



THE CORPORATION OF THE CITY OF VAUGHAN

REQUEST FOR QUOTE (RFQ)

COVER PAGE

RFQ / BID NO:	Q19-202
RFQ / BID NAME:	Removal of All Existing Wall Stucco and Supply & Install New Wall Stucco
ISSUE DATE:	July 31, 2019
DEADLINE FOR QUESTIONS:	3:00:00 p.m. EST on August 8, 2019 All questions MUST be submitted through the City's Bidding System using the "Submit a Question" link associated with the RFT prior to the deadline for questions.
CLOSING TIME:	3:00:00 p.m. EST on August 19, 2019
IF A SITE MEETING IS MANDATORY, DETAILS ARE AS FOLLOWS:	Date: August 7, 2019 Time: 10:30 A.M. Location: Chancellor Community Centre 350 Ansley Grove Rd Woodbridge, ON L4L 5C9 Other Details: Meet at front entrance

BIDS WILL ONLY BE SUBMITTED ONLINE USING THE CITY'S ONLINE BIDDING SYSTEM

at <https://vaughan.bidsandtenders.ca>

Bidders who require accommodations due to a disability should contact the PR or call the Procurement Services main line at 905-832-8555.

Late Bids will not be accepted. The lowest or any Bid will not necessarily be awarded a Contract.

v4 April 2019

KEY DETAILS

1. Must bidder be prequalified in order to submit a Bid?

YES / NO

2. Bid Documents:

DOCUMENT NAME OR DESCRIPTION	‘BID DOCUMENT’ for this RFQ?
RFQ Cover Page	YES
RFQ Key Details page	YES
Document 1, Instructions to Bidders	YES
Document 2, City General Provisions	YES
Document 3, City Specifications *	YES
Document 4, City Special / Supplemental Provisions	NO
Document 5, City Standard Agreement for Goods and Services	YES
Document 6, Appendices – Drawings (City or / and Ontario Provincial Standard Drawings (OPSD) *	YES
Document 7, Preview Online Bidding System Schedules	YES
Ontario Provincial Standard Specifications (OPSS) *	NO
City of Vaughan Standard Terms and Conditions of Purchase	YES

*Note: City issued Drawings and Specifications would take precedence in the event of conflict of inconsistency with any OPSS or OPSD.

Key Appendices and other Referenced Documents

Document	How to Obtain
Bidding System Terms of Use	Click here for document
Vendor Guide to Bidding System	Click here for document
City of Vaughan Standard Terms and Conditions of Purchase	Click here for document
Bid Form	Upload from Bidding System
References Form	Upload from Bidding System
List of Subcontractors Form	Upload from Bidding System
City Standard Form of Bid Bond	Upload from Bidding System
City Standard Form of Agreement to Bond	Upload from Bidding System
City Standard Form of Certificate of Insurance	Appendix to RFQ
Form 32 Performance Bond Under Section 85.1 of The Construction Act	Appendix to RFQ or Click here for document
Form 31 Labour & Material Payment Bond Under Section 85.1 of The Construction Act	Appendix to RFQ or Click here for document
City Standard Form of Irrevocable Letter of Credit	Appendix to RFQ
Drawings	Appendix to RFQ
Ontario Provincial Standard Specifications	If noted above as applicable, Bidder responsible to obtain at its own expense
Ontario Provincial Standard Drawings	If noted above as applicable, Bidder responsible to obtain at its own expense

In the event of conflict between the provisions in this RFQ and the provisions in the Bidding System Terms of Use and/or the Vendor Guide to the Bidding System, the terms in the RFQ shall prevail.

3. Will references be required as part of Bid submission?

YES / NO

If yes, submit online.

4. If the City has (at the time this RFQ has been released) appointed a third party Architect or Engineer or Contract Administrator or other third party to assist with this Bid opportunity and/or any resulting Contract, details are as follows:

Company Name: Organica Studio +
Role (A/E/CA/Other): Project Consultant

5. Must Bid submissions include a digital Bid Bond?

YES / NO

If yes, must the City Standard Form of Bid Bond be used? YES / NO

See below for additional requirements.

6. Must Bid submissions include an Agreement to Bond, Undertaking to Bond or Consent of Surety?

YES / NO

If yes, must the City Standard Form be used? YES / NO

See below for additional requirements.

7. Performance Bonds

If the contract price is greater than or equal to \$500,000, a Form 32 Performance Bond is required.

If the contract price is less than \$500,000, must a successful Bidder still provide a Performance Bond if awarded a Contract?

YES / NO

If yes, please use Form 32:

Must the Performance Bond be renewable? YES / NO

All Performance Bonds must be for **25% of the Bid Price**. See 'Instructions to Bidders' for additional details regarding Performance Bonds.

8. Labour and Material Bonds

If the contract price is greater than or equal to \$500,000, a Form 31 Labour and Material Bond is required.

If the contract price is less than \$500,000, must a successful Bidder still provide a Labour and Material Bond if awarded a Contract?

YES / NO

If yes, please use Form 31:

Must the L&M Bond be renewable? YES / NO

The Labour and Material Bonds shall be for **25% of the Bid Price**. See 'Instructions to Bidders' for additional details regarding L&M Bonds.

9. Liquidated Damages Amount (if applicable):

\$ _____ / calendar day

10. Contractor Insurance Requirements if awarded a Contract:

(a) Category or Goods and / or Services being procured:

[insert description]

(b) Required Contractor Insurance Policies and Amounts

As outlined in Document 2, the City of Vaughan General Provisions

As outlined in the City of Vaughan Standard Terms and Conditions of Purchase

(c) Additional Insured (applicable if completed):

In addition to any Additional Insured stated as required, the Contractor shall name the following as Additional Insured on all applicable Insurance Policies required to be maintained by Contractor under the Contract:

11. Annual Holdback Payment

Does the contract provide for a completion schedule that is longer than one year; and if so, will the payment of accrued holdback be on an annual basis?

YES NO

The contract price at the time the contract is entered into will exceed \$10,000,000 or other amount prescribed by the Construction Act?

YES NO

If YES to both questions above in this section, and on the applicable payment date,

1. there are no preserved or perfected liens in respect of the contract, or
2. all liens in respect of the contract have been satisfied, discharged or otherwise provided for under the Construction Act.

does City intend to make payment of the accrued holdback on an annual basis, in relation to the services or materials supplied during the applicable annual period?

YES NO

12. Phased Holdback Payment

Will City be paying accrued holdback on a phased basis?

YES * NO

and if YES, does the Contract identify each phase?

YES * NO

The contract price at the time the contract is entered into will exceed \$10,000,000 or other amount prescribed by the Construction Act?

YES * NO

If YES to all of the above*, and on the applicable payment date,

1. there are no preserved or perfected liens in respect of the contract, or
2. all liens in respect of the contract have been satisfied, discharged or otherwise provided for under the Construction Act.

does City intend to make payment of the accrued holdback on the completion of phases of an improvement, in relation to the services or materials supplied during each phase?

YES NO

*can be 'NO' if Contract provides for payment of accrued holdback on a phased basis but only with respect to specified design phase.

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1. DEFINITIONS

- a. **“Addenda”** means a document made available by the City’s Procurement Department which amends or clarifies a Bid Document
- b. **“Bid”** and **“Bid submission”** means a submission by a Bidder in response to the applicable City issued Request for Quote.
- c. **“Bid Documents”** is defined in section 2 below.
- d. **“Bidder”** means the entity submitting a Bid in response to this RFQ.
- e. **“Bid Price”** means the Total Contract Amount from section 1 ‘Schedule of Prices’ of Bidder’s online Bid.
- f. **“Bidding System”** means the web site/system used by the City to make Bid Documents available and receive Bids (<https://vaughan.bidsandtenders.ca>).
- g. **“City”** and **“Owner”** means The Corporation of the City of Vaughan.
- h. **“Closing Time”** is identified on the Cover Page of this RFQ, and is subject to change by Addenda.
- i. **“Conflict of Interest”** is defined in section 16 below.
- j. **“Contract”** and **“Contract Documents”** are defined in section 2 below.
- k. **“Contract Security”** is defined in the section 37 below entitled “Contract Security”.
- l. **“Contractor”** means the successful Bidder(s) (if any) who has entered into an Agreement with the City to perform the Work.
- m. **“Request for Quote”** or **“RFQ”** means the RFQ named and numbered on the Cover Page and includes all Bid Documents.
- n. **“Responsive Bidder”** means a Bidder that has complied in all material respects with the requirements of this RFQ.
- o. **“Successful Bidder”** and **“successful Bidder”** means a Bidder who the City has sent (or Owner intends to send) a ‘Notification of Award’ pursuant to this RFQ to enter into an Agreement to perform the Work.
- p. **“Work”** means all goods and services to be provided by a Contractor under and pursuant to the Contract.
- q. **“Working Day”** means Monday through Friday inclusive but excluding Saturday and Sunday and any recognized statutory holiday in the City of Vaughan.

2. GOVERNING TERMS AND CONDITIONS

- 2.1 “**Bid Documents**” are listed in the Key Details Document in the RFQ. Interested entities should review the Bid Documents then determine if they want to submit a Bid.
- 2.2 The “**Contract**” is comprised of the Agreement and all Contract Documents.
 - i. “**Agreement**” means the “Corporation of the City of Vaughan Standard Agreement for Goods and Services” included as a Bid Document.
 - ii. All Bid Documents form part of the Contract, and are referred to as / become “**Contract Documents**” once the Agreement is fully executed.
- 2.3 Implied terms are disclaimed from this RFQ.
- 2.4 The provisions in each Document are in addition to and supplement the provisions in the other Documents.
- 2.5 The headings within the RFQ and any Contract Document are for convenience and reference only and shall not affect or be used to interpret the provisions therein.

3. E-SUBMISSIONS

- 3.1 The City will ONLY accept Bids uploaded electronically to the City’s Bidding System. Bidders who require accommodations due to a disability should contact the Procurement Services main line at 905-832-8555. If you have problems uploading your Bid, please contact the City’s Procurement Services Department.
- 3.2 The City’s Bidding System Terms of Use Agreement forms part of this RFQ.
- 3.3 Bids submitted and/or received by any other method shall be rejected, unless the City has instructed otherwise by published Addendum or a special exception has been granted by the City’s Director of Procurement Services.
- 3.4 A Bid will only be considered to have been submitted once it has been received by the City in its Bidding System. The time the Bid is received shall be determined by the City’s Bidding System web clock.
- 3.5 The Bidding System will send a confirmation email to the Bidder advising that its Bid was submitted successfully. If you do not receive a confirmation email, contact the City’s Procurement Services Dept.
- 3.6 Bidders should not consider their Bid to have been submitted until they have received the confirmation e-mail (oral confirmation will not suffice).
- 3.7 Bidders are cautioned that the time the Bid is received is based on when the Bid is RECEIVED by the Bidding System, not when a Bid is sent for transmission by a Bidder and not when Bidder system indicates Bidder uploaded/sent/transmitted the Bid, as Bid transmission can be delayed in an “Internet Traffic Jam” due to file transfer size, transmission speed, etc. Accordingly, the City recommends that Bidders allow sufficient time to upload their Bid and attachment(s) (if applicable) and to resolve any issues that may arise.

- 3.8 Bids must be received by the Bidding System before the stipulated closing time. Late Bids will not be accepted by the Bidding System.
- 3.9 To ensure receipt of the latest information (and updates via email) regarding this procurement opportunity, or if a Bidder has obtained the RFQ from a third party, the onus is on the Bidder to create a Bidding System Vendor account and register as a 'Plan Taker' for this RFQ at the at <https://vaughan.bidsandtenders.ca>.
- 3.10 All Bids are subject to the terms and conditions of this RFQ and by submitting a Bid, Bidders agree to the terms and conditions herein.
- 3.11 Company Contacts - Regarding having multiple company contacts on the online Vendor account:
- i. Do not invite any additional contacts that you do not want to have access to view, edit, submit and/or withdraw or who may be in direct competition for example (a company may have two divisions that could compete for the same Bid opportunity).
 - ii. It is recommended that when creating or updating a Bidding System Vendor account to add additional company contacts to create their own login to the Bidding System. This will permit your invited contacts that have created their own login to manage (register, submit, edit and withdraw) Bids which your company is a Registered Plan Taker for.
 - iii. Vendor contacts may: act on vendor's behalf, receive Addendum notifications from the Bidding System, submit Bids electronically through the Bidding System, withdraw and/or edit and/or acknowledge Addendum/Addenda, on behalf of vendor.
 - iv. If you are an invited company contact it is required that you create your login from the link contained in the email invitation. Do NOT create a separate vendor account.

3.12 Uploading Documents into the Bidding System

To upload a document:

- i. Click on the "Browse" button to locate the file/folder on your computer or network
- ii. Click on the "Upload" button.

After the file/folder has been successfully uploaded, a link to the document will appear on the screen, along with the date and time that it was uploaded.

If you need to remove an uploaded document, click on the "Remove" button next to the document name.

Documents being uploaded should:

1. be in Adobe pdf format; and
2. NOT have a security password.

It is the Bidder's sole responsibility to ensure that their uploaded document(s):

1. are not defective, corrupted or blank; and
2. can be opened and viewed by the City.

The City may reject or disqualify any Bid that contains documents that cannot be opened and verified by the City.

Bidders may only upload one (1) file/folder for each required document.

The maximum single file/folder upload size is 500 MB.

To reduce the size of a single file/folder, or to combine multiple files into a single folder for upload, Bidders should compress (zip) their file(s)/folder(s) as described below.

3.13 Compressing Zip Folders / Files

To compress (zip) a single file or folder:

- i. Locate the file/folder that you wish to compress (zip)
 - o then right-click on the file/folder
 - o select "Send to"
 - o then click on "Compressed (zipped) folder"
- ii. new compressed (zipped) folder will be created in the same location as the original file.
- iii. To rename the compressed (zipped) folder, right-click on it, click on "Rename" and enter the new name.
- iv. To compress (zip) multiple files into a single folder:
 1. Locate and select the files/folders that you wish to combine
 2. With all of the files selected, right-click, select "Send to", then click on "Compressed (zipped) folder".
- v. A new compressed (zipped) folder will be created in the same location as the original files.
- vi. To rename the compressed (zipped) folder, right-click on it, click on "Rename" and enter the new name.
- vii. If you are uploading a compressed (zipped) folder containing more than one (1) document, please ensure that each document is named appropriately.

4. SUBMITTING A QUESTION

- 4.1 Bidders may submit questions through the City's Bidding System using the "Submit a Question" link associated with the RFQ prior to the deadline for questions.
- 4.2 The City shall not be responsible for responding to questions that are posed by any other method.

5. BLACKOUT PERIOD

Between the date this RFQ is posted and the date it is cancelled or an Agreement has been fully executed (whichever is earlier), Bidders shall not discuss this RFQ with any City employee or Councillor or Evaluation Committee member (if applicable) except as permitted or contemplated by this RFQ.

6. ADDENDA

- 6.1 The City may issue Addenda from time-to-time during this procurement process, amending or clarifying any Bid Document.
- 6.2 All Addenda will be posted on the Bidding System. Addenda form part of the RFQ.
- 6.3 Bid Documents may only be changed by Addenda posted online on the Bidding System. It is the Bidder's sole responsibility to check the Bidding System for Addendum(s) prior to submitting their Bid.
- 6.4 No oral interpretation or clarification provided to a Bidder will be effective to modify any provisions of the Bid Documents.
- 6.5 Any additional information and/or changes to the Bid Documents will be issued in the form an Addendum.
- 6.6 The City will notify Bidders of the issuance of Addenda via e-mail; however, it is the Bidder's responsibility to ensure that it has downloaded all Addenda prior to submitting its Bid. Bidders should check the Bidding System prior to submitting their Bid and up until the Bid closing time and date in the event additional Addendums are issued.
- 6.7 The City will not be liable for any misdirected notices of Addenda resulting from a Bidders failure to update its contact information in the Bidding System and/or Bidders failing to check for Addenda prior to submitting their Bid.
- 6.8 Bidders shall check a box for each Addendum/Addenda and any applicable attachments that have been issued, before a Bidder can successfully submit their Bid.
- 6.9 Bids that do not contain evidence of receipt of all Addenda will be deemed to be "incomplete" and will not be accepted in the Bidding System.
- 6.10 In the event that an Addendum is issued after a Bidder has submitted its Bid, the Bidding System will change the status of the Bid to "incomplete" and the Bidder will be required to acknowledge the Addendum and resubmit its Bid prior to the bid closing date and time.
- 6.11 For greater certainty, if a Bidder submits its Bid prior to the bid closing time and an Addendum/Addenda is later issued by the Owner, the Bidding System shall WITHDRAW the Bid submission and change the Bid submission to an INCOMPLETE STATUS (NOT accepted by the Owner) and the Withdrawn Bid can be viewed by the Bidder in their "MY BIDS" section of the Bidding System. The Bidder is solely responsible to:
 - i. make any required adjustments to their Bid; and
 - ii. acknowledge the Addendum/Addenda; and
 - iii. ensure the re-submitted bid is RECEIVED by the Bidding System no later than 3:00:00 p.m. EST (15:00:00 hours) local time, on the Bid closing date.

