitor in that behalf, and to pay to such Solicitor on demand his reasonable costs of any such defence, settlement and/or compromise, and that in default of such payment the same may be deducted from any moneys payable by the Town to the Contractor on any account whatever;

PROVIDED, HOWEVER, that the Contractor at the expense of the Contractor may take charge of and conduct the defence in the name of the Town to any such action, suit, claim, lien, execution or demand.

4. **Independent Contractor:** The parties hereto agree that the relationship between the Town and the Contractor is that of an independent Contractor and nothing contained herein shall be construed as creating an employer-employee relationship, a joint venture, a partnership, or any other type of relationship. The Contractor, as an independent contractor has agreed to assume all risk associated with its activities under this Contract.
5. **Notice:** Any notice herein required or permitted to be given under this Contract shall be delivered personally, through pre-paid courier or mail, or by electronic means provided that receipt is verified, addressed as follows:

The Corporation of the Town of Aurora  
Attention: Town Clerk  
100 John West Way, P.O. Box 1000  
Aurora, Ontario, L4G 6J1  
Fax: (905) 726-4732

**And to:**

[Name of Company]  
Attention: [Name]  
[Mailing address]  
Town, ON Postal Code  
Fax:

Any notice given in accordance with this section shall be deemed received upon receipt, if delivered personally, upon delivery if by courier, upon verification of receipt if provided electronically, and five (5) days after deposit of such notice in the mail if sent through mail.

Either party hereto may at any time give notice under this paragraph to the other of a change of address and thereafter such changed address shall be substituted for the previous address set out in this paragraph.

6. **Complete Contract:** This Contract and all Appendences and all Schedules thereto, constitutes the complete and exclusive statement of agreement between the parties, which supersedes all proposals, oral or written, and all other communications between the parties, relating to the subject matter of this Contract. If one (1) or more of the phrase(s), sentence(s), clause(s), sub-clause(s), paragraph(s) or subparagraph(s) contained in this Contract shall be declared invalid by the order, decree or judgment of any court of competent jurisdiction, this Contract shall be construed as if such phrase(s), sentence(s), clause(s), sub-clause(s), paragraph(s) or subparagraph(s) had not been inserted. This Contract may be changed only by a written amendment signed and sealed by the authorized representatives of both parties.
7. **Successors and Assigns:** This Contract shall jointly and severally enure to the benefit of and be binding upon the Contractor, its administrators, successors and permitted assigns. The Contractor shall not assign this Contract or any interest in this Contract without the prior written consent of the Town. For the purposes of this Contract, an assignment shall include any transfer in the majority of ownership or controlling interest in the Contractor, whether through the sale of shares, direct acquisition of assets, or otherwise. This Contract shall enure to the benefit of and be binding upon the Town, its successors and assigns.

8. **Applicable Law:** This Contract shall be governed by and enforced in accordance with the laws of the Province of Ontario and the laws of Canada.
9. **Counterparts and Electronic Signature:** This Contract may be executed in counterparts, each counterpart when so executed shall be deemed an original and all of which together shall constitute one and the same Contract. The counterparts of this Contract may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

**IN WITNESS WHEREOF** the parties have executed this Contract as of the date first written above.

**[INSERT NAME OF COMPANY]**

per:

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:

(I/We have the authority to bind the Corporation)

**THE CORPORATION OF THE  
TOWN OF AURORA**

\_\_\_\_\_  
Name:  
Title:

**SCHEDULE "F" – BID SECURITY - BID BOND**

BOND NO. \_\_\_\_\_

10% of CONTRACT AMOUNT

**KNOW THEREFORE ALL MEN BY THESE PRESENTS** that \_\_\_\_\_  
(hereinafter called the "Principal") and \_\_\_\_\_  
a corporation created and existing under the laws of \_\_\_\_\_ and duly  
authorized to transact the business of Suretyship in \_\_\_\_\_,  
(hereinafter called the "Surety") are held and firmly bound unto The Corporation of the Town of Aurora  
(hereinafter called the "Obligee"), in the amount of 10% of the contract amount lawful money of Canada,  
for the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves  
and their respective heirs, executors, administrators, successors and assigns, jointly and severally, firmly  
by these presents.

