

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 05-175

BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF AN AGREEMENT BETWEEN THE CORPORATION OF THE CITY OF PETERBOROUGH AND DRAIN BROTHERS EXCAVATING LIMITED FOR THE MONTGOMERY STREET AND SHERBURNE STREET STORM, SANITARY AND WATER MAIN MODIFICATIONS – Q-13-05

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

1. That the Mayor and Clerk be and they are hereby authorized to execute an agreement between the Corporation of the City of Peterborough and Drain Brothers Excavating Limited in the form attached hereby as Schedule "A", and to affix the Seal of the Corporation thereto.

By-law read a first and second time this 8th day of August, 2005

By-law read a third time and finally passed this 8th day of August, 2005

(Sgd.) Sylvia Sutherland, Mayor

(Sgd.) Leigh Doughty, Deputy Clerk

AGREEMENT

THIS AGREEMENT made in triplicate this _____ day of _____ 2005.

BETWEEN:

Name of Firm Drain Brothers Excavating Limited
Address R.R. # 2
City Lakefield, ON Postal Code K0L 2H0

hereinafter called the "Contractor"

THE PARTY OF THE FIRST PART

- AND -

THE CORPORATION OF THE CITY of PETERBOROUGH

hereinafter called the "Municipality"

THE PARTY OF THE SECOND PART

WITNESSETH, that the party of the first part, for and in consideration of the payment or payments specified in the Quotation for this work, hereby agrees to furnish all necessary machinery, tools, equipment, supplies, labour and other means of construction and, to the satisfaction of the Engineer, to do all the work as described hereafter, furnish all the materials except as herein otherwise specified, and to complete such works in strict accordance with the plans, specifications and Quotation herefor, which are identified and acknowledged in the Schedule of Provisions, Plans, Specifications and Conditions attached to the Quotation and all of which are to be read herewith and form part of this present Agreement as fully and completely to all intents and purposes as though all the stipulations hereof have been embodied herein.

DESCRIPTION OF THE WORK

The work under Quotation No. Q-13-05 is for the modifications to the storm sewer, sanitary sewer and water main at the intersection of Montgomery Street and Sherburne Street including all necessary restoration as indicated on the drawings (T-23-05-C PP01).

The Contractor further agrees that he will deliver the whole of the works completed in accordance with this Agreement within the time stipulated in Section 1.8 entitled PROGRESS OF THE WORK.

The Contractor agrees that any monies due to the Municipality as a result of non-completion of the works within the time stipulated may be deducted from any monies due to the Contractor on any account whatsoever.

IN CONSIDERATION WHEREOF, said party of the second part agrees to pay to the Contractor for all work done, the unit prices on the Quotation.

This agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators and assigns of the parties hereto.

IN WITNESS THEREOF, the Contractor and the Municipality have hereunto signed their names and set their seals on the day first above written, or caused their corporate seals to be affixed, attested by the signature of their proper officers, as the case may be.

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| _____ Witness | _____ Signature of Contractor or Seal of the Corporation |
| _____ Witness | _____ Mayor, City of Peterborough |
| _____ Witness | _____ Clerk, City of Peterborough |