7. ERRORS AND OMISSIONS

- 7.1 The City shall not be held liable for any errors or omissions in any part of this RFQ.
- 7.2 While the City has used considerable effort to ensure an accurate representation of information in this RFQ, the information contained in the RFQ is supplied solely as a guideline for Bidders. The information is not guaranteed or warranted to be accurate by the City, nor is it necessarily comprehensive or exhaustive.
- 7.3 Nothing in the RFQ is intended to relieve the Bidders from forming their own opinions and conclusions with respect to the matters addressed in the RFQ.

8. CONFIDENTIALITY

- 8.1 Bidders shall not disclose any Bid Document to any third party without the prior express written consent of the City or as permitted in subsection (8.2) directly below.
- 8.2 Bidders may only disclose the Bid Documents to its employees and consultants and potential subcontractors on a need-to-know basis who have agreed in writing to maintain such in confidence and only use for the limited purposes of helping Bidder consider or prepare a Bid.
- 8.3 Bidders shall not communicate any matters concerning the contents of this RFQ to any member of the public or any news medium, whether the press or radio or television, without the prior consent of the PR.

9. NON-COLLUSION

- 9.1 A Bidder shall not discuss or communicate about the preparation of their Bid with the contractors currently performing the Work or with any other Bidder without the prior consent of the City.
- 9.2 Each Bidder shall ensure that its participation in this RFQ process is conducted without collusion or fraud.

10. ANTI-LOBBYING

Any attempt on the Bidder's part to improperly influence the evaluation and selection process may result in disqualification of the Bidder.

11. EXAMINATION OF SITE

- 11.1 Bidders are required to satisfy themselves by personal visitation and examination of each site for the Work and of the existing conditions which may be encountered on or adjacent to the site, including without limitation, all underground/overhead utilities locations, surface and sub-surface conditions, existing structures on or adjacent to the sites, access routes and other conditions which may affect performance of the Work.
- 11.2 The submission of a Bid shall be deemed proof that the Bidder has satisfied itself as to all the provisions of the Bid Documents and of all the conditions which may be encountered at each Work site, except any condition that may not be reasonably inferred from any geotechnical evidence provided to the Bidders or observable on a proper visual inspection or any other matter which may affect performance of the Work.

12. MANDATORY SITE VISITS (IF APPLICABLE)

Failure to attend a mandatory site meeting shall result in Bid disqualification and/or rejection.

13. BIDDERS COST

13.1 In no event shall City have any liability for costs incurred by Bidder to prepare its Bid.

13.2 For certainty, the City is not liable to pay such costs and expenses or to reimburse or compensate Bidders, or persons connected with the Bidder, under any circumstances, including the rejection of any or all Bids, the cancellation of the RFQ, changes to the RFQ schedule, issuance of Addenda, or the failure to enter into an Agreement with any Bidder.

14. REFERENCES

References (if noted above as required) shall be submitted as part of your Bid using the Bidding System.

15. SUBCONTRACTORS

15.1 Bidders shall ensure that all Subcontractors selected and proposed have experience in the Subcontract Work described and that they shall execute their Work with competence and within the required time frame.

15.2 Bidders shall ensure that all Subcontractors included in a Bid shall be actively engaged in Work of the type described and shall be able to show proof upon request by the Owner of previous Work of similar nature performed by them.

15.3 Bidders shall not show "Own Forces" in their list of Subcontractors, except where the Bidder's intent is to employ the Bidder's own qualified on-staff personnel to perform such work.

15.4 Bidders shall not indicate "TBD" (To Be Determined) or "TBA" (To Be Announced) or similar wording and shall not indicate multiple choices of Subcontractor names for any Subcontractor category in their list of Subcontractors. One Subcontractor name shall be indicated for each Subcontractor category.

15.5 Bidders shall list in their list of Subcontractors, all of the Subcontractors who shall perform work under the Contract.

15.6 No names, either of Subcontractors or "Own Forces" may be changed after submission of the list of the Subcontractors unless prior written approval is received from the Owner. Such approval shall only be considered after receipt by the Owner of a written request for the change by the Bidder or Contractor with a full explanation of the reasons for the requested change with no consequences to Owner.

15.7 The Owner reserves the right to reject a proposed Subcontractor for reasonable cause. Upon such rejection, the Bidder shall be required to propose an alternate Subcontractor without resulting change to the Bid.

16. CONFLICT OF INTEREST

16.1 As used in any Bid Document, "**Conflict of Interest**" includes, but is not limited to, any situation or circumstance where: in relation to the procurement process, the Bidder has

an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to (a) having or having access to information in the preparation of its Bid that is confidential to the City and not available to other Bidders; (b) communicating with any person with a view to influencing preferred treatment in the procurement process; or (c) engaging in conduct that compromises or could be seen to compromise the integrity of the open and competitive Bid process and render that process non-competitive and unfair.

16.2 Further, "Conflict of Interest" also includes any situation or circumstance where, in relation to the this RFQ or related Contract, the Bidder's or Bidder's agents or subcontractors 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 independent judgment by any personnel of the City; or
- ii. could or could be seen to compromise, impair or be incompatible with the effective performance of a Bidder's obligations under the Contract if that Bidder was determined to be a successful Bidder under this RFQ process.

17. BID FORM AND PRICING

17.1 The Bid Form available on the Bidding System is to be properly completed and submitted, including the fields available to input unit prices, Bid price, provisional item pricing etc.

17.2 All Bid prices submitted shall be in Canadian dollars (CAD) excluding H.S.T.

18. UNBALANCED BIDS

18.1 In the event that the City, in its sole discretion, deems a Bid or any component of it (i.e. the Bid Price or the price(s) for any item(s), part(s), section(s) or division(s)) to be unbalanced, the Bid may be deemed to be non-compliant and rejected.

18.2 For the purpose of this provision, "unbalanced" means the price submitted, whether it be the Bid Price or a price for an item, part, section or division, does not reflect reasonable, anticipated costs for the required labour, equipment and materials, plus a reasonable proportionate share of the Bidder's anticipated overhead and profit, or the Bid creates a reasonable doubt that its acceptance will result in the lowest actual cost to the City.

19. PRICE COMPONENTS

19.1 Taxes

- i. The Owner is subject to the payment of Provincial sales taxes and Federal taxes (including G.S.T. / H.S.T. excise and customs duties) imposed by the Provincial and Federal Governments.
- ii. Should there be any approved variation in any tax or duty imposed by the Province of Ontario or the Government of Canada which becomes directly applicable to the goods/services to be purchased or provided during the term of the Contract, the Bidder and the Owner mutually agree that the Bid Price will be adjusted proportionately to reflect any such variation.

- iii. The onus is on the Bidder to bring to the Owner's attention any such variations and positions published by the Canada Revenue Agency which are relevant to any variances.
- iv. The Bidder shall include in its Bid Price and other prices submitted (e.g. unit costs) any customs, duties and excise taxes. Applicable taxes are extra.

19.2 Transportation and Delivery Charges

- i. Prices submitted by Bidder within the Bid Documents shall be net prices including transportation and delivery charges fully prepaid by the Bidder.
- ii. For certainty, in furtherance of the provisions in (19.1) directly above, G.S.T / H.S.T. or other taxes or duties which would be payable by Bidder on transportation costs shall not be included in the Bid Price or unit costs where the Bidder can receive input tax credits or refunds.

20. SCHEDULE OF ITEMS AND UNIT PRICES

Bidders also understand and accept that any quantities shown provided by Owner within the Bid Documents are approximate estimates only and are subject to increase, decrease or deletion entirely if found not to be required.

21. PROVISIONAL ITEMS AND QUANTITIES

- 21.1 Items listed in the RFQ as "*Provisional Items*" may or may not be required for completion of the Work.
- 21.2 If a Contract were awarded, the necessity for and/or actual quantities of these items will be determined by the Owner as the Work progresses.
- 21.3 Should any of these items be required, the Contractor will be compensated on the basis of the unit prices(s) quoted.
- 21.4 In the event that any or all of these items are found not to be required, the Contractor may not claim extra payment for loss of anticipated profits or impact costs in relation thereto.

22. DIGITAL BID BOND (REQUIRED AT TIME OF BID SUBMISSION):

- 22.1 Bid submissions must include a digital Bid Bond in the amount of **10 %** of the Bid Price (excluding taxes) as security for the execution and delivery of the Contract and the provision of the required bonds, insurance and other documents required to be provided by a successful Bidder.
- 22.2 The digital Bid Bond shall:
 - i. Be made payable to 'The Corporation of the City of Vaughan'.
 - ii. Be in an acceptable, digital format.
 - iii. Be from a recognized guarantee or surety company acceptable to the City and authorized by law to do business in the Province of Ontario.

- iv. Include a method of authentication that confirms 'Integrity of Content' – The bond shall include assurances that the document received is the true document executed and the content has not been changed or altered. All instructions for accessing authentication shall be included with the uploaded bonds.
- v. Be Verifiable/Enforceable – The bond shall include assurances that the document was duly executed by the parties identified and that it is enforceable in law. This requires the use of a third party digital service provider.
- vi. Be Digitally Executed - The bond must contain digital signatures and digital seals. A scanned copy of a paper bond is not an acceptable digital bond.
- vii. Be on the City Standard Form (if stated as required) – if not a requirement, in a form and content otherwise acceptable to the City, acting reasonably.

22.3 Failure to provide a compliant Bid Bond shall result in Bid rejection and/or disqualification.

22.4 If you receive your digital 'Bid Bond' and 'Undertaking to Bond' (or equivalent documents) in one .pdf document you should upload the complete document in both the Bid Bond field and the Undertaking to Bond field on the Bonding tab. DO NOT split the document into two separate documents.

22.5 The Bidder and its Surety Company should refer to the e-bonding information on the Surety Association of Canada's website which includes:

- i. A Checklist of Industry Requirements for e-Bonding Solutions which sets out the requirements for digital bonds.
- ii. A list of third parties that provide on-line surety digital bond services such as Mobile Bonds or Xenex Enterprises. The City does not endorse or promote any third party digital service provider.

23. AGREEMENT TO BOND (REQUIRED AT TIME OF BID SUBMISSION):

23.1 Bid submissions must also include an Agreement to Bond or Undertaking to Bond or Consent of Surety ("**Agreement to Bond**") issued by a surety licensed in the Province of Ontario which states the Bidder has:

- i. the bonding capacity for a Performance Bond in the required amount; and
- ii. the bonding capacity for a Labour and Material Payment Bond in the required amount.

23.2 The Agreement to Bond must:

- i. Be for the benefit of the City.
- ii. Be in an acceptable, digital format.
- iii. Be from a recognized guarantee or surety company acceptable to the City and authorized by law to do business in the Province of Ontario.

- iv. Include a method of authentication that confirms 'Integrity of Content' – The bond shall include assurances that the document received is the true document executed and the content has not been changed or altered. All instructions for accessing authentication shall be included with the uploaded bonds.
- v. Be Verifiable/Enforceable – The bond shall include assurances that the document was duly executed by the parties identified and that it is enforceable in law. This requires the use of a third party digital service provider.
- vi. Be Digitally Executed - The bond must contain digital signatures and digital seals. A scanned copy of a paper bond is not an acceptable digital bond.
- vii. Be on the City Standard Form (if stated as required); if not a requirement, in a form and content otherwise acceptable to the City, acting reasonably.

23.3 A Bid submission that is not accompanied by a valid Agreement to Bond shall be disqualified and/or rejected.

23.4 If you receive your digital 'Bid Bond' and 'Agreement to Bond' in one .pdf document you should upload the complete document in both the Bid Bond field and the Undertaking to Bond field on the Bonding tab. DO NOT split the document into two separate documents.

23.5 The Bidder and its Surety Company should refer to the e-bonding information on the Surety Association of Canada's website which includes:

- i. A Checklist of Industry Requirements for e-Bonding Solutions which sets out the requirements for digital bonds.
- ii. A list of third parties that provide on-line surety digital bond services such as Mobile Bonds or Xenex Enterprises. The City does not endorse or promote any third party digital service provider.

24. OWNERSHIP OF AND USE OF BID ONCE SUBMITTED

24.1 Bids become City property once received.

24.2 City may disclose any Bid and other information provided by a Bidder under this RFQ process to the Evaluation Committee, City Council and otherwise in any of the following circumstances:

- i. as reasonably required to facilitate this RFQ process;
- ii. in accordance with its ordinary business practices; and/or
- iii. as may be required in relation to access to information requests under applicable privacy legislation.

25. AMENDING A BID

25.1 In the event that a Bidder wishes to revise its Bid after it has been submitted, the Bidder must withdraw its Bid, make the necessary changes, and resubmit its Bid, prior to the closing time.

25.2 To withdraw then amend a Bid which has already been submitted:

1. Go to the 'My Bids' page on the Bidding System

2. Click on ‘Manage My Submissions’ beside the applicable bid opportunity
3. Click on “Edit or Withdraw my Submission”
4. Click on “Edit Submission” (**by clicking the ‘Edit Submission’ tab you are withdrawing your submission and will not have a registered submission with the City**)

25.3 The Bidder is solely responsible to ensure the re-submitted bid is RECEIVED by the Bidding System no later than 3:00:00 p.m. EST (15:00:00 hours) local time, on the bid closing date.

26. WITHDRAWING A BID

To withdraw a Bid which has been submitted:

1. Go to the ‘My Bids’ page on the Bidding System
2. Click on ‘Manage My Submissions’ beside the applicable bid opportunity
3. Click on “Edit or Withdraw my Submission”
4. Click on “Withdraw Submission” (**by clicking the ‘Withdraw Submission’ tab you are withdrawing your submission and will not have a registered submission with the City**)

27. IRREVOCABILITY

27.1 Unless properly withdrawn, Bids are irrevocable for a sixty (60) Working Day period, starting on the RFQ closing date.

27.2 If for any reason a Contract with a successful Bidder is not executed within sixty (60) Working Days from the Bid closing time, City may (without notice or liability) award that Contract to another Bidder.

28. LATE BIDS

Late Bids will not be accepted.

29. BID CHECKING

29.1 City reserves the right to reject or disqualify a Bid at any time if it notices a non-compliance not detected by the Bidding System.

29.2 Where there is an obvious error in the extended price the unit price stipulated shall govern and shall be calculated accordingly with the estimate quantity.

29.3 Where there is an obvious calculation error in the addition of individual lump sum prices into a subtotal price, the Owner may make the appropriate mathematical correction to the subtotal price and/or subtotal contract price, as the case may be, so that the calculation is correct.

30. CLARIFICATIONS/CORRECTIONS/INTERVIEWS

City reserves the right to:

- i. seek clarification from Bidders about any aspect of their Bid,

- ii. provide Bidders with an opportunity to correct any deficiencies within a Bid which City considers minor or administrative where the City considers that doing so would be in the best interests of the City,
- iii. meet/interview/attend presentations from a Bidder and consider such when evaluating a Bid and making determinations regarding Contract award.

31. VERIFICATION

The City may, if deemed necessary, verify any information provided in any Bid.

32. ACCURACY

It is clearly understood that if there is any evidence of misleading or false information having been given, the City may, in its sole discretion, disqualify the Bid or terminate any resulting Contract.

33. LITIGATION

33.1 If a Bidder (or its principles, officers or directors) are directly or indirectly involved in a legal dispute with the City:

- i. City may reject the Bidder’s Bid;
- ii. City may disqualify Bidder from this procurement process at any time; and
- iii. City further reserves the right to not award a Contract to such a Bidder.

33.2 As used above, “legal dispute” includes any unresolved dispute between the City and any other party (or related party) adverse in interest (including third party and cross- claims) where: (1) a legal proceeding has been commenced for an injunction, a mandatory order, a declaration, the recovery of money, or payment of damages or other amounts; or, (2) a threat of legal action has been made in writing.