WHEREAS the Principal has submitted a written tender or proposal to the Obligee, dated the \_\_\_\_ day  
of \_\_\_\_\_, 2019 for Contract No. 2019-13-OPS

For the supply of all labour, material, and equipment necessary to Construct a New Firehall for Central  
York Fire Services (CYFS) per the attached price schedule and specifications.

*NOW THEREFORE, the condition of the foregoing obligation is such that, if the Principal shall have the  
Bid accepted within the period of irrevocability of the Bid, as may be amended by addenda issued by the  
Obligee, the said Principal will, within the time required, enter into a formal contract with the Obligee in a  
form satisfactory to the Obligee, (hereinafter called the "Contract"), and give the specified security to  
secure the performance of the terms and conditions of the contract, then this obligation shall be void;  
otherwise the Principal and the Surety will pay unto the Obligee the difference in money between the  
amount of the bid of the said Principal and the amount for which the Obligee legally contracts with  
another party to perform the work if the latter amount be in excess of the former.*

**The Surety shall not be liable for a greater sum than the specified penalty of this Bond. Any suit  
under this Bond must be instituted before the expiration of six months from the date of this  
Bond.**

IN WITNESS WHEREOF, the Principal and the Surety have hereunto affixed their corporate seals and  
caused their presents to be signed by their duly authorized officers.

**DATED THIS** \_\_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
Name – Surety

c/s

\_\_\_\_\_  
Signature and Signing Authority

\_\_\_\_\_  
Name – Principal

c/s

\_\_\_\_\_  
Signature and Signing Authority

**SCHEDULE "G" - UNDERTAKING TO BOND**  
**(To be uploaded in the online submission area)**

**CONTRACT NO. 2019-13-OPS**

**TO:** THE CORPORATION OF THE TOWN OF AURORA (the "Town")

**AND TO:** \_\_\_\_\_ (the "Contractor")

We, the undersigned, hereby undertake and agree to become bound as Surety for the Contractor in:

- (a) **a contract performance bond totaling 100%** of the **CONTRACT AMOUNT** and conforming to Form 32 - Performance Bond Under Section 85.1 of the Construction Act; and
- (b) **a labour and material payment bond totaling 50%** of the **CONTRACT AMOUNT** and conforming to Form 31 - Labour and Material Payment Bond Under Section 85.1 of the Construction Act,

if the bid for the supply of all labour, material, and equipment necessary to Construct a New Firehall for Central York Fire Services (CYFS), is accepted by the Town.

If the above-mentioned bid is accepted, the undersigned will execute the bond within ten (10) Working Days of notification of acceptance of the bid.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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

\_\_\_\_\_  
Signature of Authorized Person Signing for Surety

(Company Seal)

I have authority to bind the Corporation



# **2019-13-OPS - CONSTRUCTION OF A NEW FIREHALL FOR CENTRAL YORK FIRE SERVICES**

Opening Date: April 11, 2019 10:00 AM

Closing Date: May 9, 2019 10:00 AM

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**Schedule of Prices**

The Bidder hereby Bids and offers to enter into the Contract referred to and to supply and do all or any part of the Work which is set out or called for in this Bid, at the unit prices, and/or lump sums, hereinafter stated. HST is additional.

\*Denotes a "MANDATORY" field.

Do not enter \$0.00 dollars unless you are providing the line item at zero dollars to the Town. If the line item and/or table is "NON-MANDATORY" and you are not bidding on it, leave the table and/or line item blank. Do not enter a \$0.00 dollar value.

Note: Contract Amount is identified as Subtotal Contract Amount in the Summary Table.

