



Request for Quotations
For
2024-027-CQ Fenelon Falls Library Improvements

Mandatory Site Meeting: Thursday, April 4, 2024 at 10:00 am local time

Last Day for Questions: Wednesday, April 10, 2024 at 2:00 pm local time

Submission Deadline: Thursday, April 18, 2024 at 11:00 am local time

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Part 1 – Invitation and Submission Instructions

1. Invitation to Respondents

This Request for Quotations (the “RFQ”) is an invitation by The Corporation of the City of Kawartha Lakes (“the City”) to prospective Respondents to submit quotations for Fenelon Falls Library Improvements as further described in Appendix C of the RFQ Particulars.

The City is seeking qualified contractors to provide all labour and material to make roof and HVAC improvements to the Fenelon Falls Public Library. The work is as outlined in the drawings and specifications and includes but is not limited to: removal of existing gravel ballast, new rigid insulation, utility board and single ply membrane, removal and replacement of four (4) existing HVAC rooftop units and associated insulated exposed ductwork.

Respondents should be familiar with and comply with the City’s Purchasing Policy, which is available on line at: <https://www.kawarthalakes.ca/en/business-growth/bids-and-tenders.aspx>

It is understood and agreed that each Respondent, has by careful examination, satisfied themselves as to the specifications of goods; nature of the service and the work, the character, quality and quantity of the task, the general and local conditions, warranty and all other matters, which can in any way affect the goods or service.

Each Respondent is directed to ensure they are familiar with the location, the type of work that is being requested and any factors that could affect the work (i.e. Location of hydro wires, trees, rocks, etc.) and ensure that these are taken into consideration when providing a submission.

2. Respondent must be Single Entity

The respondent must be a single legal entity that, if selected, intends to enter into the contract with the City. If the quotation is being submitted jointly by two (2) or more separate entities, the quotation must identify only one of those entities as the “respondent”. The respondent will be responsible for the performance of the Deliverables.

3. Bidding System Registration

All respondents must have a vendor account with the City’s electronic bidding system at: <https://kawarthalakes.bidsandtenders.ca/Module/Tenders/en> and must be registered as a plan taker for this opportunity. This will enable the respondent to download the solicitation document, to ask questions, to receive addenda email notifications,

download addenda, and submit their quotation electronically through the bidding system.

4. RFQ Contact

To contact the City in relation to this RFQ, respondents must initiate the communication electronically through the bidding system. The City will not accept any respondent's communications by any other means, except as specifically stated in this RFQ.

For the purposes of this procurement process, the "RFQ Contact" will be:

Ashley Wykes, Buyer
Email: awykes@kawarthalakes.ca

Respondents should only contact the RFQ Contact where specifically instructed to in this RFQ. All other communication in relation to this RFQ, up to and including the submission of the quotation, must be through the bidding system, as described above.

Respondents and their representatives are not permitted to contact any employees, officers, agents, elected or appointed officials, or other representatives of the City, other than the RFQ Contact, concerning matters regarding this RFQ. Failure to adhere to this rule may result in the disqualification of the respondent and the rejection of the respondent's quotation.

5. Questions and Deadline

Respondents must ask questions through the bidding system, before the question deadline. Should the question result in the need to amend the quotation, it will be addressed in the form of an addendum to all registered respondents. Respondents must ensure they have read the quotation and any accompanying documents prior to this deadline as questions posed after the deadline may not be answered.

6. Contract for Deliverables

1.6.1 Type of Contract

The selected respondent will be requested to enter into a contract for the provision of the Deliverables on the terms and conditions set out in the Form of Agreement (Appendix A). It is the City's intention to enter into a contract with only one (1) legal entity.

1.6.2 RFQ Timetable

Mandatory Site Meeting	Thursday, April 4, 2024 at 10:00 am local time
Last Day for Questions	Wednesday, April 10, 2024 at 2:00 pm local time
Submission Deadline	Thursday, April 18, 2024 at 11:00 am local time
Anticipated Execution of Agreement	April/May 2024

The RFQ timetable is tentative only, and may be changed by the City at any time.

1.6.3 Mandatory Site Meeting

The purpose of the site visit is to provide an opportunity for Respondents to review this specific facility/location and confirm the City's requirements as outlined in the RFQ.

Date: Thursday, April 4, 2024

Time: 10:00 am

Location: Fenelon Falls Public Library – 19 Market Street, Fenelon Falls, ON

<https://www.google.com/maps/place/Fenelon+Falls+-+Kawartha+Lakes+Public+Library/@44.53818,-78.7383775,17.13z/data=!4m6!3m5!1s0x4cd52eeb0bd7b9fd:0xc215c3ebf7612ea5!8m2!3d44.5384155!4d-78.737695!16s%2Fq%2F1tfmp0m0?entry=ttu>

Attendance will be taken at the site meeting. Respondents that are not present when the meeting commences, will be considered late and therefore not in attendance.

Submissions received from companies not in attendance at the mandatory site visit will not be accepted.

All workers, vendors, contractors, consultants etc. and City representatives – must wear proper foot wear.

7. Submission Instructions

1.7.1 Submission of Quotations

Quotations must be submitted electronically through the bidding system at:

<https://kawarthalakes.bidsandtenders.ca/Module/Tenders/en>

Submissions by other methods will not be accepted.

In the event of any technical issues, Respondents should contact Bids & Tenders technical support at 1-800-594-4798 or support@bidsandtenders.ca.

1.7.2 Quotations to be Submitted on Time

Quotations must be finalized and fully uploaded in the bidding system on or before the Submission Deadline. The time of receipt of quotations shall be determined by the bidding system web clock. Late submissions will not be accepted by the bidding system and will be disqualified as late.

Respondents are cautioned that the timing of submission is based on when the quotation is received by the bidding system, not when a quotation is submitted by a respondent. As transmission can be delayed due to file transfer size, transmission speed or other technical factors, respondents should plan to submit quotations well in advance of the Submission Deadline to avoid submitting late due to technical issues. Respondents submitting near the Submission Deadline do so at their own risk.

The bidding system will send a confirmation email to the respondent advising when the quotation was submitted successfully. If you do not receive a confirmation email, contact the bidding system's technical support immediately.

1.7.3 Quotations to be Submitted in Prescribed Format

Quotation materials should be prepared and submitted in accordance with the instructions in the bidding system, including any maximum upload file size.

Documents should not be embedded within uploaded files, as the embedded files may not be accessible or evaluated.

1.7.4 Amendment of Quotations

Respondents may amend their quotations prior to the Submission Deadline. However, the respondent is solely responsible for ensuring that the amended quotation is received by the bidding system by the Submission Deadline.

1.7.5 Withdrawal of Quotations

At any time throughout the RFQ process until the execution of a written agreement for provision of the Deliverables, a respondent may withdraw a submitted quotation. Prior to the Submission Deadline, respondents may withdraw a submitted quotation through the bidding system. To withdraw a quotation after the Submission Deadline, a notice of withdrawal must be sent to the RFQ Contact and must be signed by an authorized representative of the respondent.

1.7.6 Results of the Opening

The unofficial results of the opening will be posted on Bids and Tenders at the time of opening.

[End of Part 1]

Part 2 – Evaluation and Award

2.1 Stages of Evaluation

The City will conduct the evaluation of quotations in the following stages:

2.2 Stage I – Submission Requirements

Stage I will consist of a review to determine which quotations comply with all of the submission requirements. Quotations that fail to satisfy the submission requirements will be rejected.

2.3 Stage II – Technical Requirements

The City will review the quotations to determine whether the technical requirements as set out in Section 3 of the RFQ Particulars have been met. Questions or queries on the part of the City as to whether a quotation has met the technical requirements will be subject to the verification and clarification process set out in Part 3. Quotations that fail to meet the technical requirements will be rejected.

2.4 Stage III – Pricing

Stage III will consist of evaluating the submitted pricing of each qualified quotation in accordance with the price evaluation method set out in the pricing section. The evaluation of price will be undertaken after the evaluation of the requirements has been completed.

In the event that a respondent's pricing appears to be abnormally low in relation to the Deliverables, the City may require the respondent to provide a detailed explanation of the pricing information to account for the low level of price and confirm that all requirements in respect of the Deliverables have been taken into account. If the respondent is unable to satisfactorily account for the abnormally low pricing, the City may reject the quotation. The City may also reject any quotation that contains unbalanced pricing. Pricing may be considered unbalanced where nominal or significantly understated prices are proposed for some elements of the Deliverables and inflated prices are proposed for other elements of the Deliverables. Unbalanced pricing includes, but is not limited to, "front-loaded" pricing which contains inflated pricing for Deliverables to be provided or completed at the beginning of the contract, offset by understated pricing for Deliverables to be provided or completed later in the contract.

2.5 Selection of Lowest Compliant Respondent

After the completion of Stage I, II and III evaluations, and subject to the City's reserved rights, the compliant Respondent with the lowest pricing will be selected to enter into an agreement in accordance with Part 3.

In the event of a tie, the Respondents will be notified and the selected Respondent will be determined according to a coin toss as outlined in the Purchasing Policy. The selected Respondent will be notified in writing and will be expected to satisfy any applicable conditions of this RFQ, including the pre-conditions of award listed in Appendix C. Failure to comply with the pre-conditions, or enter into a contract may result in the disqualification of the Respondent and the selection of another Respondent or the cancellation of the RFQ. The City will not be responsible for damages alleged to be suffered by a Respondent as a result of the City's decision to disqualify a Respondent.

[End of Part 2]

Part 3 – Terms and Conditions of the RFQ Process

3.1 General Information and Instructions

3.1.1 RFQ Incorporate into Bid

All of the provisions of the RFQ are deemed to be accepted by each Respondent and incorporated into each Respondent's bid. A Respondent who submits conditions, options, variations or contingent statement to the terms as set out in this RFQ, including the terms of Contract in Appendix A, either as part of its bid or after receiving notice of selection, may be disqualified. If a Respondent is not disqualified despite such changes or qualifications, the provisions of this RFQ, including the terms of the Contract set out in Appendix A, will prevail over any such changes or qualifications in the bid.

3.1.2 Respondents to Follow Instructions

Respondents should structure their quotations in accordance with the instructions in this RFQ. Where information is requested in this RFQ, any response made in a quotation should reference the applicable section numbers of this RFQ.

The Respondent is advised to ensure their offer is complete. All information submitted and made available will support the RFQ specifications.

3.1.3 Quotations in English

All quotations are to be in English only.

3.1.4 No Incorporation by Reference

The entire content of the respondent's quotation should be submitted in a fixed format, and the content of websites or other external documents referred to in the respondent's quotation but not attached will not be considered to form part of its quotation.

3.1.5 Examination of Site

Respondents must take all site conditions into account in preparing their bids.

3.1.6 Past Performance

In the evaluation process, the City may consider the respondent's past performance or conduct on previous contracts with the City or other institutions.

3.1.7 Competition Act

Under Canadian law, a Bidder's Bid must be prepared without conspiracy, collusion, or fraud. For more information on this topic, visit the Competition Bureau website at <http://www.cb-bc.gc.ca/eic/site/cb-bc.nsf/eng/01240.html>, and in particular, part VI of the Competition Act, R.S.C. 1985, c. C-34.

3.1.8 Information in RFQ Only an Estimate

The City and its advisers make no representation, warranty, or guarantee as to the accuracy of the information contained in this RFQ or issued by way of addenda. Any quantities shown or data contained in this RFQ or provided by way of addenda are estimates only, and are for the sole purpose of indicating to respondents the general scale and scope of the Deliverables. It is the respondent's responsibility to obtain all the information necessary to prepare a quotation in response to this RFQ.

3.1.9 Respondents to Bear Their Own Costs

The respondent will bear all costs associated with or incurred in the preparation and presentation of its quotation, including, if applicable, costs incurred for interviews or demonstrations.

3.1.10 Quotation to be Retained by the City

The City will not return the quotation or any accompanying documentation submitted by a respondent.

3.1.11 No Guarantee of Volume of Work or Exclusivity of Contract

The City makes no guarantee of the value or volume of work to be assigned to the successful respondent. The contract with the selected respondent will not be an exclusive contract for the provision of the described Deliverables. The City may contract with others for goods and services the same as or similar to the Deliverables or may obtain such goods and services internally.

3.2 Communication after Issuance of RFQ

3.2.1 Respondents to Review RFQ

Respondents should promptly examine all of the documents comprising this RFQ and may direct questions or seek additional information in writing through the bidding system on or before the Deadline for Questions. No such communications are to be sent or initiated through any other means. The City is under no obligation to provide additional information, and the City is not responsible for any information provided by or obtained from any source other than the RFQ Contact or the bidding system. It is the

responsibility of the respondent to seek clarification on any matter it considers to be unclear. The City is not responsible for any misunderstanding on the part of the respondent concerning this RFQ or its process.

While the City has made every effort to ensure the accuracy of the information provided in this RFQ, the Respondent shall not make any claim against the City for damages or extra work caused or occasioned by the Respondent relying upon such records, reports, or information whether as a whole or in part, furnished by the City, private company or individual.

3.2.2 All New Information to Respondents by Way of Addenda

This RFQ may be amended only by addendum in accordance with this section. If the City, for any reason, determines that it is necessary to provide additional information relating to this RFQ, such information will be communicated to all Respondents by addendum. Each addendum forms an integral part of this RFQ and may contain important information, including significant changes to this RFQ. Respondents are responsible for obtaining all addenda issued by the City. Information and questions that do not appear in an addendum will not form part of the final agreement.

3.2.3 Post-Deadline Addenda and Extension of Submission Deadline

If the City determines that it is necessary to issue an addendum after the Deadline for Issuing Addenda, the City may extend the Submission Deadline for a reasonable period of time.

3.2.4 Verify, Clarify, and Supplement

When evaluating quotations, the City may request further information from the Respondent or third parties in order to verify, clarify or supplement the information provided in the Respondent's submission. The response received shall, if accepted by the City, form an integral part of the Respondent's submission.

3.3 Notification and Debriefing

3.3.1 Selection of Respondent and Finalization of Contract

Notice of award by the City to the selected Respondent shall be in writing. The selected Respondent shall enter into an Agreement in accordance with Appendix A to this RFQ and satisfy any other applicable conditions, as set out in the RFQ particulars, within fourteen (14) days of notice of award. This provision is solely for the benefit of the City and may be waived by the City in its sole and absolute discretion.

3.3.2 Notification to Other Respondents

Once an agreement is executed by the City and a Respondent, the other Respondents may be notified directly in writing and will be notified by public posting in the same manner that this RFQ was originally posted of the outcome of the procurement process.

3.3.3 Procurement Protest Procedure

If a Respondent wishes to challenge the RFQ process, it should provide written notice to the City's Corporate Services Director in accordance with the City's Purchasing Policy. The notice must provide a detailed explanation of the Respondent's concerns with the procurement process or its outcome.

