

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 05-248

BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF AN AGREEMENT BETWEEN THE CORPORATION OF THE CITY OF PETERBOROUGH AND BOULDER MECHANICAL CONTRACTING INC. FOR UPGRADES TO THE PARKHILL ROAD SEWAGE PUMPING STATION IN THE CITY OF PETERBOROUGH (T-32-05)

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 Boulder Mechanical Contracting Inc. in the form attached hereby as Schedule "A", and to affix the Seal of the Corporation thereto.

By-law read a first, second and third time this 15th day of November, 2005

(Sgd.) Henry Clarke, Deputy Mayor

(Sgd.) Nancy Wright-Laking, City Clerk

FORM OF AGREEMENT

KMK PROJECT No. 2594.01

CITY OF PETERBOROUGH

TENDER NO. T-32-05

PARKHILL ROAD SPS CAPACITY UPGRADES

City of Peterborough
Form of Agreement
Tender No. T-32-05

FORM OF AGREEMENT

THIS INDENTURE made in quadruplicate this _____

BETWEEN:

_____ THE CITY OF PETERBOROUGH _____ of the FIRST PART

hereinafter called the "Owner"

AND:

_____ of the SECOND PART

hereinafter called the "Contractor".

WITNESSETH that the Owner and the Contractor in consideration of the fulfilment of their respective promises and obligations herein set forth covenant and agree with each other as follows:

ARTICLE 1

- (a) The Contractor shall provide at his own expense all the labour, materials, equipment, plant and services (except as specifically stipulated otherwise in the Contract Documents), and perform all the work and fulfil all obligations set out in the Contract Documents for **Parkhill Road Sewage Pumping Station Capacity Upgrades**.
- (b) The Contractor shall forthwith according to the instructions of the Engineer of the Owner commence the works and diligently execute the respective portions thereof, and deliver the works complete in every particular to the Owner within the time specified in the Form of Tender attached hereto.

**City of Peterborough
Form of Agreement
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ARTICLE 2

In case of inconsistency or conflict between the provisions of any of the Contract documents, then the provisions of such documents shall take precedence and govern in the following order:

1. Agreement
2. Addenda
3. Information for Tenderers
4. Contract Drawings
5. Specifications
6. Tender
7. General Conditions

The above Contract documents are all to be read into and form part of this Agreement and the whole shall constitute the Contract between the parties and it shall enure to the benefit of and be binding upon them and their successors, executors, administrators and assigns.

ARTICLE 3

The Owner shall pay to the Contractor for and in respect of the works and performance and observance by the Contractor of the provisions of this Contract, in lawful money of Canada,

_____)
_____ (\$ _____)

subject to such additions and deductions as may properly be made under the terms of this Contract, and subject to the provisions that the Owner may make payments on account monthly or otherwise as may be provided in the General Conditions attached hereto.

ARTICLE 4

The Contractor shall not without the consent in writing of the Engineer of the Owner, and without restricting in any way the provisions of the General Conditions attached hereto, make any assignment of any part or the whole of any monies due or to become due under the provisions of this Contract.

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ARTICLE 5

All communications in writing between the parties shall be deemed to have been received by the addressee if delivered to the individual or to a member of the firm or to an officer of the Owner for whom they are intended or if sent by post or by telegram addressed as follows:

The Contractor:

The Owner:

City of Peterborough
500 George Street North
Peterborough, Ontario
K9H 3R9

ARTICLE 6

No implied obligation of any kind by or on behalf of the Owner shall arise or be implied from anything contained in the Contract documents, nor from any position or situation of the parties at any time. The express covenants and agreements contained herein made by the Owner shall be the only covenants and agreements upon which any rights against the Owner may be founded.

ARTICLE 7

The Contractor declares that in Tendering for the works and in entering into this Contract he has either investigated for himself the character of the work and all local conditions that might affect his tender or his acceptance of the work, or that not having so investigated, he is willing to assume and does hereby assume all risk of conditions arising or developing in the course of the work which might or could make the work, or any items thereof, more expensive in character, or more onerous to fulfil, than was contemplated or known when the Tender was made or the Contract signed. The Contractor also declares that he did not and does not rely upon information furnished by the Owner or its employees, being aware that any information from such sources was and is approximate and speculative only, and was not in any manner warranted or guaranteed by the Owner.