34. APPROVALS

34.1 Bidders acknowledge that Contract award may be subject to the City securing budget approval, certain permits, authorizations, licenses, easements, land lease agreements, cost sharing agreements and/or other third party or City Council approvals and arrangements (“**Approval(s)**”).

34.2 In the event, and to the extent, any such Approval(s) is/are not obtained in order to permit Contract award or commencement/continuation of the Work, the Owner reserves the right to:

- i. not award a Contract and cancel this RFQ;
- ii. award a Contract in whole or in part, subject the right of the Owner to cancel all or part of the Contract at any time after award in the event any required Approval(s) cannot be obtained or maintained; and/or
- iii. delay the consideration of the award of the Contract until such time as the required Approvals have been obtained.

35. FREEDOM OF INFORMATION

- 35.1 In accordance with the *Municipal Freedom of Information and Protection of Privacy Act* (“**MFIPPA**”), any personal information Bidders provide in submitting a Bid is collected under the authority of the Municipal Act (Ontario) and will be used exclusively in the Bid review process.
- 35.2 All Bids and associated documentation submitted become the property of the Owner upon receipt.
- 35.3 Pursuant to MFIPPA, the Owner may be required to disclose any such information in response to an access request.
- 35.4 To assist Owner in responding to an access request, Bidders are advised to identify in their Bids any specific scientific, technical, commercial, proprietary, or similar confidential information, and explain why the disclosure of such information would cause them harm.
- 35.5 Complete Bids are not to be identified as confidential.

36. UNOFFICIAL QUOTE RESULTS

- 36.1 Unofficial Quote results may be available after 3:30:00 p.m. EST on the bid closing date on the Bidding System website.
- 36.2 All Bids received are unofficial until they have been reviewed by the City for compliance; therefore, the lowest Bid listed on the Bidding System website may not be the lowest Responsive Bid for the purpose of awarding a Contract.

37. CONTRACT SECURITY (BONDS OR ILOC REQUIRED AT TIME OF AGREEMENT SIGNING)

- 37.1 Between Notification of Award and Agreement signing, a successful Bidder must provide City with the following forms of ‘Contract Security’:
- i. A Performance Bond AND a Labour and Materials Bond in the required Form and amounts; or (if both types of Bonds are not stated as being required)
 - ii. An Irrevocable Letter Of Credit equalling the aggregate dollar value of both Bonds.
- 37.2 Contract Security shall be kept in force throughout the duration of the Contract including any guarantee, warranty or maintenance period of the Contract and/or until the Contract is deemed complete by the Owner in a satisfactory manner, as determined by the Owner.
- 37.3 Bonds must be:
- i. Issued by an insurer licensed under the Insurance Act to write surety and fidelity insurance.
 - ii. Verifiable/Enforceable – The bond shall be fully, properly and duly executed by the parties identified and otherwise be enforceable at law.
 - iii. for the required amounts i.e. proper % of Bid Price.
 - iv. for the benefit of the City.

- v. renewable (as/if required).
- vi. be in good standing and in full force and effect until the fulfilment of the Contract including the entire term of the Contract including renewals and extensions and the warranty period.
- vii. on the required/allowable Form.
- viii. and (with respect to L&M Bonds) extend protection to subcontractors and persons supplying labour or materials to the improvement.

37.4 Irrevocable Letters of Credit must:

- i. be printed on letterhead from the issuing financial institution;
- ii. be denominated in Canadian dollars in the required amount;
- iii. include an automatic renewal provision where the Agreement is to be in place for more than one year;
- iv. indicate that the Owner will be given 30 days notice by registered mail if the counterparty does not intend to renew;
- v. conform to the intent of the City Standard Form of Irrevocable Letter of Credit. Any deviation from the standard format will be subject to review by the City and may be refused for non-compliance;
- vi. be fully, properly and duly executed by the parties identified and otherwise be enforceable at law;
- vii. be for the benefit of the City; and
- viii. unless otherwise directed by Council, letters of credit conforming to the intent of the standard format requirements outlined in the City Standard Form of Irrevocable Letter of Credit will only be accepted by the City from Schedule I and II banks.
 - Schedule I Banks: domestic banks authorized under Schedule I of the Bank Act to accept deposits.
 - Schedule II Banks: foreign bank subsidiaries authorized under Schedule II of the Bank Act to accept deposits. Foreign bank subsidiaries are controlled by eligible foreign institutions.

37.5 *Additional Note Regarding Letters of Credit* - A letter of guarantee or confirmation may be requested from time to time as evidence of capacity to secure a letter of credit. However, at no time shall a letter of guarantee or confirmation serve as an acceptable alternative to a letter of credit. Letters of guarantee or confirmation must indicate that the financial institution is willing to provide a letter of credit in a format and within a time period deemed acceptable to the City.

38. NOTIFICATION OF AWARD, EXECUTION OF AGREEMENT AND PROVISION OF REQUIRED DOCUMENTATION

The award of the Contract is subject to the receipt of sufficient funding and appropriate staff and Council approvals.

- 38.1 An offer to enter into a Contract will be made in writing and only in writing - successful Bidder(s), if any, will be notified by Owner in writing via a "Notification of Award".
- 38.2 The successful Bidder(s), if any, in the presence of the Director of Procurement Services or designate, must sign in triplicate (3), the Agreement, within Seven (7) Working Days of the date on the Notification of Award, or longer period allowed by the Director.
- 38.3 There shall not be a binding Contract for the Work unless and until the City and the successful Bidder have executed the Agreement.
- 38.4 Further, the following documents shall be submitted by a successful Bidder prior to or at the time of signing the Agreement:
- i. a completed and signed and otherwise valid City Standard Certificate of Insurance;
 - ii. the Contract Security (and the name and contract information of the responsible representative at the Surety for purposes of communication); and
 - iii. a current copy of its Workplace Safety and Insurance Certificate of Clearance.
- 38.5 Further, Contractors who have independent Operator Status under the Worker's Safety Insurance Board Act shall submit a complete Independent Operator Status Questionnaire upon being awarded the Contract.
- 38.6 Should a successful Bidder either: attempt to withdraw their Bid, or fail to or refuse to execute the Agreement and/or provide required documentation within the stated deadlines:
- i. the successful Bidders' Bid Bond may (at Owner's discretion) be forfeited and applied for use by the Owner;
 - ii. Owner may award the Contract to the next lowest Responsive Bidder;
 - iii. the defaulting successful Bidder shall be liable for the difference between its Bid Price and the Bid Price of the next Responsive Bidder, and any other damages and expenses and losses Owner may incur as a result of such breach by successful Bidder; and
 - iv. the defaulting successful Bidder may (at Owner's discretion) be barred from bidding on future Requests for Quotes.
- 38.7 The Owner may grant additional time to fulfill the necessary requirements, if in the opinion of the Owner, the extension does not compromise the interests of the Owner.

39. COMMENCEMENT OF WORK

Work shall only commence once contractual arrangements are secured and signed between Owner and successful Bidder and shall proceed in accordance with contractual project/Work schedules.

40. DISQUALIFYING EVENTS

40.1 City shall:

- i. disqualify, or not award an Agreement, to any Bidder who has a Conflict of Interest (as determined by the City in its sole discretion);
- ii. disqualify a Bid which does not include a valid digital Bid Bond and/or Agreement to Bond, a scanned copy of a paper bond is not an acceptable digital bond;
- iii. disqualify a Bidder who submits a Bid containing material misrepresentations or any other materially inaccurate or misleading information or who has engaged in illegal bid rigging or other prohibited conduct (all as determined by the City in its sole discretion);
- iv. disqualify a Bidder who failed to attend a mandatory site meeting; and
- v. disqualify a Bidder who submits conditions, options, variations or contingent statements to the terms set out in the RFQ including the Bid Form and City Standard Agreement (where applicable), either as part of its Bid or after receiving notice of award, will be disqualified.

40.2 City may:

- i. in its sole discretion, reject or disqualify any Bid pursuant to the 'Litigation' clause above;
- ii. request that a Bidder submit a recent copy of its NEER or CAD-7 Statement regarding Safety Performance and disqualify the Bidder if it fails to provide before the deadline stated in the request;
- iii. disqualify a Bid if the Bidder does not (at time of Bid submission) have appropriate licenses, consents or approvals to perform the Work and is not likely to obtain such in a timely manner (as determined by the City in its sole discretion);
- iv. disqualify a Bidder who is the subject of legal proceedings by the City in respect of the City's Property Standards or Zoning By-laws; ~~and~~
- v. disqualify a Bidder from progressing through the procurement process where past or present conduct of the Bidder or of any partner (in the case of a partnership) or of any director, shareholder or officer of the Bidder affords City reasonable grounds to believe that such Bidder will not carry on or has not carried on his or her business or other activity with integrity or honesty or in a manner that may otherwise be adverse to the public interest (as determined by the City in its sole discretion), and
- vi. disqualify or not award a contract to a Bidder of who has contravened the provisions in the section above entitled "Blackout Period".

41. ADDITIONAL RESERVATION OF RIGHTS

41.1 To the extent permitted by law, and without limiting and notwithstanding any other provisions above, City reserves the right at any time in its sole discretion to:

- i. cancel this RFQ at any time;
- ii. invalidate this RFQ and issue a replacement RFQ for the same or similar Work or portion thereof;
- iii. cancel this RFQ if any required approvals (e.g. from Council or regulatory authorities or government bodies) are not obtained or maintained;
- iv. cancel this RFQ if all Bid Prices exceed the City's allocated or estimated budget for the Work;
- v. alter the RFQ schedule, bid call process or procedures or objectives, or any other aspect of this RFQ;
- vi. amend this RFQ by posting Addendums at any time;
- vii. accept or reject all or part of any Bid;
- viii. seek clarification from a Bidder on any portion of the subject Bid;
- ix. accept or not award a Contract to a Bidder who has submitted an unbalanced bid or whose bid contains price irregularities;
- x. waive any compliance irregularities or informalities, requirements, discrepancies, errors, omissions, or any other defects or deficiencies or any other forms of non-compliance with the Bid Documents in relation to any Bid if doing so would be in the best interest of the City as determined by the City's Director of Procurement Services in consultation with Legal Counsel and relevant staff;
- xi. contact and consider references as a part of the evaluation process;
- xii. not award the Contract to any Bidder who does not (if requested by City) furnish evidence, satisfactory to the City, that it has experience in performing the type of Work proposed and that it has sufficient capital and equipment to enable it to successfully complete the Work in a timely manner;
- xiii. award a Contract to any Responsive Bidder;
- xiv. not award any Contract to any Responsive Bidder, even if only one Responsive Bid was received;
- xv. not select the lowest Bidder for Contract award (1) even if it is the only Bid received or (2) if selecting another Bid would be in the best interests of the City, as determined by the City in its sole discretion;
- xvi. award a Contract in its entirety or in part, to one or more Bidders;

- xvii. in the event that the Bid price submitted by lowest Responsive Bidder exceeds the Owner's budget for all of the Work, the Owner reserves the right to (where in the opinion of the Owner it is possible to do so) award part of the Work to that Bidder; and
- xviii. not award a Contract to a Bidder which Owner, acting reasonably, feels will not be able to meet Work specifications and performance standards and/or would be unduly hard to manage from a contract management/administration perspective.

all notwithstanding any custom of the trade to the contrary or anything contained in the Bid Documents

Further, Owner reserves the right to consider the following during the evaluation of Bids and when making determinations regarding Contract award:

- Bid Price;
- information provided in/with the Bid itself;
- feedback from Bidder's references;
- information received in response to enquiries made by the Owner of third parties in relation to the reputation, reliability, experience, financial stability, credit / credit rating, technical proficiency and capabilities of the Bidder;
- the manner in which the Bidder and its key personnel provide(d) services to the City and others;
- the experience and qualification of the Bidder's senior management, project management and/or other employees who would be engaged to perform the Work;
- innovative approaches proposed by the Bidder in the Bid where requested in the Quote;
- Bidder's safety records;
- qualifications and experience and service record of any subcontractors proposed to be engaged by Bidder;
- equipment proposed by Bidder to perform the Work;
- advice and opinion of Owner's consultant's and/or agents;
- Bidder past and current performance working with Owner's consultants and/or agents;
- Bidder's (and/or its employees who would be involved in performing the Work) prior and current experience performing services for City;
- lead times; and
- completion history (including extended completion dates);

all notwithstanding any custom of the trade to the contrary or anything contained in the Bid Documents.

42. APPLICABLE LAWS, ATTORNMENT

42.1 This RFQ shall be governed and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and applicable City By-Laws and Policies.

42.2 The Bidder agrees that,

- i. any action or proceeding relating to this RFQ process shall be brought in any court of competent jurisdiction in the Province of Ontario and for that purpose the Bidder irrevocably and unconditionally attorns and submits to the jurisdiction of that Ontario court;
- ii. it irrevocably waives any right to and shall not oppose any Ontario action or proceeding relating to this RFQ Process on any jurisdictional basis, including forum non conveniens; and
- iii. it shall not oppose the enforcement against it, in any other jurisdiction, of any judgement or order duly obtained from an Ontario court as contemplated by this section.

43. LIMITATION OF LIABILITY

WITH RESPECT TO:

- OWNER EXERCISING ITS RIGHTS AND PRIVILEGES AS OUTLINED IN THIS RFQ;
- OWNER'S FAILURE TO ACCEPT OR REJECT THE BID SUBMITTED BY THE BIDDER;
- THE ACCEPTANCE OR REJECTION OF ANY BID;
- THE MANNER IN WHICH THIS RFQ PROCESS WAS CONDUCTED;
- CITY'S AWARD OF OR FAILURE TO AWARD A CONTRACT;
- ACTS AND/OR OMISSIONS OF CITY OR ITS COUNCILLORS OR CONSULTANTS RELATED TO THIS RFQ PROCESS; AND/OR
- ANY MATTER ARISING OUT OF OR DIRECTLY OR INDIRECTLY RELATED TO THE ISSUANCE OF THIS RFQ, EVALUATION OF BIDS OR COMPLIANCY DETERMINATIONS OR OTHER OWNER DECISIONS

(COLLECTIVELY THE "RFQ MATTERS")

- I. BIDDER ABSOLUTELY WAIVES AND RELEASES ANY RIGHT, OR CAUSE OF ACTION AGAINST THE OWNER AND ITS CONSULTANTS, COUNCILLORS AND EMPLOYEES WHETHER SUCH RIGHT OR CAUSE OF ACTION ARISES IN CONTRACT, NEGLIGENCE, OR OTHERWISE, INCLUDING WITHOUT LIMITATION CLAIMS FOR LOSS OF REVENUE, PROFIT, OR BUSINESS OPPORTUNITY.

AND

- II. BIDDER ACKNOWLEDGES AND AGREES THAT IT WILL NOT HAVE OR INITIATE ANY CLAIMS AGAINST THE CITY OR ITS AGENTS, MAYOR AND COUNCILLORS, INCLUDING CLAIMS FOR INCIDENTAL, EXEMPLARY, SPECIAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE, PROFIT, OR BUSINESS OPPORTUNITY, EVEN IF IT HAD ADVISED THE CITY OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF WHETHER ARISING IN TORT (INCLUDING NEGLIGENCE), CONTRACT, OR OTHER LEGAL THEORY

HOWEVER, IF A COURT OF COMPETENT JURISDICTION DETERMINES THAT THE CITY COMMITTED A MATERIAL BREACH OF THIS RFQ (THAT IS, A MATERIAL BREACH OF 'CONTRACT A') THE CITY'S LIABILITY TO THE BIDDER AND THE AGGREGATE AMOUNT OF DAMAGES RECOVERABLE AGAINST THE CITY OR ITS AGENTS, MAYOR AND COUNCILLORS FOR ANY MATTER RELATING TO OR ARISING FROM THAT MATERIAL BREACH, WHETHER BASED UPON AN ACTION OR CLAIM IN CONTRACT, WARRANTY, EQUITY, NEGLIGENCE, INTENDED CONDUCT OR OTHERWISE, INCLUDING ANY ACTION OR CLAIM ARISING FROM THE ACTS OR OMISSIONS, NEGLIGENT OR OTHERWISE, OF THE CITY OR ITS AGENTS, MAYOR AND COUNCILLORS, SHALL BE THE BID PREPARATION COSTS (TO A MAXIMUM OF \$10,000) THAT THE BIDDER SEEKING DAMAGES FROM THE CITY OR ITS AGENTS, MAYOR AND COUNCILLORS CAN DEMONSTRATE.