3.4 Conflict of Interest and Prohibited Conduct

3.4.1 Conflict of Interest

For the purposes of this RFQ, the term "Conflict of Interest" includes, but is not limited to, any situation or circumstance where:

- (a) in relation to the RFQ process, the respondent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to:
 - (i) having or having access to confidential information of the City in the preparation of its quotation that is not available to other respondents;
 - (ii) having been involved in the development of the RFQ, including having provided advice or assistance in the development of the RFQ;
 - (iii) receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the RFQ;
 - (iv) communicating with any person with a view to influencing preferred treatment in the RFQ process (including but not limited to the lobbying of decision makers involved in the RFQ process); or
 - (v) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive RFQ process or render that process non-competitive or unfair;
- (b) in relation to the performance of its contractual obligations under a contract for the Deliverables, the respondent's other commitments, relationships, or financial interests:

- (i) could, or could be seen to, exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement; or
- (ii) could, or could be seen to, compromise, impair, or be incompatible with the effective performance of its contractual obligations.

3.4.2 Disqualification for Conflict of Interest

The City may disqualify a respondent for any conduct, situation, or circumstances, determined by the City, in its sole and absolute discretion, to constitute a Conflict of Interest as defined above.

An existing supplier of the City may be precluded from participating in the RFQ process in instances where the City has determined that the supplier has a competitive advantage that cannot be adequately addressed to mitigate against unfair advantage. This may include, without limitation, situations in which an existing supplier is in a position to create unnecessary barriers to competition through the manner in which it performs its existing contracts, or situations where the incumbent fails to provide the information within its control or otherwise engages in conduct obstructive to a fair competitive process.

3.4.3 Disqualification for Prohibited Conduct

The City may disqualify a respondent, rescind a notice of selection, or terminate a contract subsequently entered into if the City determines that the respondent has engaged in any conduct prohibited by this RFQ.

3.4.4 Respondent Not to Communicate with Media

Respondents must not at any time directly or indirectly communicate with the media in relation to this RFQ or any agreement entered into pursuant to this RFQ without first obtaining the written permission of the RFQ Contact.

3.4.5 No Lobbying

Respondents must not, in relation to this RFQ or the evaluation and selection process, engage directly or indirectly in any form of political or other lobbying whatsoever to influence the selection of the successful respondent(s). Respondents found to be lobbying will be disqualified from the process, and may be banned from bidding with the City.

3.4.6 Illegal or Unethical Conduct

Respondents must not engage in any illegal business practices, including activities such as bid-rigging, price-fixing, bribery, fraud, coercion, or collusion. Respondents must not engage in any unethical conduct, including lobbying, as described above, or other

inappropriate communications; offering gifts to any employees, officers, agents, elected or appointed officials, or other representatives of the City; deceitfulness; submitting quotations containing misrepresentations or other misleading or inaccurate information; or any other conduct that compromises or may be seen to compromise the competitive process provided for in this RFQ.

3.4.7 Past Performance or Past Conduct

The City may prohibit a supplier from participating in a procurement process based on past performance or based on inappropriate conduct in a prior procurement process, including but not limited to the following:

- (a) illegal or unethical conduct as described above;
- (b) the refusal of the supplier to honor its submitted pricing or other commitments; or
- (c) any conduct, situation or circumstance determined by the City, in its sole and absolute discretion, to have constituted an undisclosed Conflict of Interest.

In accordance with the City's Purchasing Policy, the City may disqualify a supplier that has engaged in litigation against the City that would affect the supplier's performance or reputation in performing or providing the Deliverables.

3.5 Confidential Information

3.5.1 Confidential Information of the City

All information provided by or obtained from the City in any form in connection with this RFQ either before or after the issuance of this RFQ

- (a) is the sole property of the City and must be treated as confidential;
- (b) is not to be used for any purpose other than replying to this RFQ and the performance of any subsequent contract for the Deliverables;
- (c) must not be disclosed without prior written authorization from the City; and
- (d) must be returned by the respondent to the City immediately upon the request of the City.

3.5.2 Confidential Information of Respondent

Respondents are advised that the disclosure of information received in bids or otherwise relevant to the RFQ process will be in accordance with the provisions of all relevant access to information and privacy legislation including primarily the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O 1990, c. M.56 as amended

(“MFIPPA”). Respondents should identify any confidential information in their submission. The City will make reasonable efforts to maintain the confidentiality of such information, subject to its disclosure requirements under MFIPPA or any disclosure requirements imposed by law or by order of a court or tribunal. Respondents are advised that their quotations will, as necessary, be disclosed, on a confidential basis, to advisers retained by the City to advise or assist with the RFQ process. If a Respondent has any questions about the collection and use of personal information pursuant to this RFQ, questions are to be submitted to the RFQ Contact.

3.6 Procurement Process Non-Binding

3.6.1 No Contract A and No Claims

This procurement process is not intended to create and will not create a formal, legally binding bidding process and will instead be governed by the law applicable to direct commercial negotiations. For greater certainty and without limitation:

- (a) this RFQ will not give rise to any Contract A–based tendering law duties or any other legal obligations arising out of any process contract or collateral contract; and
- (b) neither the respondent nor the City will have the right to make any claims (in contract, tort, or otherwise) against the other with respect to the award of a contract, failure to award a contract or failure to honour a quotation submitted in response to this RFQ.

3.6.2 No Contract until Execution of Written Agreement

This RFQ process is intended to solicit non-binding quotations for consideration by the City and may result in an invitation by the City to a respondent to enter into the Agreement. No legal relationship or obligation regarding the procurement of any good or service will be created between the respondent and the City by this RFQ process until the execution of a written agreement for the acquisition of such goods and/or services.

3.6.3 Non-Binding Price Estimates

While the pricing information provided in quotations will be non-binding prior to the execution of a written agreement, such information will be assessed during the evaluation of the quotations and the ranking of the respondents. Any inaccurate, misleading, or incomplete information, including withdrawn or altered pricing, could adversely impact any such evaluation or ranking or the decision of the City to enter into an agreement for the Deliverables.

3.6.4 Cancellation

The City may cancel or amend the RFQ process without liability at any time. The City will not be responsible for any damages alleged to be suffered by a Respondent as a result of the City's decision to cancel the procurement process.

3.6.5 Governing Law and Interpretation

These Terms and Conditions of the RFQ Process (Part 3):

- (a) are intended to be interpreted broadly and independently (with no particular provision intended to limit the scope of any other provision);
- (b) are non-exhaustive and will not be construed as intending to limit the pre-existing rights of the parties to engage in pre-contractual discussions in accordance with the common law governing direct commercial negotiations; and
- (c) are to be governed by and construed in accordance with the laws of the province of Ontario and the federal laws of Canada applicable therein.
- (d) The applicable law of any contract arising out of this RFQ will be Ontario. Any contractual disputes arising out of this RFQ will be resolved, through arbitration or litigation, in the City of Kawartha Lakes or the City of Toronto.

[End of Part 3]

Appendix A – Form of Agreement

The CCDC 2 Stipulated Price Contract 2020 including any amendments, additions, and modifications will be used for this quotation, any addenda, pre-award meeting, minutes, and other information issued for the benefit of the Respondent may form part of the contract. See Appendix A-1 for Supplementary Conditions.

1. Definitions

“City” means The Corporation of the City of Kawartha Lakes.

“Contract” means a formal commitment by both parties, which may be in the form of an agreement executed by the respondent and the City or a Purchase Order issued by the City and confirmed by the respondent.

“Digital bond” means an encrypted file which provides the recipient with a secured and verifiable document (typically in PDF format) which is protected by security features. A digital bond must be verifiable by the Owner, viewable, printable and storable in standard electronic file formats (PDF) and in a single file. The Owner must be able to verify the bond immediately or at any time during the life of the bond with no requirement for passwords or fees and the results of the verifications must provide a clear, immediate and printable indication of pass or fail. Bonds passing the verification process will be treated as original and authentic.

“Must, Shall and Will” used in this RFQ document is a mandatory requirement that if not met, will result in a Respondent’s disqualification.

“Form of Tender” (FOT) used in this document or any appendices will refer to the Schedule of Prices or pricing.

“Proper Invoice” The invoice must be a “proper invoice”, as defined in the Section 6.1 of the Construction Act, having the following information:

- Name, address, telephone number of Contractor;
 - Contract Administrator (City Contact)
 - Date of Invoice and the period during which the services or materials were supplied;
 - Invoice Number;
 - Purchase Order Number;
 - Project Name;
 - A description, including quantity where appropriate, of the services or materials that were supplied;
 - Amount payable for the services or materials that were supplied, holdbacks (if applicable) and the payment terms;
-

- The name, title, telephone number and mailing address of the person to whom payment is to be sent;
- Any other substantiating documentation/information required by the contract (ie. Statutory declaration, WSIB, etc.).

Invoices must be sent to ap@kawarthalakes.ca. The invoice will not be deemed a proper invoice until it has been received in Accounts Payable.

Please see the *Construction Act Amendment* for full details.

2. Term of Contract

The proposed start date of this Contract upon award. Award and start date are conditional on all approvals being in place.

The completion date for all Work under this Contract, including all site restoration, clean up and the rectification of any and all deficiencies is August 30, 2024.

3. Vendor Management Program

The City of Kawartha Lakes is committed to providing a safe and healthy working environment for employees and contractors. To promote this type of environment the City created a vendor management program consisting of three components:

- a) Pre-qualification;
- b) Environment, Health and Safety; and
- c) Performance Management.

The Vendor Management Program specifies the minimum standards required to work with the City. RFP language may request additional requirements based on project specifications.

All Respondents wishing to do business with the City of Kawartha Lakes must be pre-qualified if awarded a contract. To review the Vendor Management Program and pre-qualify, please visit the City's Procurement website at <https://forms.kawarthalakes.ca/Corporate-Services/Purchasing/Vendor-Registration-Form>

Respondents may submit a bid without being registered in the Vendor Management Program, however, should the bid be selected for award then registration in the program is mandatory.

Questions about the Vendor Management Program can be forwarded to: vendors@kawarthalakes.ca

4. Freedom of Information

Contractors are advised that the City is required to adhere to the requirements of the Municipal Freedom of Information and Protection of Privacy Act, as amended. Information provided will be subject to the rights of the Contractor under the Municipal Freedom of Information and Protection of Privacy Act, including, but not limited to, the right to request a Third Party Exemption. The Contractor shall maintain confidentiality of materials/outcomes as a result of this project. Release of any information shall be only with the written consent of the City.

5. Accessibility

Respondents must be capable to recommend and deliver, as appropriate for each requirement, Accessible services consistent with the Ontario Human Rights Code (OHRC), and in accordance with the [Accessibility for Ontarians with Disabilities Act 2005, S.O. 2005, c. 11. \(AODA\)](#) and with [O. Reg. 191/11: Integrated Accessibility Standards enacted under the AODA](#), which may be found on the City website at <https://www.kawarthalakes.ca/en/living-here/accessibility.aspx> under Accessibility legislation.

The Design of Public Spaces Standards under the [Integrated Accessibility Standards Regulation](#) and City of [Kawartha Lakes Accessibility Design Standards \(ADS\)](#) for facilities and outdoor spaces (<https://www.kawarthalakes.ca/en/living-here/accessibility.aspx> under Accessibility resources - Accessibility Design Standards for facilities and outdoor spaces must be utilized during the design and build process by contracted professionals when building or renovating; regardless of project size for all City owned, operated or leased facilities and outdoor spaces.

Unless determined by the City to not be practicable, Respondents shall ensure that any information, products, deliverables and/or communication (as defined in the Integrated Regulation) produced pursuant to a Contract shall be in conformity with the [World Wide Web Consortium Web Content Accessibility Guidelines \(WCAG\) 2.0 Level AA](#) and shall be provided in accessible format upon request. Studies, Reports, and/or Plans that result from this project must be created and provided to the City in an accessible format compatible to Adobe Acrobat XI (11) or Microsoft Office 2010, or higher.

6. Declaration of an Emergency – No Damages

If the Province of Ontario has declared an emergency, the City, in its sole discretion, may direct the contractor to delay or cease its work under the contract at any time for any reason related to the emergency. The parties also acknowledge that international supply chains may be affected and that the vendor has taken this into account in its bid submission. The City will not be responsible for delays and extra costs to this end, as these were reasonably foreseeable by the contracting parties.

The Contractors further acknowledge and agree that the City, in its sole discretion, may amend the timelines established in this bid call document at any time and without prior written notice to the Contractors.

7. Public Consultation

Any public input, consultation, or stakeholder engagement is to be conducted on the City of Kawartha Lakes engagement platform. This platform is hosted by Engagement HQ, branded under the name Jump In Kawartha Lakes. <https://jumpinkawarthalakes.ca/>

8. Mathematical Errors

In the event of mathematical errors in extension of prices or other ambiguities, unit prices shall govern over total proposal prices and words shall govern over numbers.

9. Erasures, Overwriting or Strike-outs

The Authorized Agent signing on behalf of the organization quoting shall initial erasures, overwriting or strike-outs on all parts of the original submission

10. Standard Specifications

It shall be the Respondent's responsibility to obtain the current applicable edition of any standards, statutes, Acts or Regulations required herein.

11. Occupational Health and Safety Act

The selected Respondent shall:

1. Be the designated "constructor", as defined in the Occupational Health and Safety Act ("OHSA"), for the work site and shall fulfill the responsibilities of the role under the OHSA, related statutes and regulations;
 - i. Not to limit the generality of the foregoing, and further to it: The selected Respondent will provide quality assurance oversight and at least one person shall be on site at all times in this capacity.
2. Shall comply with the OHSA and ensure that the persons assigned to provide the deliverables under the contract adhere to the OHSA and all applicable statutes and regulations; and
3. Give immediate notice by telephone or personal communications to the City as to any damage or injury, or threat of damage or injury, to persons or property during the performance of the Deliverables contemplated by this Contract.

4. All Respondents further acknowledge and agree that any breach or breaches of the Occupational Health and Safety Act (R.S.O.), 1990, as amended, and any regulations made pursuant to the Acts, may result in either the immediate termination of this Contract or the suspension of the Contract until the deficiency, in the opinion of the City and/or the Workplace Safety and Insurance Board ("WSIB") is rectified, in the sole discretion of the City. In either eventuality, the Respondents will rectify the deficiency at its sole cost. The City may set off against sums owing to the Respondents as security to address potential third party damage claims (such as delay claims from other trades).
5. All Respondents agree that any damages or fines that may be assessed against the City by reason of breach or breaches of the Occupational Health and Safety Act (R.S.O.), 1990, as amended, and any regulations made pursuant to the Acts, by the Service Provider will entitle the City to off-set the damages so assessed against any monies that the City may, from time to time, owe the Service Provider under this Contract or under any other contract whatsoever.

The Awarded Respondent's failure to comply with any of the above requirements shall be cause for either immediate termination or suspension of the contract until the deficiency, in the opinion of the City and/or Workplace Safety and Insurance Board ("WSIB") is rectified at no cost to the City.

