

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 07-112

BEING A BY-LAW TO AUTHORIZE THE MAYOR AND CLERK TO SIGN AN AGREEMENT BETWEEN GUILD ELECTRIC LIMITED AND THE CITY OF PETERBOROUGH COMMENCING SEPTEMBER 01, 2007 FOR A TERM OF TWO YEARS WITH THE OPTION FOR THE CITY TO EXTEND THIS CONTRACT FOR AN ADDITIONAL ONE-YEAR PERIOD. (T-29-07)

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

1. That the Mayor and Treasurer be and they are hereby authorized to execute an agreement with Guild Electric Limited, attached hereby as Schedule "A", and to affix the Seal of the Corporation thereto.

By-law read a first, second and third time this 7th day of August, 2007

(Sgd.) D. Paul Ayotte, Mayor

(Sgd.) Nancy Wright-Laking, City Clerk

APPENDIX "A" – SAMPLE AGREEMENT

A G R E E M E N T made this ____ day of _____, 2007.

B E T W E E N:

THE CORPORATION OF THE CITY OF PETERBOROUGH
(the "City")

- And –

INSERT NAME OF SUCCESSFUL PARTY

(the "Contractor")

WHEREAS the City has accepted the tender of the Contractor dated _____2007, to provide routine and emergency maintenance and construction of Traffic Control Signals and Devices in the Request for Tender No. T-29-07, which tender is attached hereto as Schedule "A" (hereinafter referred to as the "Tender");

AND WHEREAS the Contractor agrees to provide the services in accordance with the terms, conditions and representations made by it in the Tender;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. The Contractor shall provide and supply the materials, equipment and services as outlined and specified in the Tender, as submitted to the City.
2. The Contractor shall be responsible for supplying all personnel, labour, equipment and materials for the due execution of the work. The Contractor shall use only approved equipment and materials of the highest quality.
3. The Tender, and all terms and conditions contained therein, constitute part of this agreement. In the event there is any conflict between the terms and conditions of

the Tender and this agreement, such conflict shall be resolved in a manner consistent with the terms and conditions of the Tender.

4. The agreement shall continue in force for the period commencing on September 1, 2007, and expiring on August 31, 2009. The City retains the option to extend the agreement for a one (1) year period commencing on September 1, 2009 to August 31, 2010, inclusive, upon the same terms and conditions contained herein (hereinafter referred to as the "Term").
5. The City shall pay compensation to the Contactor on a unit price basis for the performance of the work directed by the City as specified in the Tender, during the Term specified in paragraph 4 hereof.
6. In order to secure the due performance of the Contractor's obligations hereunder, the Contractor shall deposit with the Director of Utility Services, or designate, concurrent with the execution of this Agreement performance security as follows:
 - a. A performance bond, or some other acceptable form of security, in satisfactory form, acceptable to the City, in the amount of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS; and
 - b. A labour and materials payment bond in the amount of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS.

The performance security shall provide for payment to the City of such sums as may be requested from time to time to the maximum limit of the credit without recourse, and shall remain in full force and effect until the obligations of the Contractor, pursuant to this Agreement, have been completed.

7. This agreement may be terminated by the City, upon thirty (30) days written notice to the Contactor, in accordance with Sections 6.12 and 6.15 of the Tender.

8. The work performed by the Contractor is, in the opinion of the Director of Utility Services, or designate, acting reasonably, being performed in an unsatisfactory manner. The Contractor agrees that the decision of the Director of Utility Services, or designate, shall be final and unequivocal in this regard.
9. In the event that this agreement is terminated pursuant to this agreement, the amount of any loss or damage suffered by the City by reason of the non-completion of the work shall be payable by the Contractor to the City. In such event, the performance bond posted by the Contractor shall be available to the City to cover all costs sustained by the City in calling for new tenders, and the difference in any prices which may be contained in the new agreement during the balance of this agreement.
10. Any notice required to be given by this agreement shall be sufficiently given if delivered in person to the Contractor or sent by prepaid first class mail or facsimile transmission to the Contractor at the address indicated in the Tender. Notice to the City shall be sufficiently given if delivered in person to the City Clerk or sent by prepaid first class mail or facsimile transmission to the City at the address indicated in the Tender.
11. The Contractor shall employ only orderly, competent and skilful workers to do the work herein, and the Contractor's employees shall be bonded at the sole expense of the Contractor, and shall be fully covered in accordance with the **Workplace Safety and Insurance Act**.
12. The Contractor shall be responsible for and shall give adequate attention to the faithful performance of all matters pursuant to this agreement and, in addition to the protection provided, the Contractor shall indemnify and save harmless the City from all suits and actions for damages and costs to which the City might be put by reason

- of injury to or death of persons and damage to property resulting from negligence, carelessness or omissions of the Contractor in the performance of this work.
13. The Contractor shall arrange, pay for and maintain during the Term of this agreement, public liability and property damage insurance in accordance with the Tender which shall protect the City against all claims for all damage or injury, including death, to any person or persons and for damage to any property of the City or any other public and private property resulting from the performance of any work done pursuant to this agreement, and the Contractor shall deposit the original policy or a certified copy thereof for inspection by the proper officials of the City as specified in the Tender.
 14. The Contractor will always indemnify and keep indemnified the City, its agents and employees, against all actions, suits, claims and demands, which may be brought against or made upon the City, its agents and employees against all losses, costs, damages, charges or expenses whatsoever which may be sustained, incurred or paid by the City, its agents or employees by reason of the errors or omissions of the Contractor.
 15. The Contractor hereby grants to the City full power and authority to settle any action, suit, claim and demand on such terms as the City may deem advisable and hereby covenants and agrees with the City to pay the City on demand all moneys paid by the City in pursuance of such settlement, and also such sum as shall represent the reasonable costs of the City or its solicitor in defending or settling any such action, suit, claim or demand, and this agreement shall not be alleged as a defence by the Contractor in any action by any person for actual damage suffered by reason arising from the errors or omissions of the Contractor.