FURTHER, IN NO EVENT SHALL THE CITY AND ITS AGENTS, MAYOR AND COUNCILLORS BE LIABLE TO BIDDER OR CONTRACTOR FOR:

- A. ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES (INCLUDING LOST PROFITS AND LOST BUSINESS) EVEN IF THEY HAVE BEEN ADVISED OR IS AWARE OF THE POSSIBILITY; OR
- B. ACTS OR OMISSIONS OF CITY CONSULTANTS, ENGINEERS, ARCHITECTS, AGENTS OR OTHER THIRD PARTIES.

BY SUBMITTING A BID BIDDER EXPRESSLY ACKNOWLEDGES AND AGREES THAT SHOULD A COURT OF COMPETENT JURISDICTION DETERMINE THAT ANY OF THE LIMITATIONS ABOVE ARE NOT ENFORCEABLE , THE LIMIT OF THE OWNER'S LIABILITY AND THE LIABILITY OF ITS CONSULTANTS AND COUNCIL AND EMPLOYEES TO THE BIDDER FOR DAMAGES OF ANY KIND WHATSOEVER ARISING OUT OF OR RELATED TO THIS RFQ OR THE RFQ MATTERS WHETHER BASED UPON AN ACTION OR CLAIM IN CONTRACT, WARRANTY, EQUITY, NEGLIGENCE, INTENDED CONDUCT OR OTHERWISE INCLUDING ANY ACTION OR CLAIM ARISING FROM THE ACTS OR OMISSIONS, NEGLIGENT OR OTHERWISE, OF THE CITY OR ITS AGENTS, MAYOR AND COUNCILLORS SHALL BE THE LESSER OF: THE DEMONSTRABLE COST TO THE BIDDER OF PREPARING ITS BID, AND \$25,000.00.

44. INTERPRETATION OF RFQ

In the event of any disagreement between the City and the Bidder regarding the interpretation of or compliance with the provisions of the RFQ, the City Solicitor or an individual acting in that capacity shall make the final determination unless the City's Corporate Procurement Policy requires that a Bid Review Committee be formed to make the final determination.

45. BIDDER'S STATEMENT OF UNDERSTANDING

- 45.1 It is understood that the Bidders have carefully examined and understand all of provisions in the Bid Documents and have carefully considered the Work to be performed under the Contract if awarded.
- 45.2 The Bidder also confirms that, for the Bid Price, Bidders offers to furnish all labour, machinery, tools, apparatus and other means of implementation, and any other materials to complete the Work in strict accordance with the Contract (if awarded).
- 45.3 By Submitting a Bid, Bidder confirms that it has had, or has had the opportunity to obtain, independent legal advice in connection with Bidder's RFQ review and Bid preparation, and has read tis RFQ in its entirety, understands its contents and is submitting its Bid freely and voluntarily (without duress or undue influence from any party) with full capacity and authority to do so.

END OF DOCUMENT 1

1. SET-OFF

Subject to applicable laws, the Contractor hereby agrees that any monies owing by the Owner to the Contractor may at any time be set-off against monies owing to the Owner by the Contractor.

2. RIGHT TO AUDIT AND RETENTION OF RECORDS

- 2.1 At any time during business hours and as often as the Owner may deem necessary, there shall be made available to the Owner for examination the Contractors records with respect to the Work and its applicable bid therefore.
- 2.2 Contractor shall permit the Owner to audit, examine, and make copies, excerpts or transcripts from such records, and to make audits of data relating to the Work and its applicable bid therefore.
- 2.3 Contractor shall maintain and retain all records and other documents related to the Work and its applicable bid therefore for a period of three (3) years from the date of final payment (or longer as required by law), except in cases where unresolved audit questions require a longer period of time for resolution, as determined by the Owner.

3. CANCELLATION

- 3.1 In the event Owner is unable to obtain or maintain required Approval(s), it may cancel all or any portion of the Contract with written notice, without any liability except for paying for Work properly performed up to the date of Contract termination/expiration.
- 3.2 The Contract may be cancelled by the Owner upon non-performance of the Contract terms; however, in doing so, the Owner does not waive its right to rely upon any obligations or commitments agreed to by the Contractor as part of its Bid documentation, including without limiting the generality of the foregoing, liability for the difference between its Bid and next acceptable contractor's Bid submission.
- 3.3 Where there is a question of non-performance, payment in whole or in part may be withheld at the discretion of the Owner. This action shall not prevent the Owner from taking early payment discounts otherwise applicable.
- 3.4 If the Work is incomplete the Owner reserves the right to draw from the Contract Security to complete the said Work to the Owner's specifications.
- 3.5 Disqualification - The Owner reserves the right to remove from future eligibility to submit bids to the Owner any contractor which is in breach of its contractual obligations to Owner.

4. EVALUATION OF PERFORMANCE

- 4.1 During and/or upon completion of the Contract, the Owner may complete evaluation(s) of the Contractors' performance.
- 4.2 A copy of evaluation(s) may be given to the Contractor
- 4.3 If the quality/quantity of work and/or the rate of progress are not in accordance with the provisions of the Contract, and/or to industry standard the City shall notify the Contractor of the deficiencies and, following the delivery of such notice, afford the Contractor an opportunity to rectify the deficiencies. Should the Contractor fail to rectify the deficiencies

in the time allowed, then the City shall be at liberty to cancel the Contract, and in so doing, shall be under no obligation whatsoever to the Contractor.

- 4.4 The evaluation shall be placed on file with the Owner and may be considered by Owner when making future decisions regarding Contract extensions and renewals, contract award and procurement-related decisions.
- 4.5 This information may be made available to persons requesting Owner references for the Contract and also may be reviewed and may form part of the Owner's criteria when awarding future contracts.
- 4.6 By agreeing to undertake the Work, the Contractor hereby authorizes the maintenance and release of this information.

5. WORKPLACE SAFETY AND INSURANCE BOARD (WSIB)

5.1 The Contractor shall submit to the Owner, at the following times:

- i. Between Notification of Award and Agreement signing
- ii. Prior to the issuance of the Contractor's last payment of each year
- iii. Prior to issue of the Certificate of Substantial Performance
- iv. Prior to the expiration of the Warranty Period
- v. at any other time when requested by City (acting reasonably) to do so

a statement from the Workers' Safety Insurance Board ("Clearance Certificate") that all of the assessments the Contractor or any sub-Contractor is liable to pay under the Workplace Safety and Insurance Board Act ("WSIB Act") or successor legislation have been paid.

- 5.2 A Clearance Certificate shall be resubmitted as necessary to ensure that the City has a current Clearance Certificate on file for the duration of this Contract, including maintenance period.
- 5.3 A copy, fax or scan of the Clearance Certificate shall only be acceptable if it is clear, readable, legible including the effective date and authorized signature in the stamp portion on the right hand side of the form. Otherwise, an original certificate shall be submitted.
- 5.4 Payments will not be issued to the Contractor for any work performed on this Contract unless a Workplace Safety & Insurance Board Clearance Certificate is current and indicates that the Contractors account with the Board is in good standing.
- 5.5 The Contractor shall not conduct any work with the City (construction or maintenance related), unless they are holding a current W.S.I.B. clearance certificate.
- 5.6 Contractors who have independent Operator Status under the WSIB Act shall submit a complete Independent Operator Status Questionnaire upon being awarded the Contract.

6. PAYMENT OF WORKERS

- 6.1 The Contractor shall pay or cause to be paid to every worker employed in the execution of the Contract, wages at not less than the following rates:

- i. For workers employed in the execution of the Contract, who are in contractual relationship with a union, the minimum rate of wages shall be the union rate of wages in the particular district or locality in which the work is undertaken;
- or
- ii. For workers employed in the execution of the Contract, who are not in contractual relationship with a union, the minimum rate of wages shall adhere to the Ontario Ministry of Labour's (Labour Standards Branch) Fair Wage Schedules, in the particular district or locality in which the work is undertaken. Revisions made to the schedule during the course of the Contract shall apply from the effective date of such revisions and all additional resultant costs shall be borne by the Contractor.

7. EXAMINATION OF SITE

- 7.1 No claims may be made by Contractor based on the assertion by Contractor that it was uninformed as to any of the conditions affecting the site or the provisions or conditions intended to be covered by the Contract (claims for additional costs will be considered by the Owner, if the Owner has identified incorrectly the location of utilities).
- 7.2 Contractor shall accept sole responsibility for any error or neglect on his part in respect to the foregoing.
- 7.3 No after claim will be allowed or entertained for any labour, equipment or material that may be required for the proper execution and completion of the Work, due to Contractor's failure to abide by applicable laws or the Examination of Site provisions within any Bid or Contract Documents.

8. LAWS AND REGULATIONS AND HEADINGS

- 8.1 The Contractor shall comply with all applicable statutes, laws, by-laws, regulations, ordinances and orders whether Federal, Provincial, Municipal or otherwise, at any time in effect during the currency of this Contract, and all rules and requirements of the police and fire departments, or other governmental authorities, if required.
- 8.2 The Contractor shall obtain and pay for all necessary permits and licenses (unless otherwise agreed by the Parties in writing) and shall not do or suffer to be done anything in violation of any such laws, ordinances, rules or requirements.
- 8.3 If the attention of the Contractor is called to any such violation on its part, or of any person employed or engaged by the Contractor, they shall immediately desist from and correct such violation.
- 8.4 References in the Contract Documents to legislation means the legislation as it may be amended or replaced or superceded from time-to-time.
- 8.5 The division of the Contract Documents into articles, sections, subsections and schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of the Document. The articles, section, subsection and schedule headings in a Contract Document are not intended to be full or precise descriptions of the text to which they refer and should not be considered part of the Contract Document.

9. ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005

- 9.1 Ontario's first accessibility standard, Ontario Regulation 429/07, "Accessibility Standards for Customer Service", came into effect on January 1, 2008.
- 9.2 The standard states what businesses and other organizations in Ontario, including The Corporation of the City of Vaughan must do to make the provision of their goods and services more accessible to people with disabilities. You can review Ontario Regulation 429/07 at www.e-laws.gov.on.ca.
- 9.3 Pursuant to the requirements of Ontario Regulation 429/07, all employees, agents, volunteers and others who deal with members of the public or other third parties on the City's behalf or who participate in developing the City's policies, practices and procedures governing the provision of goods and services to members of the public or other third parties must receive training about the provision of goods and services to persons with disabilities. This training must include a review of the purposes of the Act and the requirements of Ontario Regulation 429/07 as well as instruction about the following:
- i. How to interact and communicate with persons with various types of disability;
 - ii. How to interact with persons with disabilities who use an assistive device or
 - iii. require the assistance of a guide dog or other service animal or the assistance of a support person;
 - iv. How to use equipment or devices available on the City's premises or otherwise provided by the City that may help with the provision of goods or services to a person with a disability; and
 - v. What to do if a person with a particular type of disability is having difficulty accessing the City's goods or services.

10. OCCUPATIONAL HEALTH AND SAFETY

- 10.1 The following requirements and conditions shall be adhered to by Contractor and subcontractors:
- i. Contractors acknowledge that they have regularly read and understood the Occupational Health and Safety Act R.S.O. 1990, C. 0.1 ("OHSA") and regulations, made under that statute;
 - ii. the Contractor shall comply with all health and safety requirements established by the OHSA and its Regulations;
 - iii. the Contractor shall participate in a pre-construction meeting to verify expectations in the area of health and safety before the start of any Work;
 - iv. the Contractor shall allow access to the Work site on demand to representatives of the Owner provided that they are in full compliance of OHSA and its Regulations;
 - v. the Owner will take all action necessary to support the Contractor's health and safety efforts and to ensure that the Owner-owned and controlled environments in the vicinity of the project are free from hazards;

- vi. the Contractor shall ensure that all Work locations are properly accessible by emergency service vehicles (e.g. police, ambulance, fire) throughout the duration of the Contract;
- vii. the Contractor acknowledges and agrees that any breach or breaches of health and safety requirements, whether by the Contractor or any of its subcontractors can be considered a breach of Contract;
- viii. the Contractor acknowledges and agrees that any damages or fines that may be assessed against the Owner by reason of a breach or breaches of OHSA by the Contractor or any of its subcontractors will entitle the Owner to set-off the damages so assessed against any monies that the Owner may from time to time owe the Contractor under the Contract or any other contract whatsoever;
- ix. the Contractor shall provide a list of all controlled hazardous materials or products containing hazardous materials, all physical agents or devices or equipment producing or emitting physical agent(s) and any substance, compound, product or physical agent that is deemed to be or contains a designated substance in accordance with the Workplace Hazardous Materials Information System (WHMIS) 2015 as defined under OHSA and shall provide appropriate Material Health and Safety Data Sheets for these substances used for the performance of the required Work, all prior to the performance of said Work;
- x. the Contractor shall ensure that the requirements of the OHSA and associated regulations are complied with where hazardous materials, physical agents and/or designated substances are used in the performance of the required Work and ensure all employees are given required training and support;
- xi. the Contractor shall have a clearly defined Safety Plan/Rescue Plan for its workers involved in hazardous activities. This Plan shall include, but not be limited to, procedures for entering a confined space on the Work site;
- xii. the Contractor agrees at all times to comply with Occupational Health and Safety Standards in the workplace and further agrees to adhere to Health and Safety Standards set out in applicable statutes and regulations and to comply with written Health and Safety Policies of the Owner; and
- xiii. By executing this Contract, the Contractor unequivocally acknowledges that they are the "Constructor" within the meaning of The Occupational Health & Safety Act and Regulations for Construction projects.

11. SAFETY STANDARDS

- 11.1 It is the responsibility of the Contractor to work in a safe and orderly manner so as not to constitute any safety hazards. The following standards are some of the standards which must be complied with by the Contractor and any subcontractors when performing the Work:
 - i. the Contractor will be responsible for the placement of appropriate physical barriers between the work area, public and staff occupied areas;
 - ii. the Contractor shall control and maintain pedestrian and vehicular traffic as required and in accordance with current Traffic Control Manuals;
 - iii. when operating equipment in a School Zone or Playground appropriate physical barriers and personnel shall be in place to ensure the safety of the public;

- iv. no loose clothing shall be worn in the vicinity of moving or rotating equipment;
- v. the Contractor shall not operate or tamper with Owner's equipment unless given express permission to do so;
- vi. good housekeeping standards are to be maintained in the work areas, debris and material are not to be allowed to accumulate;
- vii. keep extension cords and hoses off the floor and out of traffic aisles and highlight any tripping, slipping, or bump hazards by using cones, hazard tape or other means appropriate to the situation;
- viii. the Contractor shall have and use a "Lock, Tag and Try" procedure that, as a minimum, meets the requirements of the Regulations made under OSHA;
- ix. the Contractor is responsible for ensuring that all reasonable precautions for the protection and safety of workers in addition to those listed above are maintained;
- x. the Contractor shall provide written notice to the Owner in advance of the need to close any exit or emergency exit, electrical system etc. that may affect a potential evacuation of an Owner's workplace or facility; and
- xi. the Contractor and the Owner shall communicate through a designated channel/liaison person at all times to avoid any confusion or misunderstanding.

12. NON-WAIVER

- 12.1 No condoning, excusing or overlooking by the Owner of any default, breach or non-observance by the Contractor at any time or times in respect of any contractual provision shall operate as a waiver of the Owner's right hereunder in respect of any continuing or subsequent default, breach or non-observance or so as to defeat or affect in any way the rights of the Owner herein in respect of any such continuing or subsequent default or breach.
- 12.2 No waiver shall be inferred from or implied by anything done or omitted by the Owner save only for an express waiver in writing.
- 12.3 Any work completed by the Owner required by this agreement to be done by the Contractor, after reasonable notice, shall not relieve the Contractor of its obligations to do that work or to reimburse the Owner for its actual cost to the Owner of having done it, including an allowance for normal overheads.

13. NON-ASSIGNMENT

Neither the Contract nor any work to be performed under the Contract or any part hereof may be assigned by the Contractor without the prior written consent of the Owner. Such written consent however shall not under any circumstances relieve the Contractor of its liabilities and obligations under the Contract and the granting of such consent shall be within the sole and unfettered discretion of the Owner.