12. Workplace Safety Insurance Board Clearance Certificate (WSIB)

Respondents shall comply with current WSIB legislation. The selected Respondent shall submit a current WSIB Clearance Certificate within 7 days of notification of selection for the award.

13. Insurance

See Insurance coverages required in Appendix A-1 CCDC 41.

14. Substitutes

If a Respondent would like to submit a quotation for goods and/or services other than as specified, the Respondent shall ask the Buyer by the question due date listed in Section 1.3. In order for the City to consider the request, complete specification data and identification with respect to the substituted goods and/or services shall accompany the request. Any substitute will be evaluated to meet and/or exceed the requirements specified. If acceptable, an addendum to the quotation will be issued to indicate that a substitute will be considered.

15. Future Opportunity to Submit

The City reserves the right to remove from the list of Respondents, for an indeterminate period, the name of any selected Respondent for failure to enter into a Contract, or the name of any Respondent for unsatisfactory performance of a service or delivery of a good, in accordance with the Purchasing Policy.

16. Outstanding Money Owed to the City of Kawartha Lakes

Any persons entering into a contract with the City will have paid any outstanding monies owed to the City. During a contract term, the City may hold back and/or set off payments to a vendor until outstanding funds owed to the City are paid.

17. Indemnification and Hold Harmless Clause

The Respondent shall indemnify and hold harmless the City from and against all claims, actions, suits or proceedings, losses, expenses, costs or damages of every nature and kind whatsoever which the City, its employees, elected officials, officers or agents may suffer, as a result of the Respondent's failure to exercise reasonable care, skill or diligence or omissions in the performance or rendering of any work or Services required hereunder to be performed or rendered by the Respondent, its agents, officials, employees or sub-consultants.

18. Anti-Idling Policy

The City of Kawartha Lakes Anti-Idling Policy outlines a maximum two-minute idle time for vehicles & equipment to reduce the air pollution from exhausts, create a healthier environment, promote energy (fossil fuel) conservation, reduce noise pollution and reduce wear and service needs on vehicles and equipment. Companies operating vehicles and equipment on City property are asked to adhere to the guidelines of this policy as follows:

The Driver/Operator shall:

- a) Not idle the vehicle/equipment while completing a circle check (unless required for air brake pressure or other critical checks necessary);
- b) Not leave the vehicle/equipment unattended while idling;
- c) Shut down the vehicle/equipment when it is expected to exceed the two-minute idle time;
- d) Ensure that vehicle/equipment deficiencies are reported immediately to the immediate supervisor or if it is unsafe to turn the unit off;
- e) Idle the vehicle/equipment only if the motor is required to power auxiliary equipment;
- f) Idle the vehicle/equipment only under extreme weather conditions;
- g) Idle the vehicle/equipment only when the health and safety of employees

or others will not be jeopardized.

The Company shall ensure their employees are made aware of and adhere to this policy.

19. Noise Restrictions

The Contractor shall comply with the City of Kawartha Lakes Noise By-law, as amended.

Refer to: <https://www.kawarthalakes.ca/Modules/Bylaws/Bylaw/Details/d73dd7f2-aba7-4ff0-94c4-3e13c2627b94> for the complete by-law.

Equipment shall be maintained in an operating condition that prevents unnecessary noise, including but not limited to proper muffler systems, properly secured components and the lubrication of all moving parts. Idling of equipment shall be restricted to the minimum necessary for the proper performance of the specified Work.

20. Spills Reporting

Spills or discharges of pollutants or contaminants under the control of the Contractor, and spills or discharges of pollutants or contaminants that are a result of the

Contractor's operations that cause or are likely to cause adverse effects shall forthwith be reported to the Contract Administrator.

Such spills or discharges and their adverse effects shall be as defined in the Environmental Protection Act R.S.O. (Ontario).

All spills or discharges of liquid, other than accumulated rain water, from luminaries, internally illuminated signs, lamps, and liquid type transformers under the control of the Contractor, and all spills or discharges from their equipment that are a result of the

Contractor's operations shall, unless otherwise indicated in the Contract, be assumed to contain PCB's and shall forthwith be reported to the Contract Administrator.

This reporting will not relieve the Contractor of their legislated responsibilities regarding such spills or discharges.

21. Confined Space Entry

The Contractor shall be responsible to follow Part II.1 of the Occupational Health and Safety Act (OHSA) in its entirety.

The Contractor shall be responsible to provide all relevant confined space documentation to the City of Kawartha Lakes prior to commencing the project.

Documents included but not limited to: Confined Space Training Certification records of all staff involved with confined spaces, Calibration and Equipment Certification records, all Hazards Assessments, Entry Permits, Rescue Plans, involved with any confined space entry, as well as any other documentation listed in the OHSA. The Contractor shall have all documentation on site during all confined space entries.

22. Force Majeure

As used in this proposal, "Force Majeure" means any event or circumstance (but specifically excluding economic factors alone) which (a) was beyond the reasonable control of the selected Respondent, (b) could not reasonably have been foreseen, (c) could not reasonably have been prevented, circumvented or avoided by the selected Respondent by reasonable precautions, (including without limitation back-up systems) through the use of alternate sources, work around plans or other means, and (d) occurred without the fault or negligence of the selected Respondent or of its subcontractors or carriers; including without limitation acts of God, war, acts of terrorism, civil disturbances, insurrections, riots, storms beyond ordinary strength, fire, explosions, floods, embargos, orders or acts of civil or military authority. Global pandemic or widespread contagion or government declared emergency are not considered Force Majeure.

In the event of a Force Majeure, there shall be an equitable adjustment to the delivery schedule (to be formalized by the execution of an amendment to this Contract); provided, however, selected Respondent acknowledges and agrees that the occurrence of a Force Majeure event shall not entitle the selected Respondent to an increase in the proposal price. The City is not liable for any costs or charges of any nature incurred by the selected Respondent or any of its subcontractors or agents as a result of a Force Majeure.

The City shall have the right to investigate the causes or circumstances claimed by the Selected Respondent to constitute a Force Majeure.

If the City terminates this Contract for Force Majeure, its sole liability will be to pay any balance due for Goods and Services purchased before the issuance of the City's termination notice and the Selected Respondent agrees to repay immediately to the City the portion of any advance payment that is unliquidated at the date of the termination.

23. Statutory Declaration Re: Liens and Payment of Accounts

The Respondent shall submit this form with the second and each subsequent Progress Certificate. Note that it is a criminal offence to knowingly falsify documents.

[End of Appendix A]

Appendix A-1 – CCDC - Supplementary Conditions

The CCDC 2 Stipulated Price Contract 2020 will be used for this procurement document. Any addenda, pre-award meeting, minutes, and other information issued for the benefit of the Respondent may form part of the contract.

The Standard Construction Document for Stipulated Price Contract, 2020 English version, consisting of the Agreement Between *Owner* and *Contractor*, Definitions, and General Conditions of the Stipulated Price Contract, Parts 1 to 12 inclusive, governing same is hereby made part of these *Contract Documents*, with the following amendments, additions and modifications. Where these amendments, additions, and modifications specifically reference a change to the Agreement, Definitions, or General Conditions, these amendments, additions and modifications shall govern.

Article A-5 Payment

Add the following new paragraph:

- 5.3 The Owner is entitled to set off against any amounts otherwise due to Contractor pursuant to the terms of this Contract, any amounts which are due or owed to Owner from or by Contractor pursuant to the terms of the Contract, or being disputed in accordance with the terms of the Contract.

Article A-8 Succession

Article A-8 is amended by deleting 8.1 and inserting the following:

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

Article A-9 Subcontractors

Article A-9, new article added as follows:

- 9.1 The Owner shall not be deemed by virtue of the Contract or for any other reason to have any contractual relationship with or obligation to any Subcontractor or Supplier but the Contractor hereby agrees that in the event that:

1. the Contract is terminated; or
2. the Contractor's right to continue the Work is terminated;

and at the sole and absolute option of the Owner, any or all subcontracts for Work or Products as may be selected by the Owner, in its sole and absolute discretion, shall, upon notice to the Contractor and the affected Subcontractors and Suppliers from the Owner, be assigned to the Owner, without any further action being necessary from the Contractor or the affected Subcontractors and Suppliers and in order to ensure the Owner's rights, the Contractor shall contractually obligate each of its Subcontractors and Suppliers to agree that each such subcontract shall be assignable, at the Owner's option, to the Owner, upon delivery of the notice described above, in the event that:

- (a) the Contract is terminated; or
- (b) the Contractor's right to continue the Work is terminated.

- 9.2 The Contractor shall provide satisfactory evidence to the Owner that this obligation contained in 9.1 above has been fulfilled.

Amendments to Definitions

Add or change the following definitions (renumber accordingly):

- a) **Business Day** – a new definition is added as follows:

Business Day means any day, other than a Saturday, Sunday or statutory holiday in Ontario.

- b) **CA** – a new definition is added as follows:

Means as found in the Construction Act.

- c) **Construction Act Document** – a new definition is added as follows:

Construction Act Document means a Notice of Non-Payment, a notice of adjudication given pursuant to Section 13.7 of Part II.1 of the *Construction Act* (Ontario) or any documents or responses to adjudication to be given or provided pursuant to Part II.1 of the *Construction Act* (Ontario).

- d) **CCDC** – a new definition is added as follows:

Means contained within the CCDC 2 Stipulated Contract document

- e) **Contract Time** - at the end of the definition (CCDC) the following is added:

Time shall be of the essence of the Contract.

- f) **Contractor's Representative** - a new definition is added as follows:

Contractor's Representative means the individual designated as such by the Contractor from time to time.

- g) **Drawings** - at the end of the definition (CCDC) the following is added:

The Drawings are, in part, diagrammatic and are intended to convey the scope of the Work and indicate general and appropriate locations, arrangements and sizes. The Contractor shall obtain more accurate information about the locations, arrangements and sizes from study and coordination of the Drawings, including shop drawings, and shall become familiar with conditions and spaces affecting these matters before proceeding with the Work.

- h) **Municipality** - a new definition is added as follows:

Municipality means the City of Kawartha Lakes including any of its respective departments or officials.

- i) **Notice of Non-Payment** – new definition is added as follows:

is a notice delivered pursuant to Section 6.4(2) of the *Construction Act* in the manner and form prescribed in the *Construction Act*.

- j) **Notice to Proceed** – a new definition is added as follows:

is the written notice by the Owner given to the Contractor authorizing it to mobilize its Construction Equipment at the Place of the Work.

- k) **Owner's Representative** – a new definition is added as follows:

Owner's Representative means the individual designated as such by the Owner from time to time.

- l) **Place of the Work** - at the end of section 13 (CCDC) the following is added as follows:

The Place of the Work may also be referred to as the Site and it includes any site area that is directly or indirectly related physically to the location and any place where the Work is undertaken.

- m) **Proper Invoice** – a new definition is added as follows:

Proper Invoice means an invoice submitted by the Contractor that includes all information required by GC 5.2.1, which includes the information required for a “Proper Invoice” in Section 6.1 of the *Construction Act*, and which is submitted in accordance with GC 5.2.11 (See appendix A).

- n) **Provide** – section 16 (CCDC) is amended by inserting the below after the word “install”:

or supply, install and connect as applicable, complete and in place, including accessories, finishes, tests, and services required to render each item so specified complete and ready for use.

- o) **Submittals** – a new definition is added as follows:

Submittals are documents or items required by the Contract Documents to be provided by the Contractor, such as:

- Shop Drawings, samples, models, mock-ups to indicate details or characteristics, before the portion of the Work that they represent can be incorporated into the Work; and

- As-built drawings and manuals to provide instructions to the operation and maintenance of the Work.
- p) **Substantial Performance of the Work** - section 20 (CCDC) is removed and replaced by:

Substantial Performance of the Work when used with reference to establishing the date for release of holdback under the *Construction Act* (Ontario), and in particular for the purposes of GC 5.4, GC 5.5 and GC 5.6.
- q) **Warranty Holdback** – a new definition is added as follows:

Warranty Holdback means the warranty holdback specified in paragraph 5.3.1.4.
- r) **Work** - definition (CCDC) is amended by inserting after “total construction”:

Products, installation, commissioning, checkout, startup, testing.

Part 1 General Provisions

Add the following paragraph:

Where a General Condition or paragraph of the General Conditions of the Stipulated Price Contract is deleted by these Supplementary Conditions, the numbering of the remaining General Conditions or paragraphs shall remain unchanged, and the numbering of the deleted item will be retained, unused.

GC 1.1 Contract Documents

- 1.1.1 Amend by adding the following between the first and second sentences:

The language of the Contract Documents is written in the imperative for the sake of brevity. Sentences, which include clauses containing instructions or directions intended for the Contractor, are deemed to include the words "the Contractor shall".

1.1.5.1 Remove and replace with the following:

"the order of priority of documents from highest to lowest shall be:

- Agreement/Purchase Order
- Addenda
- Standard Specifications
- Contract Drawings
- Terms and Conditions of the RFQ process
- Appendix E - Information and Qualifications of Bidders
- Special Provisions
- Standard Drawings
- Appendix C - Pricing
- Supplementary General Conditions
- General Conditions
- Working Drawings

Add new subparagraphs:

1.1.7.5 In case of discrepancies, noted materials and annotations shall take precedence over graphic indications in the Contract Documents.

1.1.7.6 Schedules of "Division 01 — General Requirements" of the specifications shall form part of and be read in conjunction with the technical specification section as listed in the table of contents of the Specifications.

Add new paragraph:

1.1.12 The Contractor shall review the Contract Documents and shall report promptly to the Owner and the Consultant any error, inconsistency, or omission the Contractor may discover. If the Contractor does discover an error, inconsistency, or omission in the Contract Documents, the Contractor shall not proceed with work affected until the error, inconsistency, or omission has been addressed and in dealing with such error, inconsistency, or omission the Contractor shall co-operate with the Owner in good faith to resolve such error, inconsistency, or omission so as to avoid any increase in the Contract Price or delay in the progress of the Work.

GC 1.4 Assignment

1.4.1 Amended by deleting "Neither party to the Contract" and inserting "The

Contractor", after "shall" insert "not", delete "other" and insert "Owner".

Add new paragraph

- 1.4.2 The Owner may assign this Agreement to (i) any successor entity; (ii) Her Majesty the Queen in Right of Canada or any agent of Her Majesty the Queen in Right of Canada; (iii) Her Majesty the Queen in Right of Ontario or any agent of Her Majesty the Queen in Right of Ontario; or (iv) the City or any agent of the City, at any time upon the delivery of written Notice to the Contractor and without consent of the Contractor. The Owner shall not otherwise assign, transfer or convey any interest in this Agreement without the prior consent of the Contractor, which consent shall not be unreasonably withheld or delayed.

On assignment by the Owner to the assignee, the Contractor shall enter into an agreement with the assignee to novate the Contract and release the Owner from all liability and obligation under the Contract from and after the effective date of the assignment and confirm the assumption of the Owner's obligations under the Contract by the assignee.