**Schedule "A" - Price Schedule**

Line Item	Item Description	Unit	Quantity	Unit Price *	Extended Price
1	Division 01: General Requirements	Lump Sum	1		
2	Division 02: Existing Conditions	Lump Sum	1		
3	Division 03: Concrete	Lump Sum	1		
4	Division 04: Masonry	Lump Sum	1		
5	Division 05: Metals	Lump Sum	1		
6	Division 06: Wood, Plastics, and Composites	Lump Sum	1		
7	Division 07: Thermal and Moisture Protection	Lump Sum	1		
8	Division 08: Openings	Lump Sum	1		
9	Division 09: Finishes	Lump Sum	1		
10	Division 10: Specialties	Lump Sum	1		
11	Division 11: Equipment	Lump Sum	1		
12	Division 12: Furnishings	Lump Sum	1		
13	Division 14: Conveying Equipment	Lump Sum	1		
14	Division 25: Special Exhaust Systems	Lump Sum	1		
15	Division 26: Common Requirements for Electrical	Lump Sum	1		
16	Division 27: Communications	Lump Sum	1		
17	Division 28: Electronic Safety and Community	Lump Sum	1		
18	Division 31: Earthwork	Lump Sum	1		
19	Division 32: Exterior Environments	Lump Sum	1		
20	Division 33: Utilities	Lump Sum	1		
21	Divisions 21, 22 and 23: Refer to Mechanical Drawings for Notes and Specifications.	Lump Sum	1		
Subtotal:					

**Schedule "A" - Cash Allowance**

Line Item	Item Description	Unit	Quantity	Unit Price	Extended Price
1	Cash Allowance: The cash allowance is provided by the Town to cover the ten (10) items listed in Section 01 21 00 of the Consultant Specifications.	Lump Sum	1	\$722,500.0000	\$ 722,500.00
Subtotal:					\$ 722,500.00

**Summary Table**

Bid Form	Amount
Schedule "A" - Price Schedule	
Schedule "A" - Cash Allowance	\$ 722,500.00
Subtotal Contract Amount:	

## Bid Questions

Workplace Safety and Insurance Board account number:

GST/HST Registration number:

## Specifications

### Primary Contact Information

Please provide the contact information for the primary contact at your organization for this bid opportunity.

Primary Contact Name *	Telephone Number *	Email Address *

### Piggyback Clause

#### CO-OPERATIVE SHARING OF RESOURCES

The piggyback option is a form of inter-governmental co-operative purchasing in which the Town may extend the pricing, terms and conditions of this Contract to other government entities, if agreed to by the Contractor. No individual person or agency shall be responsible in any way whatsoever for the actions or purchases of any other person or agency which may arise, directly or indirectly, as a result of this call for bid or any Contract(s) which may result.

Bidders are requested to indicate on the bid if they will extend the pricing, terms and conditions, of this bid to other government agencies in the event they are selected for award. If the Contractor agrees to this provision, other government agencies may enter into a Contract with the Contractor for the purchase of the service and commodities described herein based on the terms, conditions, prices, and percentages offered by the Contractor to the Town. Minor changes in terms and conditions may be required by any additional agencies requesting to piggyback on this Contract.

Description	Response *
I agree to extend the pricing contained in this Tender to other government agencies or municipalities subject to the terms and conditions stated in CO-OPERATIVE SHARING OF RESOURCES (PIGGYBACK CLAUSE)	<input type="radio"/> Yes <input type="radio"/> No

**Schedule "B" - Bidder's Senior Staff**

The following is a list of Senior Staff that will be utilized in the performance of the work and that no additions, deletions or changes to this list will be permitted after closing of the Bid Document.

Line Item	Name of Staff Person	Position Description	Qualifications & Experience
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

**Schedule "C" - References**

Bidders must demonstrate that their company has performed the minimum number of projects, as required under Schedule "C". A minimum of three (3) Construction project references of similar scope and magnitude, preferably including one (1) Emergency Services station for a Municipality. Each of the references are to be of comparable value and complexity, successfully completed by the Bidder in the last five (5) years.