14. CONTRACT PAYMENTS

- 14.1 Monthly statements of progress payment are to be prepared by the Owner's representative based on the estimated or measured quantities of each item of Work performed during the previous monthly payment period and agreed upon by the Contractor.
- 14.2 The Contractor shall, upon request by the Owner's representative, attend on site to measure and agree upon the quantities of the Work performed. Should the Contractor fail

to meet the request within two (2) weeks time, the Owner's representative shall measure the quantities of the completed Work in the absence of the Contractor and those quantities shall be deemed to be accepted and agreed by the Contractor as the quantities of Work performed by the Contractor for that part of the Contract.

14.3 Ten percent (10%) hold back on each progress payment will be held in accordance with the Construction Act.

14.4 Progress Reports

Monthly progress reports shall be submitted by the Contractor in a format acceptable to the Owner and include, but are not limited to the following information:

- i. work progress in the form of a Gantt Chart showing the baseline schedule and the percentage completion to date of each task/activity and the overall percentage progress of the Contract;
- ii. areas where progress are on or ahead of schedule and areas where progress are behind schedule;
- iii. measures taken/proposed to be taken, where necessary, to bring the work progress back on schedule;
- iv. any claims for extension of time due to unforeseen circumstances or extra payment due to changes in contractual obligation during the previous payment period; and
- v. payment may be deferred, at the Owner's option, until the progress reports are submitted to the Owner's representative.

15. ENVIRONMENTAL CONSIDERATIONS

The Contractor shall comply with all environmental legislation and restrictions in force until completion of the Work. If such restrictions change after Contract signing, any resulting increase in cost shall be borne by the Owner.

16. AGREEMENTS IN WRITING

16.1 In all cases of misunderstanding and disputes, verbal arrangements will not be considered.

16.2 The Contractor must produce written authority in support of its contentions and shall advance no claim in the absence of such written authority, or use, or attempt to use any conversation with any parties against the Owner or in prosecuting any claim against the Owner.

17. DATE OF COMMENCEMENT

17.1 The Contractor shall commence the Work within seven (7) Working Days of receiving written Notification of Award of the Contract (unless a later date is allowed by Owner or earlier date is agreed upon by the parties), but not prior to submission of any required documents and contractual documents between Owner and Contractor have been finalized and fully executed (the "Date of Commencement").

17.2 Should the Contractor find that they will be unable to commence the Work as specified, they shall submit to the Owner in writing a request for extension of time and in its request shall show just cause why, in its opinion, the extension of time should be granted.

17.3 Upon receipt of such written request, the Owner's representative may, at its own discretion, if in its opinion such written request does not conflict with the best interests of the Owner, grant the required extension in full or any portion thereof, thereby fixing a new date from which the charging of Working Days shall be calculated,

or

if in the opinion of the Owner, the Contractor has failed to show cause acceptable to the Owner or should such cause be not in the best interest of the Owner, any request for extension of time may be denied.

17.4 In any event, the decision of the Owner in this matter shall be final and binding.

18. TIME FOR COMPLETION

18.1 The Contractor shall complete the Work by the date of completion specified in the Contract or within the allowed number of consecutive Working Days from the date of commencement, whichever is specified in the Contract.

18.2 The Contractor is deemed to have thoroughly understood the requirements for completing the Work within the specified time for completion and allowed for any additional and/or augmented daylight shifts in its Bid should it be in its opinion that there may not be sufficient time for completion by working a normal number of hours each day or week on a single daylight shift basis. Any additional costs occasioned by compliance with these provisions will be considered to be included in the prices bid and no additional compensation will be allowed.

18.3 All Work required in the Contract, including all final cleanup shall be completed by the date of acceptance of the Work or within the Working Days stipulated in the Contract.

18.4 If the Contractor is delayed in the completion of the Work by any one or more of:

- i. any negligent act of the Owner or any Owner employee;
- ii. other utility Contractors such as - telephone, cable, gas, hydro contractors unless otherwise stated; other than delay caused by timing of Contractor's request for work to be done by the utilities;
- iii. any cause beyond the reasonable control of the Contractor or by acts of God or of the public enemy acts of the Province or of any foreign state, fire, flood, epidemics, quarantine restrictions, embargoes or delays of suppliers due to such causes;

then the time for completion shall be extended in writing at any time on such terms and for such period as shall be determined by the Owner and notwithstanding such extensions, time shall continue to be deemed of the essence of this Contract.

18.5 An application by the Contractor for an extension of time once the Work has been commenced shall be made to the Owner in writing within *Five (5) Working Days* of the occurrence of the incidence causing the delay. In the event such application is approved by the Owner, and as a condition thereof, all bonds or other surety furnished to the Owner by the Contractor shall be amended where necessary at the expense of the Contractor to provide coverage to the date of any extension of time granted and the Contractor shall furnish the Owner with evidence of such amendment by the Surety. Where such extension is caused through the negligence of the Owner,

however, any cost to extend such bonds or other surety, shall be for the account of the Owner.

- 18.6 If the time for completion of the Contract is affected by additional Work, the Owner will increase the number of Working Days established in the original contract to compensate for such work.

19. EMERGENCY RESPONSE AND TELEPHONE NUMBER

- 19.1 The Contractor's representatives will be called to rectify any emergency situations that arise after hours.
- 19.2 If the Contractor's representatives cannot be reached, City and/or Region crews will be called out to rectify the situation, and the cost of the work will be deducted from the Contractor's payment certificates.
- 19.3 It is the Contractor's responsibility to provide the City with the required contact information. Any revisions in the information must be forwarded in writing as soon as possible.

20. MEETINGS

- 20.1 The Contractor's representative(s), as requested by the Owner, shall attend all meetings required prior to and or during the project. This shall include all pre- construction and regular project meetings and emergency meetings.
- 20.2 Prior to commencement of Work, the Contractor shall attend a pre-construction meeting with the Owner's representatives to establish site protocols, emergency contacts etc. The Contractor shall prepare and submit at the pre-construction meeting, a detailed construction schedule in the form of a Gantt Chart showing the tasks/activities start and completion dates, milestones and critical activities to meet the specified Completion Date. Such schedule shall be reviewed by the Owner's representative and, when accepted, shall form the baseline for monthly tracking of the Work progress.
- 20.3 The Contractor's representative(s) attending meetings shall be thoroughly versed and knowledgeable with respect to the proposed topics of discussion and shall have the authority to make the necessary decisions and commitments with respect to matters agreed upon at the meetings.

21. HOURS OF WORK

- 21.1 The hours of work shall be adhered to by the Contractor, and shall be 0700 hours (7:00 a.m. EST) to 1900 hours (7:00 p.m. EST).
- 21.2 The Contractor shall not carry on its Work under the Contract on a day other than a Working Day, without permission in writing from the Owner, except in case of emergency whereby retrospective approval is required. The Contractor acknowledges that its Bid has been based on this normal working day and hour's requirements.
- 21.3 Should the Contractor wish to carry on its operations on a day other than a Working Day, that is a holiday or outside the regular hours of work, on which the Owner's employees are not required to work, written application for approval shall be made at least forty eight hours (48 hrs) in advance of such event. Such permission may or may not be granted at the discretion of the Owner and no claim for extension of time may be made should permission not be granted. If the Contractor is granted permission by the Owner under this section to perform Work during a day other than a normal working day or outside the

regular hours of work, the Owner may recover from the Contractor, all cost incurred with the granting of the request, including but not limited to the overtime payment of Owner's inspection staff.

- 21.4 The Contractor may be required to work outside the regular hours of work or Working Day to expedite and/or complete activities in order to preserve and maintain traffic flow on any road and/or to maintain services to the residents and businesses. Such Work, when directed by the Owner, shall be performed by the Contractor, at no additional cost to the Owner.

22. CONTRACTOR RESPONSIBILITIES

The Contractor shall be responsible for all damages, losses, or expenses caused by it, its employees, agents, sub-Contractors, any persons employed by it, or under its control: (1) arising from the execution of the Work; (2) by reason of the existence, location, condition of any materials, plant or machinery used thereon or therein; or (3) which may happen by reason of their failure or the failure of those for whom they are responsible, to do or perform any or all of the several acts or things required to be done by them under the Contract. The Contractor agrees to indemnify and hold the Owner harmless from any such damages, losses, or expenses, administrative costs and claims by third parties, including any legal costs incurred by the Owner in connection therewith on a full indemnity basis.

23. ALTERATIONS AND AMENDMENTS

- 23.1 Owner shall have the right at any time to order changes in the Work in accordance with the provisions in the Contract. Any such change shall be made pursuant to a Contract Change Order Form executed by Contractor and Owner prior to Contractor undertaking work pursuant to this Change Order.
- 23.2 Except as stated in the Contract Change Order, the Work shall remain unaltered and the rights and obligations of the Parties shall remain unaltered and in full force and effect.
- 23.3 Each Contract Change Order shall set out the change in Work.
- 23.4 Each Contract Change Order, unless otherwise specified, shall be deemed to incorporate the terms and conditions of the Contract and shall be deemed to be part thereof.

24. INSPECTION AND TESTING

- 24.1 Quality assurance and quality control inspections and/or testing of the Work may be carried out by the Owner or the Owner's consultant to determine whether or not they meet Contractual requirements.
- 24.2 Any testing/inspection undertaken by the Owner on the Work performed by the Contractor, unless specified otherwise, are for the sole purpose of the Owner, and the Owner has no obligations to provide the testing/inspection results to the Contractor. The Contractor may choose to undertake their own testing independently to satisfy themselves.
- 24.3 Any material or workmanship which fails in any way to meet Contractual requirements is subject to rejection or at the discretion of the Owner, to be purchased on an adjusted price basis. The decision of the Owner shall be final.
- 24.4 The Owner reserves the right to recover all cost from the Contractor associated with the inspection or testing of any Work that does not meet the Owner's specification. Should

the owner decide to exercise this option, the cost can be deducted from any monies due to the Contractor.

- 24.5 The Contractor shall give minimum 48 hours notice to schedule any operation that will require either inspection, testing or measurements by the Owner.

25. GUARANTEED MAINTENANCE AND WARRANTY

- 25.1 Upon completion of the Work, the Contractor shall maintain the Work for a warranty period of Twenty-four (24) Months after the date the Work is substantially performed, as determined by Owner or its Consultant, acting reasonably.

- 25.2 The Contractor shall correct any imperfections due to material or workmanship. The decision of the Owner/or Consultant, if any, both acting reasonably, as to the nature and cause of any imperfections and the necessity for the type of repair shall be final. If the Contractor fails to comply with the direction from the Owner/or Consultant with five (5) Working Days (or immediately in the case of an emergency as determined by Owner), the Owner may proceed under the Performance Bond or if it is holding a Letter of Credit, Cash or Certified Cheque, it may draw upon it and complete the required work at the Contractor's expense.

- 25.3 The warranty given pursuant to this section shall not limit extended warranties on any items of equipment or material called for elsewhere in the Contract.

- 25.4 The Contractor shall, before final payment is applied for, to the extent permitted by the manufacturer and supplier, assign to the Owner the benefit of any warranty by any manufacturers or suppliers in addition to the warranty mentioned above.

26. RETENTION AND PAYMENT OF STATUTORY HOLDBACK

- 26.1 City will retain holdback in the form of funds and will not accept any of the forms listed in section 22(4) of the Construction Act.

- 26.2 City will make holdback payments in accordance with the provisions in Part 4 of the Construction Act.

27. UTILITIES

- 27.1 The utilities information shown the drawings have been obtained either through desktop exercises, input from the utility owners, and/or sub-surface investigations. The Owner does not warrant the completeness or correctness of the information provided. The Contractor shall verify the completeness and correctness of utilities information in the field, and shall exercise the necessary care in work operations, to take such other precautions as may be necessary to safeguard the utilities from damages and to repair any utilities damaged during work at no cost to the Owner. The Contractor shall notify any discrepancy of utility information to the Owner forthwith.

- 27.2 The Contractor shall request and obtain locates from Ontario One Call prior to any excavation. All excavations near the vicinity of any underground electrical utility shall be conducted in accordance with Utility owner's policy/standards.

- 27.3 The Contractor shall be unequivocally be responsible for all costs associated with adhering to the associated guidelines regardless of the work required.

- 27.4 The Contractor shall at all times have a copy of the utility locate information on site and be made available upon request.

28. SURVEY LAYOUT

- 28.1 The Contractor shall be responsible for survey layout.
- 28.2 The Owner shall at any time during construction have the right to check the construction layout for accuracy. If any time during the progress of the Work any error shall appear or arise in the positions, levels, dimensions or alignment of any part of the Work, the Contractor shall, at his own expense, rectify such error to the satisfaction of the Owner. The checking of the setting out of any line or level by the Owner shall not in any way relieve the Contractor of its responsibility for the correctness of the Work.
- 28.3 The Contractor shall supply the Owner with a copy of all necessary information to enable it to use the Contractor's field layout. All information, both on work sheets and on stakes, shall be neat and legible.

29. SURVEYOR'S STAKES, GEODETIC BENCHMARKS AND MONUMENTS

- 29.1 When under the Contract the area in which the Work is being constructed has been surveyed and stakes have been placed or monuments set for construction of legal boundaries, it shall be the duty of the Contractor and its employees to ascertain the location of these stakes and/or monuments and to protect them.
- 29.2 Any legal stakes or monuments denoting lot or street limits which may become moved or disturbed by the Contractor's operations, which were not identified to be impacted by the Work, must be reset and their location again certified by an Ontario Land Surveyor and at the Contractor's expense. Should the Contractor fail to have these stakes reset promptly, the Owner may hire an Ontario Land Surveyor to do so. All costs in connection therewith shall be paid by the Contractor to the Owner before the final payment is made under this Contract or in the alternative, said cost may be deducted from the Contractor's progress payments.

30. TRAFFIC CONTROL, AND PEDESTRIAN AND VEHICULAR ACCESS

- 30.1 The safe control of traffic through the term while the Work is being performed shall be the responsibility of the Contractor.
- 30.2 Prior to commencement of the Work, the Contractor shall prepare and submit to the Owner a traffic management plan for acceptance by the Owner demonstrating how pedestrian and vehicular traffic is maintained/controlled in a safe and orderly manner and in accordance with the Occupational Health and Safety Act & Regulations and the relevant Ontario Traffic Manuals
- 30.3 Unless advised otherwise, a minimum of One (1) lane of traffic, including driveway and pedestrian access must be maintained and controlled at all times during construction. Work shall be undertaken in a logical manner to minimize disruption.
- 30.4 The Contractor shall:
- i. Provide a minimum of 48 hours advance written notice to residents and businesses, if their driveway access is being prevented by construction. The Contractor shall ensure that the area residents and patrons are able to park their vehicles on their driveway/business parking lot whenever possible. If driveway access must be temporarily closed, the Contractor shall coordinate with the Owner, to inform the affected residents/businesses of the duration of the closure.

- ii. If a concrete curb has been replaced and/or sub-drain installed, Contractor shall ensure that vehicular access to properties shall be restored within 48 hours after completion thereof.
- iii. Make commercially reasonable efforts to keep roads free of mud, dust, debris, potholes etc. caused by the Work.
- iv. Maintain at all times, safe pedestrian and vehicular access to properties, businesses and residences for the duration of the Contract.
- v. Maintain unimpeded, pedestrian access from all transit bus stop, bus shelters and pads to the transit vehicles within the limits of this contract unless advised otherwise.
- vi. Provide adequate number of qualified flag persons to direct traffic during construction in accordance with the procedure outlined in the "Guidelines for Training Traffic Control persons" issued by the Infrastructure Health & Safety Association
- vii. Supply, install, maintain, and remove temporary construction notice signs, detour signs, and flexible TC-54 barrels that comply with O.T.M. for the management of vehicular and pedestrian traffic during the works without additional cost.

31. DUST AND MUD CONTROL

Close control must be employed to keep dust from forming and blowing. The materials and application are to conform to OPSS 506. It is the Contractor responsibility to control dust at their own expense, to the satisfaction of the City of Vaughan.

Where conditions are such that mud is tracked onto existing pavement, or onto adjacent streets, the Contractor will require to clean all fouled pavements daily as directed by and to the satisfaction of the City of Vaughan. The cost of all such cleaning measures shall be borne by the Contractor.

32. HAUL ROADS

32.1 The Contractor shall only use the haul roads allowed/identified in the Contract (if any), for access to the Work site.

32.2 If any public road to be used as a haul road is damaged by construction traffic, the Contractor shall perform such work on the haul road, as necessary to provide safe passage and control of traffic thereon and shall on completion of the hauling operation, place such material and perform such work as ordered by the Owner to restore the road to its original condition without delay.