Part 2 Administration of the Contract

GC 2.2 Role of the Consultant

- 2.2.4 Add to the end of paragraph:

In the event that the certificate for payment is for an amount less than the full amount stated on the application for payment, the Consultant will issue a Notice of Non-Payment in respect of the disputed amount.

GC 2.3 Review and Inspection of the Work

- 2.3.2 Add:

prior to "laws or ordinances", the words "regulations, rules, by-laws, standards, guidelines, permits, statutes, codes" are inserted.

- 2.3.3 Add:

after "Consultant", the words "and Owner" are inserted.

2.3.5 Add:

in the first line of paragraph 2.3.5, after "Consultant", the words "or the Owner" are inserted.

GC 2.4 Defective Work

Add the following new subparagraphs:

- 2.4.1.1 The Contractor shall rectify, in a manner acceptable to the Owner and the Consultant, all defective work and deficiencies throughout the Work, whether or not they are specifically identified by the Consultant.
- 2.4.1.2 The Contractor shall prioritize the correction of any defective work which, in the sole discretion of the Owner, adversely affects the day to day operation of the Owner.

Part 3 Execution of the Work

GC 3.1 Control of the Work

3.1.1 Add:

after "supervise the Work", the words "by maintaining a competent full time staff at the Site," are inserted.

Add new paragraph:

- 3.1.3 The Contractor shall expedite the correction of all deficiencies and manage the contract close-out process by:
 - 1. obtaining inspections and approvals by all authorities having jurisdiction;
 - 2. monitoring training programs;
 - 3. ensuring the completeness and delivery of maintenance materials, instructions, manuals, as-built documents, as received warranties, affidavits, releases, bonds, waivers, keys, record drawings and maintenance stocks; and
 - 4. assisting the Owner in the development and delivery of the commissioning plan.

GC 3.2 Construction by the Owner or Other Contractors

3.2.2 Remove and replace with the following:

When separate contracts are awarded for other parts of the Project, or when work is performed by the Owner's own forces:

1. the Owner shall require all other contractors and the Owner's own forces to co-ordinate their activities with the Contractor;
2. the Contractor shall retain overall responsibility for compliance with the applicable occupational health and safety legislation at the Place of the Work; and
3. the Contractor shall take all reasonable precautions to avoid labour disputes or other disputes on the Project arising from the work of other contractors or the Owner's own forces.
4. Entry by the Owner's own forces and by other contractors does not mean acceptance of the Work and does not relieve the Contractor of the Contractor's obligations under the Contract. Prior to the entry by the Owner's own forces or other contractors to perform work at the Site, the parties and their representatives will meet for an inspection of the Work in order to document deficiencies existing prior to such entry.

3.2.3.4 Remove and replace with the following

For the Owner's own forces and for other contractors, assume overall responsibility for compliance with applicable health and safety legislation at the Place of the Work for the Project, including all the responsibilities of the "constructor", if applicable, under the occupational health and safety legislation in force at the Place of the Work.

3.2.6 is deleted in its' entirety.

GC 3.4 Construction Schedule

3.4.1.2 Add:

"or as stipulated by the Contract Documents" are removed and replaced with "or as more frequently as could be reasonably required by the Owner or Consultant."

Add the following new sub-paragraphs:

3.5.1.4 be responsible for the scheduling of all activities relating to the execution of the Work. Schedule and conduct progress meetings at which the Owner, Subcontractors, Consultant and Contractor can discuss jointly such matters as procedures, progress, problems and scheduling.

3.5.1.5 Time shall be of the essence in the performance of the work.

GC 3.5 Supervision

3.5.2 Remove and replace with the following:

The supervisor, and any project manager appointed by the Contractor, shall represent the Contractor at the Place of the Work and shall have full authority to act on written instructions given by the Consultant and/or the Owner. Instructions given to the supervisor or the project manager shall be deemed to have been given to the Contractor and both the supervisor and any project manager shall have full authority to act on behalf of the Contractor and bind the Contractor in matters related to the Contract.

Add the following paragraph:

3.5.3 The Owner, acting reasonably, shall have the right to require the Contractor to remove, from the Work, any representative or employee of the Contractor, a Subcontractor or Supplier whose performance, in the opinion of the Owner, is a detriment to the Work.

GC 3.6 Subcontractors and Suppliers

3.6.2 Remove and replace with the following:

The Contractor agrees not to engage any Subcontractor or employ any supervisor or other supervisory personnel in or about the Work, or to change any of the foregoing, without the prior written consent of the Consultant and the Owner, whose consent shall not be unreasonably withheld or delayed. The Contractor shall from time to time provide the Owner with a written list of anticipated Subcontractors for its written consent. In the event that any single contract is granted for all or substantially all of the Work of this Contract or any amount greater than half of the Work thereof, the Subcontractor shall be subject to the approval of the Owner, whose approval may be unreasonably or arbitrarily withheld.

3.6.3 and 3.6.4 are deleted in their entirety.

Renumber accordingly.

GC 3.7 Labour and Products

3.7.1 Add:

the words, ", agents, Subcontractors and Suppliers" after the word "employees".

3.7.3 Remove and replace with the following:

Products shall be new, free from defects, and shall conform to all current applicable standards and specifications set out by all organizations and regulatory agencies relating to such Products, national and provincial building codes and all government authorities having jurisdiction at the Place of the Work, unless otherwise specified. Products not specified shall be of a quality consistent with those specified and their use acceptable to the Owner. Products brought to the Place of the Work by the Contractor shall be deemed to be the property of the Owner and shall not be removed from the Site, but the Owner shall be under no liability for loss thereof or damage thereto arising from any cause whatsoever. The said Products shall be at the sole risk of the Contractor.

Add the following paragraphs:

3.7.4 The Contractor shall perform all Work under applicable national and local labour laws as may be necessary to achieve performance of the Work in accordance with the Construction Schedule. The cost for overtime required beyond the normal working day to complete individual construction operations of a continuous nature shall not be charged to the Owner.

3.7.5 In the event that a labour dispute or other disputes arise from the work of other contractors, the Contractor shall use all reasonable commercial efforts to continue with the performance of the Work under the Contract but in exercising such efforts the Contractor shall not be required to violate any union agreements or requirements associated with the union discipline involved in such labour dispute.

3.7.6 The cost for overtime required beyond the normal working day to complete individual construction operations of a continuous nature, such as pouring or finishing of concrete or similar work, or work that the Contractor elects to perform at overtime rates without the Owner or

the Consultant requesting it shall not be chargeable to the Owner and shall be at the sole cost and expense of the Contractor.

3.7.7 The Contractor is responsible for the safe on-site storage of Products and their protection (including Products supplied by the Owner and other contractors to be installed under the Contract) in such ways as to avoid dangerous conditions or contamination to the Products or other persons or property and in locations at the Place of the Work to the satisfaction of the Owner and the Consultant. The Owner shall provide all relevant information on the Products to be supplied by the Owner.

3.7.8 The Contractor is responsible for the safe on-site storage of Products and their protection (including Products supplied by the Owner and other contractors to be installed under the Contract) in such ways as to avoid dangerous conditions or contamination to the Products or other persons or property and in locations at the Place of the Work to the satisfaction of the Owner and the Consultant.

GC 3.8 Shop Drawings

Add the words “AND OTHER SUBMITTALS” to the Title after SHOP DRAWINGS.

Add “and Submittals” after the words “Shop Drawings” in paragraphs 3.8.1, 3.8.2, 3.8.4, 3.8.5, 3.8.6 and 3.8.7 (CCDC)

Add GC 3.9 Performance by Contractor

3.9.1 In performing the Contract, the Contractor shall exercise the degree of care, skill and diligence that would normally and reasonably be exercised by an experienced, diligent, skilled and prudent contractor, supplying similar services for similar projects. The Contractor acknowledges and agrees that, throughout the Contract, the Contractor's obligations, duties and responsibilities hereunder shall be judged, evaluated and interpreted in accordance with this standard. The Contractor shall exercise the same standard of care in respect of any Products, personnel or procedures which it may recommend to the Owner or employ for the Work or the Project.

3.9.2 The Contractor further represents, covenants and warrants to the Owner that:

1. The personnel it assigns to the Project are appropriately experienced;
2. It has a sufficient staff of qualified and competent personnel to replace its designated supervisor and project manager, subject to

the Owner's approval, in the event of death, incapacity, removal or resignation.

Part 4 Allowances

GC 4.1 Cash Allowances

4.1.4 Remove and replace with the following:

Where costs under a cash allowance exceed the amount of the allowance, unexpended amounts from other cash allowances shall be reallocated at the Owner's direction to cover the shortfall.

4.1.5 Remove and replace with the following:

The net amount of any unexpended cash allowances, after providing for any reallocations as contemplated in paragraph 4.1.4, shall be deducted from the Contract Price by Change Order.

4.1.7 Remove and replace with the following:

At the commencement of the Work, the Contractor shall prepare for the review and acceptance of the Owner and the Consultant, a schedule indicating the times, within the construction schedule referred to in GC 3.5 (CCDC), that items called for under cash allowances and items that are specified to be Owner purchased and Contractor installed or hooked up are required at the site to avoid delaying the progress of the Work.

Add new paragraph:

4.1.8 The Owner reserves the right to call, or to have the Contractor call, for competitive bids for portions of the Work, to be paid for from cash allowances.

Part 5 Payment

GC 5.1 Financing Information Required of the Owner

5.1 is deleted in its' entirety.

GC 5.2 Applications for Payment

5.2.1 Add to the end of paragraph:

Each application for payment shall include the information required for a “Proper Invoice” (See appendix A of procurement document) and in Section 6.1 of the *CA* and the following information:

- .1 a confirmation that a draft application for payment was submitted at least five Working Days prior to the date of submission of the application for payment in accordance with GC 5.2.8 (below);
- .2 a confirmation that the amounts claimed in such application for payment correspond to the schedule of values submitted in accordance with GC 5.2.4 (below) along with supporting documentation such as timesheets, packing slips and as-built drawings, as applicable, and any other supporting documentation as the Consultant may direct in accordance with GC 5.2.7 and GC 5.2.8;
- .3 separate line items setting out (i) the amount the Owner has indicated will be withheld from the payment in accordance with GC 5.8; (ii) the amount of the required holdbacks under the *Construction Act*; and (iii) the amount the Owner has indicated it intends to set off from the payment in accordance with GC 5.2.12;
- .4 a Statutory Declaration on CCDC Form 9A as required by GC 5.2.9;
- .5 a Workplace Safety & Insurance Board Clearance Certificate as required by GC 5.2.10;
- .6 the information set out in Appendix A - *Proper Invoice Checklist*; and
- .7 any other information required by the *Contract Documents* or as the *Consultant* may direct.

If an application for payment does not include all information required by this GC 5.2.1, if any of the required confirmations made by the Contractor in its application for payment are untrue or if the Contractor is otherwise in breach of this Contract, it shall not be considered a “Proper Invoice” for the purposes of the *Construction Act* or this Contract. If the Owner or the Consultant determine that an application for payment does not constitute a Proper Invoice, the application for payment shall be rejected through a Notice of Non-Payment and the Contractor shall resubmit the application for payment with all required information. For clarity, the Owner shall have no obligation to make a payment and the time periods set out in this GC 5.2 and in Section 6.4 of the *Construction Act* shall not apply until the Contractor has

submitted an application for payment that constitutes a Proper Invoice.

5.2.8 Add the following new paragraph:

Any Products delivered to the Place of the Work, but not yet incorporated into the Work, shall remain at the risk of the Contractor.

Add the following paragraphs:

- 5.2.9 The Contractor must provide with each application after the first, a sworn statement, in form satisfactory to the Owner, certifying that all accounts for the subcontracts, construction machinery and equipment materials, Products, labour and other indebtedness which may have been incurred by the Contractor and for which the Owner might in any way be held responsible have been paid in full, except for amounts properly retained in holdback or as an identified amount in dispute.
- 5.2.10 The first payment application shall not be submitted until 30 days after the award of the Contract. Second and subsequent applications for payment shall be accompanied by a duly signed Statutory Declaration on CCDC Form 9A.
- 5.2.11 All applications for payment shall be accompanied by a Workplace Safety Insurance Board Clearance Certificate.
- 5.2.12 Where the Contractor is required to perform start-up testing and/or commissioning activities in respect of a portion of the Work, an application for payment in respect of such portion of the Work may only be submitted once such testing and/or commissioning has been successfully completed by the Contractor as determined by the Consultant, including the submission of any related document. For clarity, an application for payment submitted prior to successful completion of required testing and/or commissioning shall not be considered a "Proper Invoice" for the purposes of the *Construction Act* and the Consultant shall not issue a certificate of payment in respect of such application for payment.
- 5.2.13 If the Owner intends to exercise its right of set off pursuant to Article A-5.4 (added above) against a future payment, the Owner shall provide notice to the Contractor. Provided the Contractor receives such notice at least five (5) Business Days prior to its submission of an application for payment, it shall include a separate line item setting out the amount the Owner has indicated it intends to set off from the payment.

GC 5.3 Payment

Add new paragraph:

- 5.3.2 If the Contractor fails to provide a sworn statement and evidence of compliance with the Workplace Safety and Insurance Act as required by GC 5.2 - APPLICATIONS FOR PROGRESS PAYMENT (CCDC), the Owner will not be required to make payments to the Contractor.

GC 5.4 Substantial Performance of the Work and Payment of Holdback

Add the following paragraphs:

- 5.4.7 The Contractor will provide to the Owner and the Consultant written notification of the date by which it shall achieve Substantial Performance of the Work, such notice to be delivered at least thirty (30) days prior to the date referred to in the Notice.
- 5.4.8 At the time of issuance by the Consultant of the certificate of Substantial Performance of the Work, the Consultant shall:
1. Notify the Contractor of the value of the warranty required by Section 12.3 hereof.
 2. Prepare a separate certificate (the "Substantial Performance Payment Certificate") showing:
 - (i) the value of work completed to date,
 - (ii) the value of outstanding or uncompleted work,
 - (iii) the value of the required warranty,
 - (iv) the amount of the 10 percent holdback; and
 - (v) the amount due to the Contractor.
 3. Prepare a payment certificate releasing to the Contractor the 10 percent holdback due in respect of Work performed up to the date of Substantial Performance of the Work. Subject to the provisions of the *Construction Act* (Ontario) and the submission by the Contractor of the following documents, such holdback, shall become payable after 60 days from the date of the certification of Substantial Performance of the Work:
 - (i) A certified copy of the published certificate of substantial performance of the Contract;
 - (ii) A written undertaking by the Contractor to complete expeditiously any outstanding Work and to discharge all unfulfilled obligations under the Contract;
 - (iii) The Contractor's final claim for all amounts incurred before and on the date of Substantial Performance of the Work;

- (iv) A release of the Contractor in a form satisfactory to the Consultant releasing the Owner from all further claims relating to the Contract (except in respect of outstanding work) and other than claims relating to liens under the applicable lien legislation of the Place of the Work;
- (v) A Statutory Declaration in a form satisfactory to the Owner that all liabilities incurred by the Contractor and its Subcontractors in carrying out the Contract have been discharged and that all liens in respect of the Contract and subcontracts thereunder have expired or have been satisfied, discharged or provided for by payment into court;
- (vi) A satisfactory Clearance Certificate pursuant to the *Workplace Safety and Insurance Act*; and
- (vii) As built grading surveying drawings in digital and hard copy format.