For a newly formed business entity including, corporations, partnerships and sole proprietors or a Contractor teaming arrangement you shall state below that you were not the "Contractor" for the named project and should clearly state whose past experience on the named project is relevant to that reference.

**NOTE:** The information provided with respect to the Bidder's experience in similar Work, shall, once completed, be deemed by the Town to constitute references and by filling out the form, the Bidder hereby authorizes the Town to contact any party set out in the table.

Criteria	Reference # 1	Reference # 2	Reference # 3
Project Name			
Project Location			
Description/Scope of Work			
Project Start and End Dates			
Name of Consultant/Architect			
Company Name			
Contact Person			
E-mail Address			
Phone Number			
Contract Value			

**Schedule "D" - Subcontractors**

The Bidder shall state all Subcontractor(s) and type of Work proposed to be used for this project. Bidders shall not indicate "TBD" (To Be Determined) or "TBA" (To Be Announced) or similar wording and shall not indicate multiple choices of Subcontractor names for any Subcontractor category in their list of Subcontractors.

The Bidder shall state only one (1) Subcontractor for each type of work

Bidder(s) shall upon request by the Town produce a list of references for all or any proposed Subcontractors within three (3) business days.

The following is a complete list of Subcontractors that will be required in the performance of the work and that no additions, deletions or changes to this list will be permitted after closing of the Bid Document.

By clicking here I confirm that there are no Subcontractor(s) and the Bidder shall perform the project with their **"OWN FORCES"**.

Line Item	Subcontractor and/or Supplier	Address	Trade
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

**Documents**

It is your responsibility to make sure the uploaded file(s) is/are not defective or corrupted and are able to be opened and viewed by the Town. If the attached file(s) cannot be opened or viewed, your Bid submission may be rejected.

- Schedule "F" Bid Security - Bid Bond \* (mandatory)
- Schedule "G" Undertaking to Bond \* (mandatory)

## Addenda, Terms and Conditions

The Bidder hereby acknowledges and agrees:

1. To provide all goods, services and construction, as more specifically set out and in accordance with the Town's Bid Document, including but not limited to the scope of work, specifications, drawings, Addenda (if issued by the Town), the terms and conditions, etc. stated therein, which are expressly acknowledged and made part of this Bid Document.
2. This Bid is made without any connections, knowledge, comparison of figures or arrangements with any other company, firm or person making a Bid for the same Work and is in all respects fair and without collusion or fraud.
3. I/WE do hereby Bid and offer to enter into a Contract to do all the Work as specified in the Bid Document which shall include all costs but not limited to; freight, duty, currency, etc. in accordance with the prices and terms as submitted by the Bidder herein.
4. If I/WE withdraw this Bid before the formal Contract is executed by the awarded Bidder for the said Work or Ninety (90) Calendar Days, whichever event first occurs, the amount of the accompanying this Bid Deposit (if applicable to this bid) shall be forfeited to the Town.
5. If the Bid is accepted, I/WE agree to furnish all required documentation, as required by the Bid Document within Ten (10) Calendar Days after notification of award.
6. I/We acknowledge and agree that any issued Addendum/Addenda forms part of the Bid Document.
7. I/We, certify that we are in full compliance with Section 6 of Ontario Regulation 429/07, Accessibility Standards for Customer Service, made under the Accessibility for Ontarian's with Disabilities Act, 2005. If requested, we are able to provide written proof that all employees have been trained as required under the act. I/We shall be aware and sensitive to accessibility and disability issues.

I/WE (including any related or affiliated entities and any principal thereof) have no unresolved litigation with the Town.



I/WE agree to be bound by the declarations and have authority to bind the Corporation and submit this Bid on behalf of the Bidder.

The Bidder shall declare any potential conflict of interest that could arise from bidding on this Bid. Do you have a potential conflict of interest?

**Yes**  **No**

The Bidder acknowledges and agrees that the Addendum/Addenda below form part of the Bid Document

Please check the box in the column "**I have reviewed this addendum**" below to acknowledge each of the Addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
There have not been any addenda issued for this bid.		