32.3 The Contractor shall consider access for the delivery of materials, equipment and the movement of such equipment in the preparation of bid prices for the Work. No claim or request by the Contractor for additional monies in this regard will be considered.

33. PRIVATE DRIVEWAYS

The Contractor shall at no time use any private driveway for the purpose of turning or storing of any trucks, cars, equipment or any vehicles used by its employees or sub-Contractors' employees.

34. RESTRICTION OF USE OF HYDRANTS

The Contractor shall not make use of or interfere with any hydrant without the approval of the Owner, who in granting such approval, may charge such fee and make such regulations, as it deems necessary to safeguard the Owner's interest.

35. RESTORATION

The Contractor shall restore all features damaged or destroyed during performance of the Work at its cost, to the satisfaction of the Owner.

36. SITE DRAINAGE

The Contractor shall be responsible for maintaining good site drainage throughout the duration of the Contract.

37. DEWATERING EXCAVATIONS

37.1 All underground service and structure shall be constructed under a dry condition. The Contractor shall make all provisions necessary to prevent flow of water into the excavation and shall provide and keep in operation on each section of the work when and where necessary, dewatering systems of sufficient capacity to keep the bottom of the excavation of trench dry and free from water at all times until the section of work has been completed. He/She shall provide for the disposal of the water removed from the excavation so that it will not be injurious to public health, private property or to any operation of the work completed or under construction by the Contractor or others.

37.2 The Contractor shall apply for and obtain any permits required prior to implementation of the dewatering operation and at no extra cost to the Owner.

37.3 The Contractor shall also provide drawings of any dewatering system it proposes to use for review and approval by the Owner.

37.4 The Contractor shall take all necessary precautions to prevent damage to any work during and after construction, and will be responsible for the repair thereof.

37.5 The Contractor shall be solely responsible for all the cost of installation, operation, maintenance and removal of the dewatering system necessary to accomplish the work.

38. LIQUIDATED DAMAGES

38.1 It is agreed by the parties to the Contract that in case all the Work or any portion thereof as called for under the Contract is not finished or completed within the number of Working Days or the Completion Date as set forth in the Contract Documents, damage shall be sustained by the Owner. It is and shall be impracticable and extremely difficult to ascertain and determine the actual damage which the Owner shall sustain in the event of and by any reason of such delay. The parties hereto agree that the Contractor shall pay to the Owner the liquidated damages amount outlined in the Contract Documents as liquidated damages for each calendar day's delay in finishing the Work in excess of the number of Working Days or the Completion Date prescribed. This amount is not and shall not be deemed as a penalty but is a fair and reasonable estimate of the compensation due to the Owner which shall accrue during the period in excess of the prescribed completion date or the number of Working Days.

38.2 Owner may deduct any amount due under this section from any monies that may be due or payable to the Contractor on any account whatsoever.

- 38.3 Owner may also invoice Contractor for liquidated damages owing, and Contractor shall pay such invoices within 30 days of receipt.
- 38.4 The liquidated damages payable under this paragraph are in addition to and without prejudice to any other right, claim, action or any other remedy that may be available to the Owner.

39. DISPOSAL OF EXCAVATED MATERIAL

- 39.1 When managing excess earth from the road right of way limits, the Contractor shall assume that the excess materials may contain elevated concentrations of chloride and sodium and may have elevated values for Electrical Conductivity and Sodium Adsorption Ratio (as defined in OPSS 180). For the purpose of this Contract, excess earth with salt impacts is not considered to be “contaminated” within the meaning of Table 1 in OPSS 180.
- 39.2 Where the Contractor manages excess earth from the road right of way as disposable fill, the Contractor shall ensure that the material is managed responsibly and in an environmentally appropriate manner.
- 39.3 If no soil analysis is provided within this Contract, the Contractor shall be responsible for conducting any sampling and testing as may be necessary to comply with any requirements imposed by the recipient of the excavated material as a condition of accepting the excess earth. Any costs associated with undertaking such testing shall be borne by the Contractor and not chargeable to or reimbursable by the City.

40. DISPUTE RESOLUTION

- 40.1 In the event of a dispute between the Contractor and the Owner concerning any aspect of the Contract which cannot be resolved by the operational representatives of the parties in a timely manner, the following provisions apply (unless dispute resolution is covered in an ‘Industry Document’ (e.g. CCDC or OPSS) which forms part of the Contract, or, a party has referred a dispute to adjudication pursuant to applicable in-force provisions in the Construction Act and the Contract is subject to those provisions).
- 40.2 As soon as either party gives written notice of a dispute to the other party then the Contractor’s project manager and the Owner’s project manager, or their authorized representatives, shall meet within 8 days and attempt to negotiate a resolution.
- 40.3 If this meeting does not resolve the dispute then the parties shall, within a further 8 days have a further meeting of the CEO of the Contractor (or functional equivalent) and the responsible Commissioner for the Owner.
- 40.4 If the dispute is still not resolved at the meeting then the parties will jointly select a mediator from the roster of mediators at the ADR Institute of Ontario Inc. (known as the ADR Institute) to mediate the dispute and they will then have a further meeting to mediate the dispute within 15 days from the failure of the CEO level meeting to resolve matters.
- 40.5 If the parties cannot themselves agree on a mediator, one will be appointed by ADR Institute from its roster of mediators.
- 40.6 If mediation does not resolve the dispute then the parties agree that:
- i. for a dispute where under \$150,000.00 is at issue they will jointly select an arbitrator, and where the parties do not agree on the choice within 10 days, then the ADR Institute shall appoint a single arbitrator from its roster. In either event the

arbitration will be conducted within a total of 45 days from the failure of the mediation to resolve the dispute and the provisions of the *Arbitration Act, 1991* will apply to the arbitration. The decision of the Arbitrator is to be released within 30 days of the conduct of the arbitration. The parties shall share payment of the fees and disbursements of the arbitrator equally.

- ii. for a dispute involving \$150,000.00 or more then, if each agrees to proceed by arbitration, the parties shall either: (a) jointly select a single arbitrator or (b) if they cannot agree on a single arbitrator then each shall, within 10 days, select an arbitrator and these nominees shall, within a further 5 days, jointly select a third arbitrator to Chair a panel of three arbitrators. The arbitration shall be conducted pursuant to the *Arbitration Act, 1991* and held within 90 days from the failure of the mediation to resolve the dispute or within such further reasonable time as is allowed by the arbitrator(s), on motion. The decision of the arbitrator(s) is to be released within 30 days of the conduct of the arbitration. The parties shall share payment of the fees and disbursements of the arbitrator(s) equally.

40.7 If one party does not co-operate or participate in either the negotiation phase or the mediation phase, then, after giving 7 days written notice to them of the default in co-operation, the other party is then free, if the amount in dispute is less than \$150,000.00, to proceed to the arbitration stage before a single arbitrator, selected by the ADR Institute. The resulting arbitration may be held without the opposite party being present, if they choose not to participate in it, and the decision of the arbitrator shall be as fully final, valid and binding on the parties as if the opposite party had been fully participating in it.

40.8 Any party is free to waive any of the above dispute resolution steps that take place prior to arbitration, by filing with the other party a written election to waive that particular step or to proceed right to the stage of arbitration, for amounts in dispute under \$150,000.00, or proceed right to the stage of arbitration (if on consent) or court action, for amounts in dispute of \$150,000.00 or more.

40.9 Regardless of the provisions of section 45 of the *Arbitration Act, 1991*, where the amount in dispute is under \$150,000.00, there shall be no appeal whatever, even on a question of law, from the decision of the arbitrator in any arbitration conducted under this dispute resolution regime.

40.10 If either party does not agree to arbitrate a dispute over \$150,000.00 then the parties shall be free to commence whatever court action they wish in order to resolve the dispute.

40.11 Nothing in this section shall apply to prevent a party from seeking and obtaining injunctive relief or equitable relief.

41. GENERAL INDEMNITY

41.1 The Contractor shall indemnify, hold harmless and defend the City, the Consultant, the Regional Municipality of York and their respective directors, officers, council members, partners, agents and employees from and against all claims, demands, losses, costs (including all legal costs), damages, actions, suits or proceedings that arise directly or indirectly out of, or are attributable to, the Contractor's performance of, or failure to perform, the Contract or out of the condition of the Work, the Place of the Work, adjoining lands or highways used in connection with the performance of the Work, including any act or omission of the Contractor or its agents, any Subcontractors, employees, workers or other persons for whom the Contractor is in law responsible.

41.2 This indemnification shall include any legal costs incurred by the City on a substantial indemnity basis, including those incurred to defend any criminal or quasi-criminal prosecutions against the City resulting from the actions of the Contractor.

41.3 As used in the Contract Documents:

- i. **“Place of Work”** and **“place of work”** means the designated site or location where the Work will be performed / construction will take place;

and
- ii. A **“Subcontractor”** (and **“subcontractor”** and **“Sub-contractor”** and **“sub-contractor”**) is a person, firm or corporation having a direct contract with the Contractor to perform a part or parts of the Work, or to supply products worked to a special design according to the Contract Documents, but does not include one who merely supplies products not so worked. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and neuter in gender.

42. INSURANCE (POLICIES/COVERAGE REQUIREMENTS)

42.1 Without restricting Contractor’s indemnification and claims handling obligations, the Contractor shall obtain, maintain, pay the premium(s) and any deductibles and provide evidence of insurance coverage listed in this section unless otherwise stipulated.

42.2 As used in the Contract Documents, “Substantial Performance” and “substantial performance” has the meaning provided in the OPSS MUNI 100 (if a Contract Document.

42.3 if not, the meaning provided in the Construction Lien Act (Ontario) applies).

42.4 Commercial General Liability Insurance:

- i. Commercial General Liability (CGL) insurance shall include as an Additional Insured, the City, the Consultant, and the Regional Municipality of York, with limits of not less than \$5,000,000.00 inclusive per occurrence for bodily and personal injury, death, and damage to property including loss of use thereof.
- ii. Should this policy contain a General Aggregate, the minimum acceptable General Aggregate shall be \$10,000,000.00.
- iii. The CGL insurance will include Cross Liability and Severability of Interest Clauses, Products and Completed Operations coverage (24 months), Owner’s & Contractor’s Protective and a Standard Non-Owned Automobile endorsement including standard contractual liability coverage
- iv. The City shall accept in place of the above mentioned insurance coverage, limits of \$1,000,000.00 or \$2,000,000.00 inclusive per occurrence in primary CGL insurance and \$4,000,000.00 or \$3,000,000.00 in Excess Liability or Umbrella Liability insurance with aggregates for each policy to provide the minimum coverages and limits as noted above.

42.5 Automobile Liability Insurance:

- i. Automobile liability insurance in respect of licensed vehicles shall have limits of not less than \$5,000,000.00 inclusive per occurrence for bodily injury, death, and damage to property.
- ii. Coverage shall be in the form of a Standard owner's form automobile policy providing third party liability and accident benefits insurance and covering licensed vehicles owned and/or leased or operated by or on behalf of the Contractor.

42.6 Contractor's Equipment Insurance:

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

42.7 Property Insurance:

- i. Installation Floater insurance insuring not less than the sum of the amount of the Estimated Contract Price and the full value of products that are specified to be provided by the City for incorporation into the Work.
- ii. This coverage shall be maintained from the commencement of the Work until substantial.
- iii. performance of the Work has been attained, as set out in the Certificate of Substantial Performance of the Work.

42.8 Pollution Liability Insurance:

- i. Sudden & Accidental Pollution Liability insurance is required with limits of not less than \$2,000,000.00 with The Corporation of the City of Vaughan added as an Additional Insured.
- ii. This policy shall be maintained from the commencement of the Work until substantial performance of the Work has been attained, as set out in the Certificate of Substantial Performance of the Work.
- i. The form of pollution liability insurance may be an occurrence or claims-made form. Should the policy be on a claims-made form, the Contractor must provide a two year extended reporting period.

43. INSURANCE (GENERAL REQUIREMENTS)

- 43.1 Without restricting the generality of any contractual indemnity provisions, the Contractor shall obtain, maintain, pay the premium(s) and any deductibles and provide evidence of required insurance coverage. The Contractor shall be entirely responsible for the cost of any deductible that is maintained in any insurance policy.
- 43.2 The forms of these insurance policies shall in all respects be satisfactory to the City's Insurance and Risk Manager and shall be maintained continuously from the commencement of the Work until the Work has been completed to the satisfaction of the City.

- 43.3 The insurance shall be taken out with insurance companies licensed to transact business in the Province of Ontario and who are not otherwise excluded by the City's Insurance and Risk Manager.
- 43.4 The policies shown above shall be endorsed to provide the Owner with not less than thirty (30) days written notice of expiry, cancellation, change or amendment restricting coverage such that the requirements in the Contract are no longer met.
- 43.5 However, if for any reason the insurer, on behalf of the Contractor, cannot endorse their policies to provide the Owner with not less than thirty (30) days written notice of change or amendment restricting coverage, the responsibility thereof shall automatically transfer to the Contractor and becomes the Contractor's strict obligation to deliver to the Owner by registered mail with not less than thirty (30) days written notice of change or amendment restricting coverage.
- 43.6 The Contractor shall submit annually to the City, certificates of insurance and continuity of coverage on an annual basis for all applicable insurance coverages required. These certificates should be submitted to the attention of the Project Lead with the Project/BID number indicated.
- 43.7 The Contractor shall not commence work under the Contract until such time as evidence of insurance, on the Owner's Certificate of Insurance form has been completed and filed with and approved by the Owner.
- 43.8 If required by the Owner, the Contractor shall provide certified true copy(s) of the policy(s) certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the Work.
- 43.9 If the Contractor fails to maintain insurance as required by the Contract the Owner shall have the right to provide and maintain such insurance and give evidence to the Contractor and (if applicable) the City's consultant and The Regional Municipality of York. The Contractor shall pay the cost thereof to Owner on demand or the Owner may deduct the cost from the amount which is due to or may become due to the Contractor.
- 43.10 The Owner reserves the right to request such higher limits of insurance or other types of policies appropriate to work as the Owner may reasonably require.
- 43.11 All policies shall apply as primary and not as excess of any insurance available to the Owner.
- 43.12 If requested the Contractor shall provide the Owner with a letter from their insurance provider confirming the Contractor's ability to meet the insurance requirements as set out in the Contract.
- 43.13 The Contractor shall provide the City with proof of insurance, by submitting an original Certificate of Insurance on the City's standard "Certificate of Insurance" form, or documentation approved by the Insurance and Risk Manager, upon execution and delivery of the Contract, prior to commencement of the Work and thereafter upon request by the City. In lieu of an original Certificate of Insurance, the City may accept an electronic copy provided it is e-mailed or faxed by the Contractor's insurance broker directly to the City.
- 43.14 All policies of insurance shall contain provisions for settling joint loss disputes amongst property.

43.15 It is the Contractor's responsibility to ensure that any Subcontractors employed must have proof of active insurance policies providing the following coverages the Contractor as Additional Insured where applicable:

- i. Commercial General Liability
- ii. Automobile Insurance

43.16 It is the expectation that the Contractor to obtain the current Certificate of Clearance indicating a Subcontractor's good standing and/or letter for the following:

- i. WSIB or Equivalent Employer's Liability Insurance

44. THIRD PARTY CLAIMS HANDLING

44.1 The Contractor shall respond to, and deal with, all indemnifiable third-party claims in a prompt, courteous and efficient manner.

44.2 The Contractor shall contact all third-party claimants and acknowledge receipt of all third-party claims in writing within 7 Working Days upon being notified in writing of the third-party claim.

44.3 The Contractor shall immediately, upon receipt of any third-party claim, provide the City's Office of the City Clerk, Insurance Risk Management Section with notice of the third-party claim.

44.4 The Contractor shall also provide the City's Office of the City Clerk, Insurance Risk Management Section with copies of all correspondence between the Contractor or its agents and the third-party claimant.

44.5 The Contractor shall not advise the third-party claimant that the City is responsible for their claim.

44.6 If, in the sole discretion of the City's Office of the City Clerk, Insurance Risk Management Section, acting reasonably, a claim is not being dealt with in a manner consistent with the provisions of this Contract, which includes, without limiting the generality of the foregoing:

- i. failure of the Contractor to acknowledge receipt of the third-party claim in the manner set out above; and
- ii. failure to resolve the third-party claim to the satisfaction of the City within 90 Days of the receipt of the third-party claim,
- iii. the City reserves the right to appoint an insurance adjuster or other person to settle any third-party claims arising from this Contract.