GC 5.6 Final Payment

5.5.1 Add to the end of paragraph:

The final application for payment shall include all requirements for an application for payment as set out in GC 5.2.1 (above).

Remove and replace with the following paragraphs:

- 5.5.2 The Consultant will issue to the Owner and copy to the Contractor, no later than fourteen (14) calendar days after the receipt of the application for final payment, a certificate for payment in the amount applied for, or in such other amount as the Consultant determines to be properly due. If the Consultant issues a certificate for payment for an amount less than the full amount stated on the application for final payment or does not issue a certificate for payment, the Consultant will issue a Notice of Non-Payment in respect of the disputed amount.
- 5.5.3 Subject to the provision of paragraph 10.4.1 of GC 10.4 - WORKERS' COMPENSATION, and any lien legislation applicable to the Place of the Work, the Owner shall make payment to the Contractor on account as provided in Article A-5 of the Agreement - PAYMENT in the amount set out in the certificate for payment on or before the day that is twenty-eight (28) calendar days following receipt by the Consultant of the application for final payment.
- 5.5.4 At the time of issuance by the Consultant of the final certificate of payment, the Consultant shall:

- a. Prepare a certificate (the "Completion Payment Certificate") showing:
 - (i) the final Contract Price,
 - (ii) the amount of the ten percent holdback (based on the value of work completed over and above the value of work completed shown in the Substantial Performance Payment Certificate),
 - (iii) the value of the required warranty security, and
 - (iv) the amount due to the Contractor.
- b. Prepare a payment certificate releasing to the Contractor the further ten percent holdback. Subject to the provisions of the *Construction Act* (Ontario) and the submission by the Contractor of the documents required by the General Conditions, such ten percent holdback shall become payable after 60 days from the date of Substantial Performance of the Work.

If, at the end of the Warranty Period any monies that are still being retained by the Owner as a warranty security or for other reasons, the Consultant will issue a certificate (the "Warranty Payment Certificate") releasing the monies due the Contractor.

Addition of GC 5.10 Right to Dispute Amounts

Add a new GC 5.10 RIGHT TO DISPUTE AMOUNTS

- 5.10.1 The Owner may, in its sole discretion, pay amounts to the Contractor that have not been certified by the Consultant for any reason. Any payment by the Owner shall not constitute acceptance of any portion of the Work or Products which are not in accordance with the requirements of the Contract Documents or acceptance by the Owner of any amounts set out in an application for payment. The Owner reserves the right to dispute any amounts set out in an application for payment at any time during the Contract Time, whether or not it has previously made a payment in respect of such amounts.

Addition of GC 5.11 LIENS

- 5.11.1 Notwithstanding any other term or condition in the Contract Documents, the Owner shall not be eligible to make payment to the Contractor, if at any time such certificate or payment was otherwise due:
 1. a claim for lien arising from the performance of the Work has been registered against the Project lands, or

2. the Owner or mortgage of the project lands has received a written notice of lien.
- 5.11.2 In the event that a construction lien arising from the performance of the Work is registered against the Project lands, the Contractor shall, within ten (10) calendar days, at its sole expense, vacate or discharge the lien from title to the premises. If the lien is merely vacated, the Contractor shall, if requested, undertake the Owner's defense of any subsequent lawsuit commenced in respect of the lien at the Contractor's sole expense.
- 5.11.3 In the event that the Contractor fails or refuses to vacate or discharge a construction lien within the time prescribed above, the Owner shall, at its option, be entitled to take all steps necessary to vacate and/or discharge the lien, and all costs and expenses incurred by the Owner in so doing (including, without limitation, legal fees on a solicitor and client basis and any payment which may ultimately be made out of or pursuant to security posted to vacate the lien) shall be for the account of the Contractor, and the Owner may deduct such amounts from amounts otherwise due or owing to the Contractor. If the Owner vacates the lien, it shall be entitled to retain all amounts it would be required to retain pursuant to the *Construction Act* (Ontario) if the lien had not been vacated.
- 5.11.4 Without limiting any of the foregoing, the Contractor shall indemnify the Owner for all costs (including, without limitation, legal fees on a solicitor and client basis) it may occur in connection with the claim for lien or subsequent lawsuit brought in connection with the lien, or in connection with any other claim or lawsuit brought against the Owner by any Person that provided services or materials to the Project lands which constituted a part of the Work.
- 5.11.5 5.11 does not apply to construction liens claimed by the Contractor.

Part 6 Changes in Work

- 6.1.2 Add to the end of paragraph:

It is the express intention of the parties that the Contractor shall be precluded from making a claim for a change in the Contract Price and/or Contract Time unless there has been strict compliance with PART 6 - CHANGES IN THE WORK. No course of conduct or dealings between the parties, no express or implied acceptance of alterations or additions to the Work and no claims that the Owner has been unjustly enriched by any alteration or addition to the Work, whether in fact there

is any such unjust enrichment or not, shall be the basis of claim for a change in the Contract Price and/or Contract Time.

Add the following paragraphs:

- 6.1.3 All changes are to be reported by the Contractor in writing to the company issuing the performance bond and labour and material payments bond and their consent is to be obtained, unless the terms of the bond or a general permission allow the changes. The Contractor shall promptly provide copies of all such change reports to the Owner.
- 6.1.4 The value of a change shall be determined in one or more of the following methods, at the Owner's sole discretion: (a) by estimate and acceptance in a lump sum; (b) by unit prices set out in the Contract or subsequently agreed upon; and (c) by cost and a fixed or percentage fee.
- 6.1.5 Where changes in the Work are paid for under method (b) of paragraph 6.1.4, the value of changes is based on the net difference in quantities with the appropriate unit rate applied.
- 6.1.6 Where changes in the Work are to be paid under method (a) or (c) of paragraph 6.1.4, the cost to the Owner shall be the actual cost of credits and where additional work is required, the cost to the Owner shall be the actual cost after all credits included in the changes have been deducted.
- 6.1.7 If any changes in the Work are made by which the amount of Work to be done is decreased, or if the whole or any portion of the Work is dispensed with, the Owner shall, subject to paragraph 6.3.4 (CCDC), not be liable to the Contractor for any costs or damages whatsoever including, without limitation, any indirect, consequential or special damages, such as loss of profits, loss of opportunity or loss of productivity.
- 6.1.8 The Owner specifically reserves the right to change the Work by deleting any portion(s) of the Work which has not been completed by the scheduled date of Substantial Performance of the Work. For clarity, GC 6.1.7 (above) shall apply in the case of such a change.
- 6.1.9 The Contractor shall recommend necessary or desirable changes in the Work to the Consultant and/or Owner, review Change Orders and Change Directives and make suggestions and recommendations thereon.

GC 6.2 Change Order

- 6.2.1 amend by inserting the following at the end of the paragraph:

There shall be no adjustment to the Contract Time should the Contractor fail to present a request for an adjustment to the Contract Time in response to a contemplated Change Order.

Add new paragraphs as follows:

- 6.2.3 A Change Order shall be a final determination of adjustments in the Contract Price and Contract Time. There shall be no adjustments to the Contract Time or Contract Price based on the quantity, scope or cumulative value of changes in the Work.
- 6.2.4 For extra work on a negotiated price or time and material basis, the Contractor shall prepare and present to the Consultant/Owner a detailed estimate of the Contractors and/or Sub-Contractors cost for labour and material, statutory charges, overhead and fees all shown separately.
- 6.2.5 In the valuation of labour costs in connection with changes and the amount to be charged for labour burden and materials, they shall be limited to such amounts as can be directly substantiated by current market value.
- 6.2.6 Contractors and sub-contractors will not be entitled to charge a fee or charge for overhead and profit on credits to the Contract. Where a change involves extras and credits on the work of a trade, the sub-contractor will only be entitled to allowances for overhead and profit on the total net extra for the change.
- 6.2.7 Allowances for overhead and profit shall cover all the Contractor's and/or sub-contractor's administrative, and incidental costs relating to a change, including, without limitation, costs relating to site superintendence and supervision, shop drawing production, Site Office and Home Office expenses, worker's tools, temporary facilities and controls.

GC 6.3 Change Directive

- 6.3.1 Add the following to end of the paragraph:

The allowance for overhead and profit shall be limited to the amount calculated in accordance with the provisions of GC 6.1 OWNER'S

RIGHT TO MAKE CHANGES, as amended by these Supplementary Conditions.

GC 6.4 Concealed or Unknown Conditions

6.4.2 is amended by deleting the word "finding" where it appears and replacing it with "recommendation"

Add new paragraph:

- 6.4.5 The *Contractor* confirms that, prior to the Procurement of the *Project*, it carefully investigated the *Place of the Work* and applied to that investigation the degree of care and skill described in paragraph 3.14.1 (above), given the amount of time provided between the issue of the Procurement documents and the actual closing of the Procurement documents, the degree of access provided to the *Contractor* prior to submission of a bid, and the sufficiency and completeness of the information provided by the *Owner*. The *Contractor* is not entitled to compensation or to an extension of the *Contract Time* for conditions which could reasonably have been ascertained by the *Contractor* by such careful investigation undertaken prior to the submission of the bid.

GC 6.5 Delays

6.5.1 and 6.5.2 are amended by adding the following to the end of each paragraph:

, provided that the Owner shall not be liable for any other costs or damages whatsoever including, without limitation, any indirect, consequential, or special damages, such as loss of profits or loss of opportunity resulting from such delay.

- 6.5.3.1 Remove and replace with the following:

any labour disputes, strikes or lock-outs affecting the Work or the Project.

- 6.5.3 Add to the end of the paragraph:

provided that the Owner shall, in such instance, only be liable for reasonable costs incurred by the Contractor and shall not be liable for any other costs or damages whatsoever including, without limitation, any direct, consequential, or special damages, such as loss of profits or loss of opportunity resulting from such delay. Notwithstanding the foregoing, the Contractor shall use its best efforts to minimize the impact of such event upon the performance of the Work and Contract Time.

Add the following paragraphs:

- 6.5.6 The Contractor shall not be entitled to any compensation or time extensions for any delays caused in whole or in part by the Contractor's failure to perform its obligations under the Contract, or for delay concurrently caused by Contractor and either Owner or others.
- 6.5.7 In the event of delay in the performance of any portion of the Work, the Contractor shall use its reasonable best efforts to rearrange and reschedule the Work so as to minimize the ultimate delay in completion of the Work. The Contractor shall be responsible for the care, maintenance and protection of the Work in the event of any shutdown.
- 6.5.8 The failure of a particular Subcontractor or material supplier to perform shall not be considered a cause beyond the Contractor's reasonable control. A wrongful act or omission by the Contractor or those for whom any of them are in law responsible or stop work order, accident or other event arising out of such act or omission shall not be considered a cause beyond the Contractor's reasonable control. Any change pursuant to the Contract Documents which is required by the Contract Documents to be performed without any increase in Contract Price shall not be considered a cause beyond the Contractor's reasonable control.
- 6.5.9 In addition, the Contract shall include and the Contractor shall be required to perform the Work during the winter months and during winter conditions with the intent that it shall not be entitled to any extensions of Contract Time on account of delays due to weather conditions and that all additional costs which the Contractor incurs in performance of work during the winter months shall be included in the Contract Price.
- 6.5.10 If the Work should be behind schedule for a reason other than as described in paragraphs 6.5.1 to 6.5.3 (inclusive), or if any of the Subcontractors or Suppliers delay the progress of any portion of the Work necessary to complete the Work on schedule, the Contractor shall not be relieved of its obligations under the Contract Documents and shall use all possible and, if necessary, extraordinary measures to bring the Work back on schedule. The Contractor shall exercise all reasonable means within its discretion, such as directing any Subcontractors or Suppliers creating delays to increase their labour forces and equipment, to improve the organization and expediting of the Work, or to work overtime as may be necessary. The Contractor shall provide any additional supervision, co-ordination and expediting,

including overtime by its own personnel as may be required to achieve this end at no additional cost to the Owner.

Part 7 Default Notice

GC 7.1 Owner's Right To Perform The Work, Terminate The Contractor's Right to Continue With The Work Or Terminate The Contract

7.1.1 Add:

after the first reference to the word "insolvency" the following is inserted: "or becomes bankrupt, insolvent or takes the benefit of any other legislation for the protection of bankrupt or insolvent debtors".

7.1.2 Remove and replace with the following:

If the Contractor should neglect to prosecute the Work properly, fails or neglects to maintain the latest schedule provided pursuant to GC 3.5, or otherwise fails to comply with the requirements of the Contract, and if the Consultant has given a written statement to the Contractor that sufficient cause exists to justify such action, the Owner may, without prejudice to any other right or remedy the Owner may have, notify the Contractor, in writing, that the Contractor is in default of the Contractor's contractual obligations and instruct the Contractor to correct the default in the ten (10) Working Days immediately following the receipt of such Notice.

7.1.3.2 Remove and replace with the following:

"provide the Owner with a schedule acceptable to the Owner acting reasonably for such correction, and".

7.1.5.2 Remove and replace with the following:

"withhold further payment to the Contractor."

7.1.5.3 Remove and replace with the following:

charge the Contractor the amount by which the full cost of finishing the Work as certified by the Consultant, including the compensation to the Consultant for the Consultant's additional services and a reasonable allowance as determined by the Consultant to cover the cost of corrections to work performed by the Contractor that may be required under GC 12.3 - WARRANTY exceeds the unpaid balance of the Contract Price; and

7.1.5.4 Remove and replace with the following:

on expiry of the warranty work, charge the Contractor the amount by which the cost of corrections to the Contractor's work under GC 12.3 - WARRANTY exceeds the allowance provided for such corrections.

Add the following paragraphs:

7.1.7 Notwithstanding any other provision in the Contract Documents, the Contract may be terminated by the Owner without cause. Any such termination shall be effected by delivery to the Contractor of a notice of termination, specifying the date upon which such termination becomes effective. The Owner's entitlement to so terminate the Contract shall be absolute and unconditional and exercisable by the Owner in its sole and absolute discretion.

7.1.8 In the event of any termination by the Owner pursuant to paragraph 7.1.7, the Contractor shall only be entitled to payment of the following amounts:

1. that portion of the Contract Price relating to Work performed prior to the termination date, as certified by the Consultant, plus
2. Subcontractor and sub-subcontractor cancellation costs (which costs shall not include loss of profit claims) reasonably incurred by the Contractor as the result of such termination; provided the Contractor has substantiated such costs to the Owner's reasonable satisfaction and after the Owner has reviewed the details thereof; plus
3. subject in all cases to the Owner being informed of all details relating thereto and the prior written approval of the Owner being obtained (whose approval may not be unreasonably withheld), reasonable demobilization costs defined to include equipment and office dismantling, transportation to contractor's storage facility, lease or rental cancellation costs, transportation of the Contractor's employees to their home offices, provided each such demobilization costs shall be reasonable and substantiated (to the Owner's reasonable satisfaction) by the Contractor.

7.1.9 Except as described in paragraph 7.1.8, the Contractor shall not be entitled to any additional reimbursement on account of any such termination including, without limitation, indirect, special, consequential or other damages, including, without limitation, loss of profits, loss of opportunity or loss of productivity, notwithstanding any other provision of the Contract Documents.

- 7.1.10 The terms of the Contract, which expressly or by their nature are intended to survive the termination or discharge of the Contract, shall survive such termination or discharge including, without limitation, GC 12.3 - Warranty."

GC 7.2 Contractor's Right to Suspend The Work or Terminate The Contract

- 7.2.3 Add to the end of paragraph:

The Owner shall not be deemed to be in default if it fails to make payments because of the Contractor's failure to pay legitimate claims promptly or because of the registration of liens against the Site (except for legitimate liens registered by the Contractor).

- 7.2.3.1 is deleted in its entirety.

- 7.2.3.2 Add to the end of paragraph:

"Subject to the other terms and conditions of the Contract," before "the Consultant"

- 7.2.3.3 Add to the end of paragraph:

"Subject to the other terms and conditions of the Contract," before "the Owner"

- 7.2.3.4 Remove and replace with the following:

The Owner violates the requirements of the Contract to a substantial degree and the Consultant confirms by written statement to the Contractor that sufficient cause exists.

- 7.2.4 Remove and replace with the following:

The Contractor's Notice in Writing to the Owner provided under 7.2.3 shall advise that if the default cannot be corrected in ten (10) Calendar Days following the receipt of the Notice in Writing, the Owner shall be in compliance with the Contractor's instructions if the Owner:

1. Commences the correction of the default within the specified time; and
2. Provides the Contractor with an acceptable schedule for such correction, and
3. Corrects the default in accordance with such schedule.

Add new paragraphs:

- 7.2.6 If the Owner fails to correct the default in the time specified or subsequently agreed upon, without prejudice to any other right or remedy the Contractor may have, the Contractor may suspend the Work for not more than ninety (90) days or terminate the Contract.

Part 8 Dispute Resolution

GC 8.1 Authority of the Consultant

- 8.1.1 Add:

delete the word "findings" and replacing it with the word "recommendations". And add the following to the beginning:

Unless either party has referred a matter to adjudication pursuant to Section 13.5 of the *Construction Act*,

- 8.1.2 Add:

delete "apply" and replace with the words "may be applied at the option of the Owner". The words "and paragraphs 8.2.3 to 8.2.8 of GC 8.2 – NEGOTIATION, MEDIATION AND ARBITRATION, and in GC 8.3 - RETENTION OF RIGHTS" are deleted and replaced by "the dispute resolution provisions of this Part 8 of the General Conditions – Dispute Resolution." At the end of the paragraph the following is inserted:

As time is of the essence, the Contractor shall continue performance of the Work notwithstanding any such dispute and shall ensure its Subcontractors and Suppliers also do so. Accordingly, in the event of a dispute, any Work stoppage by the Contractor or by any Subcontractor, Supplier or by any others for whom the Contractor is responsible will constitute a breach of the Contract entitling the Owner to claim damages on account of any delay affecting the construction schedule of the Work.

Add new paragraphs:

- 8.1.4 Either party may refer a matter set out in Section 13.5(1) of the *Construction Act* to adjudication pursuant to Part II.1 of the *Construction Act*. The parties agree that no other matter may be referred to adjudication unless the parties agree in writing.
- 8.1.5 The parties agree that no other matter may be referred to adjudication unless the parties agree in writing. The parties agree and consent that any Construction Act Document may be sent to the other party and any adjudicator via electronic mail and that service of such Construction

Act Documents will be effective at the time and date of sending, except that where an electronic mail message is sent after 4:00 p.m. Eastern Time, service of such Construction Act Documents will be deemed to be effective the following day. The e-mail message to which a Construction Act Document is attached shall include the sender's name, address, telephone number and the name and telephone number of a person to contact in the event of a transmission problem. Any Construction Act Documents shall be served in accordance with this section unless the parties subsequently agree otherwise in writing or an adjudicator directs otherwise.

GC 8.3 Negotiation, Mediation and Arbitration

Add the following new paragraphs:

- 8.3.9 Within five (5) days of receipt of the notice of arbitration by the responding party under paragraph 8.2.6, the Owner and the Contractor shall give the Consultant a written notice containing:
 - a) a copy of the notice of arbitration
 - b) a copy of supplementary conditions 8.2.9 to 8.2.14 of this Contract, and;
 - c) any claims or issues which the Contractor or the Owner, as the case may be, wishes to raise in relation to the Consultant arising out of the issues in dispute in the arbitration.

- 8.3.10 The Owner and the Contractor agree that the Consultant may elect, within ten (10) days of receipt of the notice under paragraph 8.2.9, to become a full party to the arbitration under paragraph 8.2.6 if the Consultant:
 - a) has a vested or contingent financial interest in the outcome of the arbitration;
 - b) gives the notice of election to the Owner and the Contractor before the arbitrator is appointed;
 - c) agrees to be a party to the arbitration within the meaning of the rules referred to in paragraph 8.2.6, and,
 - d) agrees to be bound by the arbitral award made in the arbitration.

- 8.3.11 If an election is made under paragraph 8.2.10, the Consultant may participate in the appointment of the arbitrator and, notwithstanding the rules referred to in paragraph 8.2.6, the time period for reaching agreement on the appointment of the arbitrator shall begin to run from the date the respondent receives a copy of the notice of arbitration.

- 8.3.13 The arbitrator in the arbitration in which the Consultant has elected under paragraph 8.2.10 to become a full party may:
- a) on application of the Owner or the Contractor, determine whether the Consultant has satisfied the requirements of paragraph 8.2.10, and;
 - b) make any procedural order considered necessary to facilitate the addition of the Consultant as a party to the arbitration.
- 8.3.14 The provisions of paragraph 8.2.9 shall apply mutatis mutandis to written notice to be given by the Consultant to any sub-consultant; 8.2.14 In the event of notice of arbitration given by the Consultant to a sub-consultant, the sub-consultant is not entitled to any election with respect to the proceeding as outlined in 8.2.10, and is deemed to be bound by the arbitration proceeding.

New Section GC 8.5 Proceedings Confidential

All dispute resolution and arbitration proceedings (including all related information, communications, documents, materials, and evidence) shall be strictly confidential, and each party shall have a fiduciary obligation to the other party to protect, preserve and maintain the integrity of such confidentiality.

Part 9 Protection of Persons and Property

GC 9.1 Protection of Work and Property

- 9.1.1.1 Remove and replace with subparagraph:
- errors in the Contract Documents which the Contractor could not have discovered applying the standard of care described in paragraph 3.14.1;
- 9.1.2 Remove and replace the following paragraph:
- Before commencing any Work, the Contractor shall determine the locations of all underground utilities and structures indicated in the Contract Documents, or that are discoverable by applying to an inspection of the Place of the Work the degree of care and skill described in paragraph 3.14.1.

GC 9.2 Toxic and Hazardous Substances

- 9.2.6 Add:

after the word "responsible", the following new words: or whether any toxic or hazardous substances or materials already at the Place of the Work (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the Contractor or anyone for whom the Contractor is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damage to the property of the Owner or others,

9.2.7.4 Add:

"and the Consultant" after the word "Contractor".

9.2.8 Add:

after the word "responsible", the following new words: or that any toxic or hazardous substances or materials already at the Place of the Work (and which were then harmless or stored, contained or otherwise dealt with in accordance with legal and regulatory requirements) were dealt with by the Contractor or anyone for whom the Contractor is responsible in a manner which does not comply with legal and regulatory requirements, or which threatens human health and safety or the environment, or material damage to the property of the Owner or others,

GC 9.4 Construction Safety

9.4.1 Remove and replace with the following:

The Contractor shall be solely responsible for construction safety at the Place of the Work and for compliance by all the employees and workers with the rules, regulations and practices required either by the applicable construction, health and safety legislation and/or the Contract Documents including all risk prevention programs established by standard practice in the construction industry for the type of Work contemplated by the Project, and shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Project. In addition, the Contractor shall:

1. ensure that the measures and procedures prescribed by the applicable construction, health and safety legislation in force at the Place of the Work and any regulations made pursuant thereto are carried out for the Work and the Project;

2. ensure that every Subcontractor and every worker performing the Work and the Project complies with the applicable construction, health and safety legislation in force at the Place of the Work and any regulations made pursuant to such legislation;
3. ensure that the health and safety of all workers performing the Work and the Project is protected;
4. ensure that all persons and work groups are undertaking the Work and the Project on a coordinated basis and that the Work and the Project are performed safely; and
5. direct and control all of the Work and the Project in a safe manner.

Add the following paragraphs:

- 9.4.6 For the purposes of undertaking and completing the obligations set out in paragraph 9.4.1, the Contractor shall:
1. have the responsibility to identify and promptly correct, at its own expense, unless otherwise agreed to between the parties, all safety deficiencies identified by any person performing the Work and the Project;
 2. identify situations which put the safety of persons performing the Work and the Project at risk, including, without limitation, roadside or boulevard work in proximity to traffic, climbing and performing the Work and the Project in manholes and promptly direct any person performing the Work and the Project to correct such safety risks;
 3. promptly warn any person or work group performing the Work and the Project that the Work and the Project will be stopped if the risk identified is not immediately corrected and to stop the Work and the Project until the risk identified is corrected;
 4. take such precautions which are necessary to ensure the safety and health of persons on or adjacent to the Site, including on the streets, roads and other public spaces in the vicinity of the Site or to comply with the applicable construction, health and safety legislation and/or the Contract Documents;
 5. give the Owner Notice of any inspection or incident on or about the Site that might reasonably be expected to result in any fine, penalty, investigation or proceeding in respect of construction safety; and
 6. promptly report to the appropriate authorities any continuing violations of the applicable construction, health and safety legislation in force at the Place of the Work and any regulations, which are not immediately corrected.

- 9.4.7 Prior to the commencement of the Work and the Project, the Contractor shall provide the Owner with a sworn statutory declaration, in a form satisfactory to the Owner, to the effect that the Contractor has complied with its obligations under the applicable construction, health and safety legislation in force at the Place of the Work.
- 9.4.8 The Contractor shall publish a comprehensive safety plan for the Work including, without limitation, inspection frequencies, and written job procedures, to be reviewed by the Owner and shall designate a safety officer. The Contractor shall provide to the Owner the safety officer's resume. The Contractor shall review the safety programs of each of the Subcontractors and make appropriate recommendations. In addition to providing the safety plan, the Contractor agrees to provide, as may be requested from time to time, by the Owner, evidence of the Contractor's existing health and safety policy.
- 9.4.9 The Contractor shall indemnify and save harmless the Owner, its agents, officers, directors, employees, consultants, successors and assigns from and against the consequences of any and all safety infractions committed by the Contractor under the construction, occupational health and safety legislation in force at the Place of the Work, including the payment of legal fees and disbursements on a solicitor and client basis.
- 9.4.10 All Contractors shall be responsible for any costs related to occupational health and safety including fines or penalties levied against the Owner for the Contractor's or Subcontractors' failure to observe applicable requirements.
- 9.4.11 Occupational Health and Safety: The Contractor shall be responsible for ensuring that the Work is completed in compliance with all applicable laws relating to health and safety (including the *Occupational Health and Safety Act*, R.S.O. 1990, c.0.1 (the "OHSA")). The Contractor shall ensure that all Subcontractors' work is in accordance with the OHSA. The Contractor shall fulfill the role of the "constructor" within the meaning of the OHSA and agrees to carry out the duties, liabilities, obligations and responsibilities of the "constructor" with respect to the Work. The Contractor shall file a notice of project pursuant to OHSA and shall provide a copy of each such notice to the Owner. Finally, the indemnity given by the Contractor pursuant to paragraph 9.4.5 applies to any and all claims, arising from or related to the Contractor's failure to carry out the duties, obligations, liabilities and responsibilities of the "constructor" under OHSA or as a result of any unsafe condition or standard violation created by or arising out of the Contractor's action, inaction or work.

- 9.4.12 The Owner shall use reasonable efforts to ensure that the Owner's own forces or other contractors performing work at the Site comply with the Contractor's health and safety policy.
- 9.4.13 In addition to any other rights the Owner may have to terminate this Agreement but without in any way limiting the Contractor's obligations, duties, liabilities and responsibilities, the Owner may take or order such remedial measures as the Owner deems necessary or advisable for the purpose of remedying any act or omission by the Contractor respecting safety. The Owner shall notify the Contractor of any such termination or remedial measure to be taken; and the Contractor shall forthwith comply with any and all directions given by the Owner with respect thereto.
- 9.4.14 If, pursuant to paragraph 9.4.9 the Owner shall direct the Contractor to take remedial measures and, if the Contractor does not within a reasonable time undertake to comply with such direction then, in addition to any other rights and remedies available to it, the Owner shall have the right to terminate this Agreement forthwith by giving Notice of such termination to the Contractor. The Contractor shall be liable for the cost of any delay in the performance of the Work and/or the cost of remedial measures required to be performed pursuant to this subsection.

GC 9.5 Mould

- 9.5.3.4 Add:
- at the end of first sentence insert the following: ", but not for consequential damages of any nature, whatsoever, including, but not limited to, damages for indirect costs, standby time, loss of productivity, impact costs, interest expenses, overhead, loss of income or profit."

Add new GC 9.6 Damages and Mutual Responsibility

- 9.6.1 If either party to the Contract should suffer damage in any manner because of any wrongful act or neglect of the other party or of anyone for whom the other party is responsible in law, then that party shall be reimbursed by the other party for such damage. The reimbursing party shall be subrogated to the rights of the other party in respect of such wrongful act or neglect if it be that of a third party.
- 9.6.2 Claims for damage under paragraph 9.2.1 (CCDC) shall be made in writing to the party liable within reasonable time after the first

observance of such damage and if undisputed shall be confirmed by Change Order, Disputed claims shall be resolved as set out in the CCDC Part 8 of the General Conditions - DISPUTE RESOLUTION.