44.7 Any money paid by the City in satisfaction of any third-party claim determined to be the Contractor's responsibility, plus all adjuster costs and other associated costs and administrative costs incurred by the City, shall be deducted from monies owing to the Contractor by the City.

END OF DOCUMENT 2

1. GENERAL

The City of Vaughan ("Owner) is soliciting bids from or the prequalified bidders (RFPQ 17-003) for General Contractor services for the Removal of Existing Wall Stucco and Supply & Installation of New Wall Stucco at Chancellor Community Centre as per attached drawings & specifications.

- The Bidder shall hold working on heights certificate.
- Staff of the Bidder shall hold working on heights certificate.

2. COMPLETION DATE (FOR ONE TIME SERVICE)

- i. The Contractor shall commence work upon receipt of Purchase Order.
- ii. Work described under this Contract is expected to complete within 30 working days weather permitted.

3. WORKING HOURS/SCHEDULE

Monday to Friday: 6:00A.M. to 6:00P.M.

4. SCOPE OF WORK

- Removal of all existing Stucco on North/East/West Walls & Supply & Install of DuRock Stucco Plus at Chancellor Community Centre
- General Contractor secured complete work area with Free-Standing Construction Fence or Wooden Hoarding and is to be installed on top of the concrete sidewalk. Must not rest on roadway (Fire Route).
- No materials or parked vehicles will be permitted on the roadway/fire route.
- All Entrances/Exit Ways in the work area to have clear accessibility at all times for people to come and go, must be covered to prevent anything from falling on someone and have secured sides so no one can mistakenly walk into the work area.
- All objects on the existing work area walls (for example: down pipes, wiring etc.) must be removed by the General Contractor, existing stucco removed from behind, new stucco installed and General Contractor to reinstall.
- Do not block existing Wall Air Vents.
- Use of only eight (8) Foot Ladders Permitted.
- All workers to have an up to date Working on Heights Certificate.
- All workers around moving machinery to wear high visibility apparel.
- All demolition work to be done after 10:30 P.M.
- All demolition materials to be removed daily. Work areas to be kept clean and safe. All demolition materials that go onto roadway/fire route to be removed immediately.
- Outside area for placement of disposal box to be discussed at mandatory site meeting.

- All work that will affect the daily operation of the building to be done after 10:30 P.M.
- Additional Scope of Work and Specifications on attached Stucco Manufacture's Specification 09 2412 And on working drawings: A1.0, A2.0 A2.1, A3.0, A3.1 A4.0, A5.0, A6.0.

5. PRICING

Prices submitted shall include all costs that will be incurred by the Contractor to execute the work as described throughout this bid document; this includes but is not limited to labour, materials, equipment, administration, loading/unloading, transportation/shipping expenses, and all other associated costs to complete the work.

6. CODES AND STANDARDS

All work shall conform to the following Codes and Standards, as applicable:

1. Canadian Electric Code (CEC) and applicable local Electric Code.
2. Underwriters Laboratories (UL) listing and labels.
3. American National Standards Institute (ANSI).
4. Occupational Safety and Health Administration (OSHA).
5. American Society for Testing and Materials (ASTM).
6. Ontario Building Code (OBC)
7. Ontario Fire Code
8. Ontario Gas Code
9. ESA and TSSA regulations

In the case of conflicts or discrepancies, the more stringent regulation shall apply.

All work shall meet the approval of the authorities having jurisdiction at the project site.

7. WORKMANSHIP

The Contractor shall provide all maintenance and support services in a professional manner that meets or exceeds the higher of code compliance or industry standards as applicable. The Maintenance Services shall enable the equipment to perform in all material respects in accordance with the manufacturer's documentation and specifications and shall correct any defects in performance or materials within the time provided in this Contract.

Any goods, materials or parts which are supplied under the Contract and also those which are not specifically designated or are found to be necessary for the fulfilment of the Contract, shall be of high commercial quality and produced in accordance with in good standards of manufacturing practices.

Where a proprietary product or system has been specified, the Contractor shall use the material specified unless approval in writing has been obtained from the Owner to use another material.

8. CONTRACTOR PERSONNEL

- i. Only Contractor Personnel are allowed on the job premises.
- ii. Contractor Personnel may be subject to security screening by the City as the City may determine in its sole discretion. No persons will be allowed to perform any Services on behalf of the Contractor at the City premises if the City, in its sole discretion, deems such persons not to have passed such security screening.

- iii. The Contractor shall ensure that all Contractor Personnel are dressed in an appropriate and presentable manner on or around City premises and have a badge or logo that clearly identifies the company and the person.
- iv. Upon the City's request, the Contractor shall provide the City with an up-to-date register of all its Contractor Personnel. The register shall contain the names, phone numbers, and addresses of all Contracted personnel, along with the trade certifications of each Contractor Personnel.
- v. All Service shall be performed by qualified or certified licensed trades, in good standing, who are fully trained in the operation and function of equipment and the execution of the Services.

9. CONTRACTORS USE OF SITE(S)

- i. The Contractor shall remove and dispose of all surplus and/or waste materials, with the exception of those materials that are specifically identified as City property. The Contractor shall dispose of all surplus and/or waste materials in accordance with the Ministry of Energy and Environmental Standards and Regulations, as well as in accordance with all applicable laws.
- ii. The Contractor shall not unreasonably encumber any Services site with material and equipment and shall remove any materials and equipment from the Services site immediately after the Services are done.
- iii. The Contractor shall be responsible for the provision of storage and security of the Contractor's equipment and material. The City shall not be responsible for any damages or loss of the Contractor's materials and/or equipment.
- iv. The Contractor shall take all necessary precautions in protecting the City's property from damage.

10. PROTECTION OF ADJACENT STRUCTURES OR PROPERTIES

The Contractor shall be responsible for providing such material and taking such action to prevent damage to surrounding structure, equipment or properties. The Contractor shall be liable for the cost of any damage to surrounding structure, equipment and/or properties arising as a result of the Contractor's presence or performance of the Contract.

11. WARRANTY

The successful bidder will provide a minimum one (1) year warranty on all parts and labour.

12. MANUFACTURER'S SPECIFICATION

See attached DuRock Stucco Specifications.

END OF DOCUMENT 3

NOT APPLICABLE OF THIS CONTRACT

END OF DOCUMENT 4

**THE CORPORATION OF THE CITY OF VAUGHAN
STANDARD AGREEMENT FOR GOODS AND SERVICES**

(as may be amended from time-to-time, the “**Agreement**”)

Effective Date: _____

Between:

The Corporation of the City of Vaughan (the “**City**”) And

_____ (“**Contractor**”)

(each a “**Party**” and collectively a “**Party**”)

With respect to Request for Quote No. _____ : _____ (the “**RFQ**”)

Whereas:

- A. The City issued the RFQ;
- B. The Contractor submitted a Bid in response to the RFQ (the “**Bid**”); and
- C. The City has selected the Contractor to perform the Work outlined in the RFQ, and Contractor agrees to perform such Work and perform/provide the provisional items as/if needed by the City, all in accordance with the Contract Documents.

Now therefore, the Parties agree as follows:

- 1. Capitalized terms not defined within the body of this Agreement have the meanings provided in the RFQ.
- 2. For certainty, the following documents are read into and deemed to form part of this Agreement:
 - Contractor’s Bid
 - Any required Performance Bond and Labour & Material Bond
 - Insurance Certificates required by the RFQ
 - The RFQ and any addenda
 - All Contract Documents (as defined in the RFQ)

3. Order of Precedence. In the event the terms in any of the following documents conflict, the order of precedence with respect to the conflict shall be as follows:
 - (1) Body of this Agreement
 - (2) City Special Provisions (if any)
 - (3) Any Change Orders entered into related to the Work
 - (4) Specifications and Drawings and Reports included in the RFQ
 - (5) City of Vaughan General Provisions
 - (6) City of Vaughan Standard Terms and Conditions of Purchase
 - (7) Ontario Provincial Standard Specifications (if any)
 - (8) Ontario Provincial Standard Drawings (if any)
 - (9) Addendum/Addenda to RFQ
 - (10) RFQ
 - (11) Contractor Bid

4. The Contractor does hereby covenant and agree with the Owner in the manner following namely:
 - (a) TO execute and perform the whole of the Work with due expedition and in a thoroughly professional manner in strict accordance with the provisions of the Contract Documents and thereafter to maintain the same as therein provided, and that in the execution and performance of the Work the Contractor will carry out, perform, observe, fulfill and abide by all the covenants, agreements, stipulations, provisions and conditions mentioned and contained in the Contract Documents to be carried out, performed, observed and fulfilled by the Contractor to the same extent and as fully as if each of them was set out and specifically repeated herein.

 - (b) TO indemnify and keep indemnified and save harmless the Owner and each of its officers, employee, servants and agents from and against all actions, suits, claims, executions and demands (collectively "**Actions**") which may be brought against or made upon the Owner, its officers, servants and agents, and from all loss, costs, charges, damages, liens and expenses (collectively "**Losses**") which may be paid, sustained or incurred by the Owner, its officers, servants and agents by reason of or on account, or in consequence of: the execution and performance of the Work or of the non-execution or imperfect execution thereof or of the supply and non-supply of plant or material therefore (collectively the "**Indemnified Matters**").

 - (c) TO pay to the Owner on demand:
 - (i) all Losses which may be paid, sustained or incurred by the Owner or any of its officers, servants or agents in consequence of any Actions related to any Indemnified Matter; and

 - (ii) any monies paid or payable by the Owner or any of its officers, servants or agents in settlement or in discharge thereof or on account thereof

and that in default of such payment, pay to the Owner:

1. all such Losses and any monies so paid or payable by the Owner, its officers, servants or agents;
2. any monies payable by the Contractor under this or any other Contract;
3. any monies which may be recovered from the Contractor or a surety under any Contract Security; and
4. any monies paid into any court of competent jurisdiction or elsewhere in trust for the City.

(d) AND the Contractor hereby authorizes and empowers the Owner or its solicitor for the time being, to defend, settle or compromise any such Actions as the Owner or its solicitor may deem expedient, and also hereby agrees to ratify and confirm all the acts of the Owners or its solicitor and shall pay on demand the reasonable costs of defending, settling or compromising any such Actions as the Owner may deem it expedient to defend, settle or compromise and that in default of such payment the same may be deducted from any monies payable by the Owner to the Contractor on any account whatsoever. Provided, however, that the Contractor may at the expense of the Contractor, subject to the consent of the Owner take charge of and conduct in the name of the Owner, the defence to any such action, claim or suit.

5. THE Owner covenants with the Contractor that if:

the Work, including all authorized extras in connection therewith, shall be duly and properly executed as aforesaid and if the Contractor shall carry out, perform, observe, fulfill, keep and abide by all the covenants, agreements, stipulations, provisions, terms and conditions of the Contract Documents,

the Owner will (subject to the terms and conditions of the Contract Documents) pay the Contractor therefore the sums calculated in accordance with the actual measured quantities and unit prices mentioned in Bid and for such extra Work at the rates or unit prices mentioned in the Bid (which are to apply to all extras of the character specified in the schedule of rates or unit prices forming part of the Bid).

Such payments to be made subject to deductions in relation to and holdbacks and liquidated damages referred to in the Contract Documents.

Owner shall pay amounts outlined in invoices, estimates and or certificates approved by Owner in writing PROVIDED:

- a. the possession of a signed and approved invoice, estimate and or certificate is hereby made a condition precedent to the right of the Contractor to be paid or to maintain any action for such money or for any part thereof;
- b. that the Owner shall not be liable or compelled to pay for any extras or additional work not included in this Contract except only in the manner and as provided for herein;
- c. PROVIDED ALSO that the Owner shall not be liable or compelled to grant or issue any certificate or approve any invoice or estimate for Work rejected or condemned by the Owner or to pay any money therefore until the Work so rejected or condemned has been replaced by new material and workmanship to the written satisfaction of the Owner and it is hereby expressly provided that the granting of any

certificate or approval of any estimate or invoice, or the payment of any monies there under shall not be construed as an acceptance of any bad or defective work or material, to which the same relates or as an admission or liability to pay any money in respect thereof and shall not in any manner lessen the liability of the Contractor to replace such work or material, although the condition of the same may not have been known to or discovered by the Owner at the time such certificate was granted, invoice or estimate was approved, or monies were paid thereon.

6. Liquidated Damages.

If the RFQ provides an amount for Liquidated Damages, the following provisions in this section apply:

- (a) It is agreed by the parties to the Contract that in case all the Work or any portion thereof as called for under the Contract is not finished or completed within the number of working days or the completion date as set forth in the Contract Documents, damage shall be sustained by the Owner.
- (b) It is and shall be impracticable and extremely difficult to ascertain and determine the actual damage which the Owner shall sustain in the event of and by any reason of such delay.
- (c) The parties hereto agree that the Contractor shall pay to the Owner the liquidated damages amount outlined in the Contract Documents as liquidated damages for each calendar day's delay in finishing the Work in excess of the number of working days or the completion date prescribed. This amount is not and shall not be deemed as a penalty but is a fair and reasonable estimate of the compensation due to the Owner which shall accrue during the period in excess of the prescribed completion date or the number of working days.
- (d) Owner may deduct any amount due under this section from any monies that may be due or payable to the Contractor on any account whatsoever.
- (e) Owner may also invoice Contractor for liquidated damages owing, and Contractor shall pay such invoices within 30 days of receipt.
- (f) The liquidated damages payable are in addition to and without prejudice to any other right, claim, action or any other remedy that may be available to the Owner.

7. Insurance (General Requirements)

- a. Without restricting the generality of any contractual indemnity provisions, the Contractor shall obtain, maintain, pay the premium(s) and any deductibles and provide evidence of required insurance coverage. The Contractor shall be entirely responsible for the cost of any deductible that is maintained in any insurance policy.

- b. The forms of these insurance policies shall in all respects be satisfactory to the City's Insurance and Risk Manager and shall be maintained continuously from the commencement of the Work until the Work has been completed to the satisfaction of the City.
- c. The insurance shall be taken out with insurance companies licensed to transact business in the Province of Ontario and who are not otherwise excluded by the City's Insurance and Risk Manager.
- d. The policies shown above shall be endorsed to provide the Owner with not less than thirty (30) days written notice of expiry, cancellation, change or amendment restricting coverage such that the requirements in the Contract are no longer met.
- e. However, if for any reason the insurer, on behalf of the Contractor, cannot endorse their policies to provide the Owner with not less than thirty (30) days written notice of change or amendment restricting coverage, the responsibility thereof shall automatically transfer to the Contractor and becomes the Contractor's strict obligation to deliver to the Owner by registered mail with not less than thirty (30) days written notice of change or amendment restricting coverage.
- f. The Contractor shall submit annually to the City, certificates of insurance and continuity of coverage on an annual basis for all applicable insurance coverages required. These certificates should be submitted to the attention of the Project Lead with the Project/BID number indicated.
- g. The Contractor shall not commence work under the Contract until such time as evidence of insurance, on the Owner's [Certificate of Insurance form](#) has been completed and filed with and approved by the Owner.
- h. If required by the Owner, the Contractor shall provide certified true copy(s) of the policy(s) certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the Work.
- i. If the Contractor fails to maintain insurance as required by the Contract the Owner shall have the right to provide and maintain such insurance and give evidence to the Contractor and (if applicable) the City's consultant and The Regional Municipality of York. The Contractor shall pay the cost thereof to Owner on demand or the Owner may deduct the cost from the amount which is due to or may become due to the Contractor.
- j. The Owner reserves the right to request such higher limits of insurance or other types of policies appropriate to work as the Owner may reasonably require.
- k. All policies shall apply as primary and not as excess of any insurance available to the Owner.
- l. If requested the Contractor shall provide the Owner with a letter from their insurance provider confirming the Contractor's ability to meet the insurance requirements as set out in the Contract.