- 9.6.3 If the Contractor has caused damage, delay, impact or interference to the work of another contractor on the Project, the Contractor agrees upon due notice to settle with the other contractor by negotiation or arbitration. If the other contractor makes a claim against the Owner on account of damage, delay, impact or interference alleged to have been so sustained, the Owner shall notify the Contractor and may require the Contractor to defend the action at the Contractor's expense. The Contractor shall indemnify and hold harmless the Owner, its agents, officers, directors and employees from such claims in accordance with the provisions of the CCDC PART 12 INDEMNIFICATION, WAIVER OF CLAIMS AND WARRANTY. GC 12.1 INDEMNIFICATION, 12.2 WAIVER AND WARRANTY. The Owner may withhold from any amount owing, payable or to become owing or payable to the Contractor an amount on account of such claim and the Contractor's obligations to indemnify as determined by the Owner acting reasonably. The Contractor shall satisfy a final order or judgment against the Owner and pay the costs incurred by the Owner arising from such action.
- 9.6.4 If the Contractor becomes liable to pay or satisfy a final order, judgment, or award against the Owner, then the Contractor, upon undertaking to indemnify the Owner against any and all liability for costs, shall have the right to appeal in the name of the Owner such final order or judgment to any and all courts of competent jurisdiction.

Part 10 Governing Regulations

GC 10.2 Laws, Notices, Permits and Fees

10.2.5 Add:

Delete from the first line, the word, "The" and substitute the words: "Subject to paragraph 3.14.1, the".

10.2.7 Add:

After "which affect the cost of the Work" the following is inserted: "and the changes are authorized by the Owner in accordance with GC 10.2.8,"

Add the following new paragraph:

- 10.2.8 When the Work is governed by reference to standards, building codes, manufacturer's instructions or other reference documents, the current editions in effect as of the dates of bid closing for the Work and segments thereof shall apply whether or not the current edition is specified. Such references shall be considered as part of the specifications as much as if the pertinent portions of those references were printed therein in their entirety. When a newer edition becomes effective during the execution of the Work, the original edition shall apply unless a change is properly authorized by the Owner.

The Contractor will adhere to all government directives and edicts.

GC 10.4 Worker's Compensation

- 10.4.1 Add:

the word "with" from the first and second lines are replaced with "prior to". The reference to "workers' compensation legislation" is deleted and replaced with "the Workplace Safety and Insurance Act". After the words "application for final payment" the following is inserted "and with each application for payment". At the end of the paragraph, add the following: "The Contractor acknowledges, represents, warrants and agrees that the Contractor is an independent contractor and neither the Contractor nor its employees, agents, Suppliers and Subcontractors shall be considered or deemed agents, employees or workers of the Owner for any purpose, including without limitation, applicable workers compensation and income tax legislation, nor shall they share in benefits provided, or required to be provided by the Owner to the Owner's employees."

Add the following new paragraph:

- 10.4.2 The Contractor acknowledges and agrees that it is solely responsible for any and all payments required to be made and the performance of all other obligations respecting workers' compensation insurance, withholding taxes, payroll taxes and such similar payments and obligations relating to the Work performed by the Contractor and its employees, agents, Suppliers and Subcontractors. The Contractor agrees to comply with the applicable workers' compensation, income tax and payroll tax laws and, where required, shall register as an "employer" with the applicable workers' compensation authorities, taxation authorities and other applicable authorities. The Contractor agrees to make all required contributions to any accident funds and government taxation offices in respect of its employees, agents, Suppliers and Subcontractors. In the event that and to the extent that

the Contractor is deemed by law to be an employee of the Owner, for the purposes of employee benefit plan coverage and to the extent permitted by law, the Contractor hereby waives participation in any employee benefit plans of the Owner. Where required to do so by the Owner and permitted by law, the Contractor agrees to obtain from each of its employees, agents, Suppliers and Subcontractors a waiver of any such rights as the employees, agents, Suppliers and Subcontractors may have to benefits that they might otherwise be entitled to receive for any purpose in respect of employee benefit plan coverage. The Contractor shall indemnify and hold harmless the Owner from and against any claims, demands, losses, costs, damages, actions, suits or proceedings resulting from such failure by the Contractor.

Part 11 Insurance

GC 11.1 Insurance

11.1.1 Remove:

Without restricting the generality of GC 13.1 – INDEMNIFICATION, the *Contractor* shall provide, maintain and pay for the following insurance coverages, the requirements of which are specified in CCDC 41 'CCDC Insurance Requirements' in effect at the time of bid closing except as hereinafter provided:

Replace with:

Without restricting the generality of GC 13.1 – INDEMNIFICATION, the *Contractor* shall provide, maintain and pay for the following insurance coverages, the requirements of which are specified in CCDC 41 'CCDC Insurance Requirements' (at the end of these supplementary conditions):

11.1.6 -11.1.8 Remove in their entirety.

GC 12.3 Warranty

12.3.2 Add:

Delete from the first line of paragraph 12.3.2 the word, "The" and substitute the words: "Subject to paragraph 3.14.1, the..."

GC 13.1 Indemnification

Add new sub-paragraph:

- 13.1.1.3 The Contractor shall defend, indemnify and save harmless the Corporation of the City of Kawartha Lakes, its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of the Supplier, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the delivery or performance of this Contract. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Supplier in accordance with this Contract, and shall survive this Contract.

The Contractor agrees to defend, indemnify and save harmless the Corporation of the City of Kawartha Lakes from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever arising out of or related to the Supplier's status with WSIB. This indemnity shall be in addition to and not in lieu of any proof of WSIB status and compliance to be provided by the Supplier in accordance with this Contract, and shall survive this Contract.

GC 13.2 Waiver of Claims

- 13.2.1 is deleted in its entirety.

- 13.2.2 Add the following:

Add the following at the end of the paragraph:

The Contractor shall provide a written release and waiver of claims in favour of the Owner, and in form and substance satisfactory to the Owner, prior to payment of the holdback amount upon Substantial Performance of the Work, prior to payment of the unpaid balance of the Contract Price upon issuance of the final certificate for payment, and again prior to payment of the holdback amount with respect to work performed after the date of Substantial Performance of the Work. Any such release and waiver shall except therefrom any claims

identified in writing by the Contractor prior to the date of such release and waiver.

Add GC 14 Other Provisions

Add the following:

Part 14 Liens

GC 14.1 CONSTRUCTION LIENS

- 14.1.1 The Contractor shall cause any and all construction liens and certificates of action relating to the Work registered or preserved by any Subcontractor, sub-subcontractor, Supplier, Contractor's employees, or any other party to whom the Contractor is or may be responsible at law, to be discharged or vacated by the Contractor with seven (7) Working Days of the date of registration or preservation, by the posting of security or otherwise, all at the Contractor's sole expense. The Contractor shall not be entitled to receive any payment from the Owner until all such claims for lien and certificates of action have been vacated or discharged.
- 14.1.2 The Contractor shall cause any and all written notices of lien relating to the Work given to any person, including, but not limited to, the Owner by any Subcontractor, sub-subcontractor, Supplier, Contractor's employees, or any party to whom the Contractor is or may be responsible at law, to be withdrawn in writing, and the Contractor shall do so within seven (7) Working Days of the written notice of lien having been given, all at the Contractor's sole expense.
- 14.1.3 If the Contractor fails to discharge or vacate any such lien or certificate of action, or to have any such written notice of lien withdrawn, in accordance with GC 14.1.1 or GC 14.1.2, then the Owner may, at its sole option, fulfil those requirements without notice to the Contractor and the Contractor shall reimburse the Owner on demand for all costs and associated expenses incurred by the Owner in fulfilling those requirements and defending any related action, including without limitation, the costs of borrowing the appropriate cash, letter of credit or bond as security, and legal fees and disbursements on a full indemnity basis. If the Contractor fails to pay such reimbursement the Owner shall have the right, if it so elects, and without prejudice to any other rights or remedies, to set off and deduct all such costs and expenses from any amount owing to the Contractor.

- 14.1.4 Notwithstanding any other provision in the Contract, the Contractor shall not be entitled to submit an application for payment and the Owner shall not be obligated to make payment to the Contractor if:
- .1 a claim for lien has been served and/or registered against the Project lands;
 - .2 if the Owner or mortgagee of the Project lands has received written notice of a lien; or
 - .3 the Owner or Consultant reasonably believe that any party has purported to retain title to Products or materials in respect of which an application for payment has been made.
- 14.1.5 Without limiting the foregoing, the Contractor shall, if requested by the Owner, defend, indemnify and save the Owner harmless from the amount of all such claims and the costs of defending any and all actions commenced against the Owner pursuant to the *Construction Act*, including the legal costs of the Owner, unless the lien was a direct result of a breach of the Contract by the Owner.
- 14.1.6 14.1 Construction Liens does not apply to construction liens claimed by the Contractor.

GC 14.2 Set Off

The Owner shall have the right to set-off against the balance due or to become due to the Contractor under the Contract, any amounts necessary to satisfy any liquidated or unliquidated amounts owing or due and payable from the Contractor to the Owner under the Contract. If the Owner fails to pay any amount owing to the Contractor because of a good faith dispute, no default by the Owner under the Contract shall be deemed to exist because of such failure of payment, provided the Owner pays the amount the parties agree is owing to the Contractor within thirty (30) days following the resolution of such dispute.

GC 14.4 Inspection

During the course of construction, the parties and their representatives will meet for a completion inspection of the Work in order to compile a list of readily visible defects or deficiencies in the Work at the earliest possible time. The Contractor shall ensure that the Work is available and ready for such inspection no later than ten working days prior to the scheduled date for Substantial Performance of the Work under this Contract.

- (a) The Contractor shall be responsible for inspecting the work of its Subcontractors from time to time and ensuring that they or the Contractor's own forces correct all defects shown on the lists resulting from such inspections prior to the further inspection procedure set out below.

- (b) The Contractor will arrange with the Owner and the Consultant for a further inspection of the Work not less than five working days prior to the scheduled date for Substantial Performance of the Work in order to compile a further list of any remaining readily visible defects.
- (c) All defects set out on the list compiled at the meeting referred to in paragraph (b) shall be repaired by the Contractor as soon as possible.
- (d) Upon completion of all exterior work and landscaping, the parties or their representatives shall meet and compile a list of readily visible defects in such exterior work and landscaping.
- (e) In addition to the inspections referred to above, the Contractor shall be responsible for all inspections required by any code or authority and paying for all permits and inspection fees required by any authority. The Contractor shall be responsible for making appropriate arrangements with the Consultant for all Consultant's inspections required by the Contract Documents or by law.

GC 14.5 Standard for Substantial Performance

Notwithstanding anything else to the contrary, Substantial Performance of the Work shall not be deemed to have been achieved until the following requirements have been met:

- (a) The Contractor shall have complied with all the requirements for substantial performance of the Contract contained in the *Construction Act (Ontario)* and in the Contract Documents and the Consultant shall have issued a Certificate of Substantial Performance under the *Construction Act (Ontario)*.
- (b) The Contractor shall have published the certificate of substantial performance in accordance with the *Construction Act (Ontario)* and provided a certified copy of the advertisement to the owner.
- (c) The Work is completed (subject to seasonal items) with all utilities and access available to the Project in normal working order, all parking spaces available for use, and only minor corrective work is required to the Project or the common and parking areas.
- (d) There shall be no outstanding work orders, requirements or deficiency notices or objections of the Municipality or any other authority or utility relating to the Work which would in any way prevent the occupancy of the Project.
- (e) Any occupancy permits required by any authority or code shall have been issued unconditionally or with only minor conditions not preventing occupancy (save and except where any such permit is not available due to untenanted premises or due to the acts of the Owner or tenant or due to the defects or deficiencies in design for which the Contractor is not responsible).

GC 14.6 Completion of the Work

Notwithstanding the occurrence of the Substantial Performance of the Work, the Contractor shall proceed diligently to finally complete the Work and to achieve completion of the Work.

GC 14.7 Use and/or Occupation of Completed Portions of The Work

1. Upon the Owner's request, the Owner shall, at any time or times, have the right of occupying and/or using any part or parts of the Work (including, without limitation, for the purposes of installing and testing fittings and equipment), whether partially performed or entirely complete, or whether completed on schedule or not, before the completion of the Work.
2. In the event that the Owner exercises the privilege of occupancy and/or use of the Work as provided above, it agrees to do so, so as not to materially interfere with the respective work of the Contractor, Subcontractors or Suppliers and under the understanding the Owner will be occupying premises within a construction site which will require compliance with all normal construction site requirements including, without limitation, health and safety requirements.

GC 14.8 Records Regarding Costs

All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of other accounting documents pertaining in whole or in part to the Contract and shall be clearly identified and readily accessible.

GC 14.9 Review by Owner and Review By Consultant

Neither the Owner's and/or Consultant's receipt, review or approval of any documents or the Work nor the failure to provide comment thereon, shall limit, waive or diminish the Contractor's obligations, responsibilities, duties or liabilities under the Contract. The review or approval by the Owner and/or Consultant is intended only to ascertain that the document or the performance of the Contractor's duties, liabilities, responsibilities or obligations under the Contract including, without limitation, the Work generally meets the intention of the Contract and is not an assurance or confirmation of the adequacy, quality, fitness, suitability or correctness of the Contractor's obligations, responsibilities, duties or liabilities under the Contract including, without limitation, the Work, for which the Contractor is solely responsible in accordance with the Contract.

GC 14.10 Non-Interference

The Contractor agrees to perform the Work in the least intrusive manner possible. Without limiting the generality of the foregoing, the Contractor acknowledges and agrees that it shall carry out its duties, responsibilities, and obligations under the

Contract in such a manner so as not to disrupt or interfere with any of the Owner's or any third party's existing facilities and ongoing operations or activities or other operations located in the area adjacent to, in the vicinity of or proximate to the Place of the Work.

GC 14.11 No Corruption

Neither the Contractor nor, to the Contractor's knowledge, any of its consultants, has (a) used any corporate or other funds for unlawful contributions, payments, gifts, or entertainment, or made any unlawful expenditures relating to political activity, (b) made any unlawful payment to foreign or domestic government officials or to foreign or domestic political parties or campaigns or violated any provisions of the *Corruption of Foreign Public Officials Act* (Canada) or (c) made any other unlawful payment.

CCDC 41 Insurance

Remove and replace with the following:

The Contractor shall provide, maintain and pay for the insurance coverages specified below. Unless otherwise stipulated, the duration of each insurance policy shall be from the date of execution of this Agreement, until the date of completion of the Work. Prior to any Work being done under this Agreement, upon request and upon placement, renewal, extension or amendment of all or any part of the insurance, the Contractor shall promptly provide the Owner with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer, together with copies of any amending endorsements.

- (a) Commercial General Liability Insurance shall be in the name of the Contractor with the Corporation of the City of Kawartha Lakes (herein after called the City) named as an additional insured, with limits of not less than Five Million (\$5,000,000.00) dollars inclusive per occurrence with a property damage deductible acceptable to the City. Coverage shall include but is not limited to bodily injury, death and damage to property including loss of use thereof, products and completed operations liability, blanket contractual liability, owners and contractor's protective, contingent employers' liability, non-owned automobile liability and contain a cross liability and severability of interest clause. The commercial general liability policy shall be maintained continuously from commencement of the Work to the date of Completion Acceptance as indicated by the Certificate of Completion and with respect to products and completed operations coverage; coverage shall be maintained until the end of the Warranty Period.
- (b) Standard Form Automobile liability insurance with limits of not less than Two Million (\$2,000,000.00) inclusive per occurrence for Third Party Liability including bodily injury, death and damage to property, in respect of the use or operation of all motor vehicles owned, operated or leased by the Contractor.
- (c) Pollution Liability Insurance subject to limits of not less than One Million (\$1,000,000.00) dollars inclusive per claim and with a deductible acceptable to the City and shall include coverage for but not limited to bodily injury including death, property damage and remediation costs which are reasonable and necessary to investigate, neutralize, remove, remediate (including associated monitoring) or dispose of soil, surface water, groundwater or other contamination. The policy shall be endorsed to include the *Corporation of the City Kawartha Lakes* as an additional insured.
- (d) Broad Form (all risk) Property Insurance covering all property, equipment, tools and stock in the care, custody or control of the Contractor or used by the Contractor for the performance of the Work including costs to clean-up and restore

property damaged by sudden and accidental escape of pollutants. The policy shall not allow subrogation claims by the Insurer against the City and shall include business interruption for a period of no less than 12 months.

- (e) Installation Floater written on an “all risk” basis 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. Coverage is to apply while property is in transit to the installation site, while stored at a temporary location awaiting installation at the work site, during loading and unloading, testing and commissioning as well as during the course of installation until completed.
- (f) Umbrella and/or Excess Liability Insurance policies may be applied to increase liability limits. Certificate(s) of insurance must specify the underlying policies to which the umbrella/excess coverage applies and indicate any applicable aggregates.

The Contractor shall forward with the executed contract documents a Certificate of Insurance as evidence of the above required insurance coverage. All policies shall be endorsed to provide the City with not less than thirty (30) Days’ written notice of cancellation, change or amendment restricting coverage. The Contractor shall provide the City with a new Certificate of Insurance showing any changes or upon the renewal of coverage. All policies shall be with insurers licensed to underwrite insurance in the Province of Ontario. The insurance shall be with insurers acceptable to the City and with policies in a form satisfactory to the City and if requested, the Contractor shall provide the City with a certified copy of the applicable insurance policy and any endorsements. The Contractor may be required to provide and maintain additional insurance coverage(s), which are related to this Contract. All applicable deductibles under the above required insurance policies are at the sole cost of the Contractor. All policies shall apply as primary and not as excess of any insurance available to the City.

[End of Appendix A1]

Appendix B – Pricing

1. Instructions on How to Provide Pricing

- (a) Respondents should provide the information requested under submission requirements – Schedule of Prices “Required Pricing Information”.
- (b) Rates must be provided in Canadian funds, inclusive of all applicable duties and taxes except for HST. Do not add HST to the Pricing, it will be added at time of award.
- (c) Rates quoted by the Respondent must be all-inclusive and must include all labour and material costs, all travel and carriage costs, all insurance costs, all costs of delivery, all costs of installation and set-up, including any pre-delivery inspection charges, and all other overhead, including any fees or other charges required by law.

2. Provisional Items

Where it occurs in this document, the notation “Provisional” shall be understood to mean that the inclusion in the contract of items so described shall be at the discretion of the City and no claims for extra payment or time due to the exclusion of any or all of these items will be accepted by the City.

3. Evaluation of Pricing

Pricing will be evaluated based on the pricing provided under Submission requirements, Schedule of Prices in the Bids & Tenders bidding system.

[End of Appendix B]

Appendix C – RFQ Particulars

1. Deliverables

Refer to Annex 1 to 3 for the requirements of this project.

2. Submission Requirements

2.1 Pricing (Appendix B)

Each quotation must include pricing information that complies with the instructions contained in the Required Pricing Information in the bidding system. See Appendix B.

2.2 Qualifications of Respondent

Include information that complies with the instructions contained in the bidding system Information and Qualifications of Respondent (Appendix D).

2.3 Surety Requirements

Each quotation must include surety requirements that comply with the instructions contained in Surety Requirements (Appendix E).

2.4 Other Submission Requirements

Respondent shall be a member in good standing of the Canadian Roofing Contractors Association (C.R.C.A) and a certified applicator of the product by the manufacturer.

3. Technical Requirements

Refer to Section 1 - Deliverables

4. Material Disclosures

N/A

5. Pre-Conditions of Award

- a) Certificate of Insurance
- b) WSIB
- c) Registration to the Vendor Management Program
- d) Bonding Requirements

[End of Appendix C]

Appendix D – Information and Qualifications of Respondent

1. References

Submit a minimum of three (3) company, non-COKL, references and their contact information for similar size and scope of work in the bidding system under Submission Requirements - References. Respondents are requested to provide references showing at a minimum, five (5) years of proven satisfactory, similar type work. The City reserves the right to obtain and consider reference feedback from City staff having experience with a company who has provided work to the City in the past. The City also reserves the right to contact any others deemed appropriate.

An alternative to completing these charts is the submission of a CCDC 11 Contractor's Qualification Statement form in the bidding system under Submission Requirements, document uploads.

2. List of Sub-Contractor and/or Material Supplier

Submit a list of Sub-Contractors and/or suppliers to be used on this project for the approval of the City through the bidding system under Submission Requirements - Subcontractors. Any changes to this list must be approved by the City prior to work taking place.

3. Senior Supervisory Staff

Complete, in the bidding system, under "Submission Requirements – Subcontractors – Senior Supervisory Staff", a list of staff that will be assigned to this project. The City may request the resume(s) of the supervisor(s) and senior staff that have been assigned to the project.

[End of Appendix D]

Appendix E – Surety Requirements

The bonding listed below will be required at time of award. Respondents who submit a bid, but are unable to comply with the bonding requirements will be deemed non-compliant and their bid rejected.

2. “Performance Bond” and “Labour & Material Payment Bond” Surety Amount (Digital Bonds)

Upon selection for an award, and prior to signing of a Contract or the issuance of a Purchase Order, the selected Respondent will be required to supply the following digital bonds to the City:

- a) Form 32 - Performance Bond in the amount of fifty percent (50%) of the Total submission price; and
- b) Form 31 - Labour & Material Payment Bond in the amount of fifty percent (50%) of the Total submission price.

These forms can be found at: <http://ontariocourtforms.on.ca/en/construction-lien-act-forms/>

All bonds required by the terms of this procurement document be they, Performance and/or Labour and Material Payment Bond, shall be in the form of a digital bond from a provider which has been assessed and approved by the Surety Association of Canada. A list of approved providers is available at the following link: <http://www.surety-canada.com/en/ebonding/assessments.html>. Bidders are strongly encouraged to discuss the City’s digital bond requirements with their surety company well in advance of submitting a bid, to ensure that the bond that is submitted will meet the City’s requirements.

All bonds provided will be the current versions as found on Surety Association of Canada’s website (<https://suretycanada.com/SAC/Surety-Bonds/SAC-Bond-Forms.aspx>) and will be completed by a Surety Company authorized by law to carry on business in the Province of Ontario and in favour of the “Corporation of the City of Kawartha Lakes”.

[End of Appendix E]

Annex

1. 2024-027-CQ Drawings – A1-A3
2. 2024-027-CQ Drawings – M01-M02
3. 2024-027-CQ Specifications

2024-027-CQ - Fenelon Falls Library Improvements

Opening Date: March 25, 2024 1:00 PM

Closing Date: April 18, 2024 11:00 AM

Schedule of Prices

The Company hereby agrees to enter into the Contract referred to and will supply and do all or any part of the Work which is set out or called for in this procurement document, at the unit prices, and/or lump sums, hereinafter stated.

*Denotes a "MANDATORY" field

Do not enter \$0.00 dollars unless you are providing the line item at zero dollars to the City.

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.

Required Pricing Information

- The Company hereby agrees to enter into the Contract referred to and will supply and do all or any part of the Work which is set out or called for in this procurement document, at the unit prices, and/or lump sums, hereinafter stated.
- *Denotes a "MANDATORY" field
- Do not enter \$0.00 dollars unless you are providing the line item at zero dollars to the City.
- 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.
- Do not add HST to unit or lump sum prices. HST will be added at time of award.

Description of Work	Unit of Measure	Quantity	Unit Price *	Total	
Stipulated Price for complete construction according to drawings and specifications	LS	1			*
Provisional Item 1: Provide each A/C unit with factory installed "humidi-mizer" adaptive dehumidification system option	Unit	4			*
Subtotal:					

Cash Allowance

☐ We will not be submitting for Cash Allowance

Description of Work	Unit of Measure	Quantity	Unit Price	Total	
Cash Allowance: Replace damaged section of roof sheathing and interior plumbing work for new roof drains connected for existing storm piping in ceiling spaces	LS	1	\$15,000.0000	\$ 15,000.00	*
Subtotal:				\$ 15,000.00	

Summary Table

Bid Form	Amount
Required Pricing Information	
Cash Allowance	\$ 15,000.00
Subtotal Contract Amount:	

Bid Questions

Respondents are asked to verify their Member in Good Standing. Please type "Yes" if the company is in good standing or "No" if the company is not in good standing.

Respondent is a member in good standing with the Canadian Roofing Contractors Association (C.R.C.A) and a certified applicator of the product being used for this project by the manufacturer.

References

Information and Qualifications of Respondents

See Appendix D in the document for full details.

Provide a minimum of 3 references showing at least 3 years experience in similar type work.

Company Name *	Contact *	Telephone Number *	Email Address *	Project Name *	Year Completed *	Project Value *	
							*
							*
							*

Signing Authority

Provide the name of the person authorized to sign the agreement.

Name *	Title *	Email Address *	Telephone Number *	
				*

Sub-Contractors

The Company shall state all Subcontractor(s) and type of Work proposed to be used for this project. Do 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.

State only one (1) subcontractor for each type of work

Subcontractors

- The Company shall state all Subcontractor(s) and type of Work proposed to be used for this project. Do 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.
- State only one (1) subcontractor for each type of work

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

Subcontractor Name	Trade/Material	Location

Supervisory Staff

Senior Supervisory Staff

See Appendix D in the document for full details

Name	Title	Project Assignment

Documents

It is the Companies responsibility to make sure the uploaded file(s) is/are not defective or corrupted and are able to be opened and viewed by the Owner.

If the attached file(s) cannot be opened or viewed, your Bid submission may be rejected.

- CCDC 11 - An alternative to completing the references, a CCDC 11 Contractor’s Qualification Statement form may be submitted. (optional)

Addenda, Terms and Conditions

1. Acknowledgment of Non-Binding Procurement Process

The Company acknowledges that the procurement process will be governed by the terms and conditions of the document, and that, among other things, such terms and conditions confirm that this procurement process does not constitute a formal, legally binding bidding process (and for greater certainty, does not give rise to a Contract A bidding process contract), and that no legal relationship or obligation regarding the procurement of any good or service will be created between the City and the Company unless and until the City and the Company execute a written agreement for the Deliverables.

2. Ability to Provide Deliverables

The Company has carefully examined the RFP documents and has a clear and comprehensive knowledge of the Deliverables required. The Company represents and warrants its ability to provide the Deliverables in accordance with the requirements of the document for the rates set out in its submission.

3. Non-Binding Pricing

The Company has submitted its pricing in accordance with the instructions in the document and confirms that the pricing information provided is accurate. The Company acknowledges that any inaccurate, misleading, or incomplete information, including withdrawn or altered pricing, could adversely impact the acceptance of its submission or its eligibility for future work.

4. Communication with Competitors

For the purposes of this document, the word "competitor" includes any individual or organization, other than the Company, whether or not related to or affiliated with the Company, who could potentially submit a response to this document.

Unless specifically disclosed below under Disclosure of Communications with Competitors, the Company declares that:

it has prepared its submission independently from, and without consultation, communication, agreement or arrangement with any competitor, including, but not limited to, consultation, communication, agreement or arrangement regarding:

- prices;
- methods, factors or formulas used to calculate prices;
- the quality, quantity, specifications or delivery particulars of the Deliverables;
- the intention or decision to submit, or not to submit; or
- the submission which does not meet the technical requirements or specifications of the document; and
- it has not disclosed details of its submission to any competitor prior to the notification of the outcome of the procurement process.

5. No Prohibited Conduct

The Company declares that it has not engaged in any conduct prohibited by this procurement.

6. Disclosure of Information

The Company hereby agrees that any information provided in this submission, even if it is identified as being supplied in confidence, may be disclosed where required by law or by order of a court or tribunal. The Company hereby consents to the disclosure, on a confidential basis, of this procurement by the City to the advisers retained by the City to advise or assist with the process, including with respect to the evaluation of this procurement.

1. Acknowledgment of Non-Binding Procurement Process

The respondent acknowledges that the RFQ process will be governed by the terms and conditions of the RFQ, and that, among other things, such terms and conditions confirm that this procurement process does not constitute a formal, legally binding bidding process (and for greater certainty, does not give rise to a Contract A bidding process contract), and that no legal relationship or obligation regarding the procurement of any good or service will be created between the City and the respondent unless and until the City and the respondent execute a written agreement for the Deliverables.

2. Ability to Provide Deliverables

The respondent has carefully examined the RFQ documents and has a clear and comprehensive knowledge of the Deliverables required.

The respondent represents and warrants its ability to provide the Deliverables in accordance with the requirements of the RFQ for the rates set out in its quotation.

3. Non-Binding Pricing

The respondent has submitted its pricing in accordance with the instructions in the RFQ. The respondent confirms that the pricing information provided is accurate. The respondent acknowledges that any inaccurate, misleading, or incomplete information, including withdrawn or altered pricing, could adversely impact the acceptance of its quotation or its eligibility for future work.

4. Communication with Competitors

For the purposes of this RFQ, the word "competitor" includes any individual or organization, other than the respondent, whether or not related to or affiliated with the respondent, who could potentially submit a response to this RFQ.

Unless specifically disclosed below under Disclosure of Communications with Competitors, the respondent declares that:

- a. it has prepared its quotation independently from, and without consultation, communication, agreement or arrangement with any competitor, including, but not limited to, consultation, communication, agreement or arrangement regarding:
 - i. prices;
 - ii. methods, factors or formulas used to calculate prices;
 - iii. the quality, quantity, specifications or delivery particulars of the Deliverables;
 - iv. the intention or decision to submit, or not to submit, a quotation; or
 - v. the submission of a quotation which does not meet the mandatory technical requirements or specifications of the RFQ; and
- a. it has not disclosed details of its quotation to any competitor and it will not disclose details of its quotation to any competitor prior to the notification of the outcome of the procurement process.

5. No Prohibited Conduct

The respondent declares that it has not engaged in any conduct prohibited by this RFQ.

6. Disclosure of Information

The respondent hereby agrees that any information provided in this quotation, even if it is identified as being supplied in confidence, may be disclosed where required by law or by order of a court or tribunal. The respondent hereby consents to the disclosure, on a confidential basis, of this quotation by the City to the advisers retained by the City to advise or assist with the RFQ process, including with respect to the evaluation of this quotation.



I/WE agree to be bound by the terms and conditions and have authority to submit on behalf of the Company.

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.		