- m. The Contractor shall provide the City with proof of insurance, by submitting an original Certificate of Insurance on the City's standard "Certificate of Insurance" form, or documentation approved by the Insurance and Risk Manager, upon execution and delivery of the Contract, prior to commencement of the Work and thereafter upon request by the City. In lieu of an original Certificate of Insurance, the City may accept an electronic copy provided it is e-mailed or faxed by the Contractor's insurance broker directly to the City.
- n. All policies of insurance shall contain provisions for settling joint loss disputes amongst property.
- o. It is the Contractor's responsibility to ensure that any Subcontractors employed must have proof of active insurance policies providing the following coverages the Contractor as Additional Insured where applicable:
 - Commercial General Liability
 - Automobile Insurance
- p. It is the expectation that the Contractor to obtain the current Certificate of Clearance indicating a Subcontractor's good standing and/or letter for the following:
 - WSIB or Equivalent Employer's Liability Insurance

8. Handling Claims by Third Parties

- a. The Contractor shall respond to, and deal with, all indemnifiable third-party claims in a prompt, courteous and efficient manner.
- b. The Contractor shall contact all third-party claimants and acknowledge receipt of all third-party claims in writing within 7 Working Days upon being notified in writing of the third-party claim.
- c. The Contractor shall immediately, upon receipt of any third-party claim, provide the City's Office of the City Clerk, Insurance Risk Management Section with notice of the third-party claim.
- d. The Contractor shall also provide the City's Office of the City Clerk, Insurance Risk Management Section with copies of all correspondence between the Contractor or its agents and the third-party claimant.
- e. The Contractor shall not advise the third-party claimant that the City is responsible for their claim.
- f. If, in the sole discretion of the City's Office of the City Clerk, Insurance Risk Management Section, acting reasonably, a claim is not being dealt with in a manner consistent with the provisions of this Contract, which includes, without limiting the generality of the foregoing:
 - failure of the Contractor to acknowledge receipt of the third-party claim in the manner set out above ; and

- failure to resolve the third-party claim to the satisfaction of the City within 90 Days of the receipt of the third-party claim,

the City reserves the right to appoint an insurance adjuster or other person to settle any third-party claims arising from this Contract.

- g. Any money paid by the City in satisfaction of any third-party claim determined to be the Contractor's responsibility, plus all adjuster costs and other associated costs and administrative costs incurred by the City, shall be deducted from monies owing to the Contractor by the City.

9. Miscellaneous.

- (a) The duties and obligations imposed by the Contract and the rights and remedies available thereunder shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.
- (b) Time shall be of the essence.
- (c) The laws of the Province of Ontario shall govern the interpretation of the Contract.
- (d) This Contract is drawn in English at the request of all parties hereto; ce marché est rédigé en anglais à la demande de toutes les parties.
- (e) Subject to all applicable laws and to the provisions of the Contract Documents, this Agreement shall enure to the benefit of, and be binding upon, the parties hereto, their respective heirs, legal representatives, successors and assigns.
- (f) Each provision of the Contract shall be valid and enforceable to the fullest extent permitted by law. If any provision of the Contract or the application thereof to any person or circumstance is determined to be invalid or unenforceable to any extent:
 - i. the remainder of the Contract or the application of such provision to any other person or circumstance shall not be affected thereby; and
 - ii. the parties shall negotiate in good faith to amend the Contract to implement the provisions set forth.
- (g) The Contract represents the entire agreement between the Contractor and the City and supersedes any previous agreements, negotiations and understandings. There are no agreements, representations, City warranties, terms, conditions or commitments regarding the subject matter of this agreement except as expressed in the Contract.

[remainder of page intentionally blank]

IN WITNESS THEREOF, the Contractor and Owner have hereunto signed their name and set their seal on the day first above written.

**CONTRACTOR
Full Legal Name:**

SIGNED, SEALED AND
DELIVERED in the
presence of:

) By: _____
)
)
)
)

) Position: _____
) *(I have authority to bind the Corporation)*
)
)

) Witness Name: _____
)
)
)

) Witness Signature: _____
)
)
)
)
)
)
)
)

THE CORPORATION OF THE CITY OF VAUGHAN

) Per: _____
) City's Director of Procurement Services
) Name:
)
)

CHANGE ORDER FORM

CITY STANDARD FORM OF BID BOND

CITY STANDARD FORM OF UNDERTAKING TO BOND

FORM 32 PERFORMANCE BOND UNDER SECTION 85.1 OF THE CONSTRUCTION ACT

FORM 31 LABOUR & MATERIAL PAYMENT BOND UNDER SECTION 85.1 OF THE CONSTRUCTION ACT

CITY STANDARD FORM OF IRREVOCABLE LETTER OF CREDIT

CITY STANDARD FORM OF CERTIFICATE OF INSURANCE

DRAWINGS A1.0, A2.0 A2.1, A3.0, A3.1 A4.0, A5.0, A6.0.

STUCCO MANUFACTURES'S SPECIFICATIONS 09 2412

END OF DOCUMENT 6

CONTRACT CHANGE ORDER NO.

DESCRIPTION: _____

PURCHASE ORDER No.: _____

REQUESTED BY: _____

DEPARTMENT: _____

The following description of work(s) and/or material(s), associated cost(s) have been approved and agreed upon by both signing parties;

The authorized changes, as stated, are subject to all provisions of the contact:

- 1. Revised Contract Price \$ _____
- 2. H.S.T. \$ _____
- 3. Sub Total Extra's \$ _____

With a completion and/or delivery date of _____ / _____ weeks.

Made this _____ day of _____ 20_____.

Original Contract Price: \$ _____

THE ABOVE MENTIONED CONTRACT IS HEREBY AMENDED BY SUM OF:

With a completion and/ or delivery date: _____

The Corporation of the City of Vaughan

Contractor/Supplier

PER: _____

PER: _____

POSITION: _____

POSITION: _____

**THE CORPORATION OF THE CITY OF VAUGHAN
STANDARD FORM OF BID BOND**

BOND NO.: _____

AS USED HEREIN:

“Principal” means: _____.

“Surety” means:

_____, a corporation created and existing under the laws of Ontario or Canada and duly authorized to transact the business of Suretyship in Ontario.

“City” and “Obligee” means: The Corporation of the City of Vaughan.

KNOW THEREFORE ALL MEN BY THESE PRESENTS that Principal and Surety are held and firmly bound unto the Obligee in the amount of 10% of the Bid Price (as defined in the RFQ) being:

_____ (\$ _____)

lawful money of Canada, for the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Quote to the Obligee dated: _____ regarding RFQ # and description:

_____.

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

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

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

DATED THIS _____ day of _____, _____.

c/s

Name – Surety:

Signature and Signing Authority:
I have authority to bind the Corporation

c/s

Name – Principal:

Signature and Signing Authority:
I have authority to bind the Corporation

**THE CORPORATION OF THE CITY OF VAUGHAN
STANDARD FORM OF UNDERTAKING TO BOND**

RE: RFQ#: _____

RE: RFQ Description:

TO: THE CORPORATION OF THE CITY OF VAUGHAN (the "City")

AND TO: _____ (the "Contractor")

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

- (a) a Performance Bond totaling 25% of the Bid Price (or other amount as required by the RFQ) and conforming to the Form 32 Performance Bond attached hereto and bonding requirements outlined in the RFQ; and
- (b) a Labour and Material Payment Bond totaling 25% of the Bid Price (or other amount as required by the RFQ) and conforming to the Form 31 Labour & Material Payment Bond attached hereto and bonding requirements outlined in the RFQ,

if the Contractor's Quote for the Work is accepted by the City for Contract award. As used above, "Bid Price" has the definition provided in the RFQ.

If the above-mentioned Quote is accepted, the undersigned will execute the bonds within 8 Working Days of notification of acceptance of the Quote.

DATED this _____ day of _____.

Name - Surety Company

(Company Digital Seal)

**Digital Signature of Authorized Person
Signing for Surety**
I have authority to bind the Corporation

FORM 32
PERFORMANCE BOND UNDER SECTION 85.1 OF THE ACT

Construction Act

No. _____ (the “**Bond**”) Bond Amount \$ _____

(name of the contractor*)

as a principal, hereinafter [collectively] called the “**Contractor**”, and

(name of the surety company**)

a corporation created and existing under the laws of _____
(place of incorporation)

as a surety, and duly authorized to transact the business of Suretyship in the Province of Ontario and hereinafter called the “**Surety**”, are held and firmly bound unto _____
(name of the owner***)

as obligee, hereinafter called the “**Owner**”, in the amount of \$ _____ hereinafter called the “**Bond Amount**”,
(Bond Amount in figures)

for the payment of which sum the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally in accordance with the provisions of this Bond (the “**Obligation**”).

WHEREAS the Contractor has entered into a written contract with the Owner dated the _____ day of _____
(name of month)

in the year _____ for _____
(title or description of the contract)

(the “**Original Contract**”) and, for the purpose of specifying the conditions of the Obligation, this contract together with amendments made in accordance with its terms are by reference made part hereof and are hereinafter referred to collectively as the “**Contract**”;

NOW THEREFORE the condition of this Obligation is such that if the Contractor shall promptly and faithfully perform the Contract then this Obligation shall be null and void; otherwise it shall remain in full force and effect, subject to the following terms and conditions:

1. Written Notice

- 1.1 The Owner may make a written demand on the Surety in accordance with this Bond, by giving notice to the Surety substantially in the form attached as Schedule A (the “**Notice**”). Except for a Pre-Notice Meeting in accordance with Section 2.1, the Surety shall have no obligation under this Bond until it receives a Notice.
- 1.2 Where the Surety includes two or more companies, the Notice may be delivered to the first listed Surety on behalf of all Sureties. The first listed Surety is hereby authorized to respond to the Notice on behalf of the Sureties, and the Owner is not required to give separate Notice to each Surety and is entitled to correspond with the first listed Surety on behalf of all Sureties.

2. Pre-Notice Meeting

- 2.1 The Owner may, at its sole discretion and acting reasonably, request a pre-Notice conference by notifying the Surety and the Contractor in writing that it is considering declaring the Contractor to be in default under the Contract (the “**Pre-Notice Meeting**”). This notice and request for a Pre-Notice Meeting by the Owner does not constitute a Notice under this Bond, nor under the Contract, nor is it a precondition to the giving of a Notice. Upon receipt of such request the Surety shall propose a face-to-face meeting, a telephone conference call or a meeting by any other form of electronic media between the Contractor, the Owner and the Surety to take place

at a time and place mutually convenient for all parties within seven (7) business days (or such longer time as agreed by all parties) after the Surety's receipt of the Owner's request for a Pre-Notice Meeting in accordance with this Section. The Owner, the Contractor and the Surety shall make reasonable efforts to arrange and attend the Pre-Notice Meeting. In the event that the Owner delivers a Notice prior to the Pre-Notice Meeting, then the Pre-Notice is deemed to be retracted.

- 2.2 The purpose of a Pre-Notice Meeting is to allow the Owner, prior to exercising its other rights under this Bond, to express any concerns about the Contractor's performance pursuant to the Contract and to allow the Contractor to respond to such concerns. The participation of the parties in one or more Pre-Notice Meetings shall be without prejudice to their respective rights and obligations under the Contract, this Bond or applicable law, and neither the participation by any party in any Pre-Notice Meeting, nor any statement or position taken or information provided by any party during any Pre-Notice Meeting, may be relied on by any other party as a waiver or compromise of the rights or obligations of the Owner, the Surety or the Contractor under the Contract, this Bond or applicable law; including, but not limited to the Owner's right to declare the Contractor in default under the Contract and give Notice under this Bond.

3. Surety's Investigation and Response

- 3.1 Upon receipt of a Notice from the Owner, the Surety shall promptly initiate an investigation of the Notice (the "**Investigation**"), using its best efforts, to determine if the Conditions Precedent have been satisfied and to determine its liability, if any, under the Bond.
- 3.2 Within the four (4) business days following receipt of the Notice, the Surety shall provide the Owner with an acknowledgement, substantially in the form set out as Schedule B (the "**Acknowledgement**"), identifying the date on which the Notice was received and requesting from the Owner the information and documentation (the "**Information**") the Surety requires to continue the Investigation and, if necessary, request access to personnel who are knowledgeable about the circumstances of the Notice and to the Contract work site(s) where the work is being performed. Upon receipt of the Surety's Acknowledgement, the Owner shall promptly, and in accordance with terms of the Contract, provide the Surety with the requested Information and access to personnel and the work site(s) within its possession or control.
- 3.3 The Surety shall within a reasonable time conduct the Investigation, but in any event no later than twenty (20) business days after receipt by the Surety of a Notice (or such longer period as may be agreed between the Surety and Owner), the Surety shall provide the Owner with its written response to the Notice, substantially in the form set out at Schedule C (the "**Surety's Position**"), advising either that:
- a) The Surety accepts liability under the Bond and proposes to satisfy its Obligation by performing one of the options set out in Section 6.1; or
 - b) The Surety does not accept liability, providing its specific reasons; or
 - c) The Surety is unable to determine whether or not one or more of the Conditions Precedent has been satisfied and, in the Surety's sole discretion, the Surety may propose a process for collaborating with the Owner in the advancement of the completion of the work so as to attempt to mitigate the Owner's cost to complete the Contract.
- 3.4 The Surety shall also, if requested by the Owner to do so, meet with the Owner to discuss the status of the Investigation within five days following receipt of the request. This meeting may take place via a face-to-face meeting, a telephone conference call or a meeting by any other form of electronic media as may be mutually agreed to by the Owner and Surety.

4. Necessary Interim Work

- 4.1 Prior to and during the Investigation, if the Owner must take action which is necessary to:
- a) ensure public or worker safety,
 - b) preserve or protect the work under the Contract from deterioration or damage, or
 - c) comply with applicable law,

(the "**Necessary Interim Work**")

the Owner may, acting with due diligence and provided written notice is subsequently provided to the Surety within three (3) Business Days of the commencement of such

Necessary Interim Work, undertake such Necessary Interim Work provided that:

- i. Owner shall allow the Surety and/or its consultant(s) reasonable access to the Contract work site(s) during the course of the Necessary Interim Work for the purpose of monitoring the progress of the Necessary Interim Work;
 - ii. any such Necessary Interim Work shall be undertaken without prejudice to the rights of the Owner, the Contractor or the Surety under the Contract, this Bond or applicable law; and
 - iii. the reasonable costs incurred by the Owner in undertaking such Necessary Interim Work (to the extent they are not deducted in the calculation of the Balance of Contract Price in Section 9.1) shall be reimbursed by the Surety, subject to the Surety's liability being subsequently established and subject to such expenses being covered by this Bond. Any payments made by the Surety in respect
- 4.2 Nothing in this section is intended to limit the ability of an Owner to take whatever steps are reasonably necessary in the public interest.
- 4.3 Subject to the foregoing provisions in Section 4.1, the Surety shall not raise the mere fact that the Necessary Interim Work proceeded as a defence to any claim by the Owner hereunder

5. Post-Notice Conference

- 5.1 Upon receipt of a Notice, the Surety shall propose a face-to-face meeting, telephone conference call or a meeting by any other form of electronic media (a "**Post-Notice Conference**") with the Owner at a mutually convenient time and place within five (5) business days (or such longer period as may be agreed between the Surety and Owner). The Contractor may participate in a Post-Notice Conference at the invitation of the Surety.
- 5.2 The purpose of the Post-Notice Conference shall be to determine what actions or work, if any, the Owner believes must be done while the Surety is conducting the Investigation in order to effectively mitigate the costs for which the Owner is seeking recovery under this Bond (the "**Mitigation Work**"). Mitigation Work may be performed after Necessary Interim Work and throughout the period of investigation by the Surety.
- 5.3 Provided the Owner provides reasonable evidence to the Surety that Mitigation Work is necessary during the Investigation and that the anticipated costs are reasonable, the Owner may proceed with the Mitigation Work subject to the following conditions:
- a) Owner shall pay the reasonable costs of the Mitigation Work;
 - b) Owner shall keep separate records of all amounts related to the Mitigation Work for which it intends to seek recovery under this Bond, including amounts to be set off against the Balance of Contract Price;
 - c) Owner shall allow the Surety and/or its consultant(s) reasonable access to the Contract work site(s) during the course of the Mitigation Work for the purpose of monitoring the progress of the Mitigation Work; and
 - d) the Mitigation Work shall be without prejudice to the rights or obligations of the Owner, the Contractor or the Surety under the Contract, this Bond or applicable law.
- 5.4 If the Surety objects to any part of the Mitigation Work, including without limitation the Owner's proposed Mitigation Work contractor(s), scope of work, cost or method of work, it shall immediately advise the Owner in writing of its objections and the reasons therefor. The Owner may still proceed with the Mitigation Work and the Surety's objections will be addressed through negotiation with the Owner or at the trial of any action brought pursuant to this Bond.
- 5.5 The reasonable costs incurred by the Owner in undertaking the Mitigation Work shall be reimbursed by the Surety, subject to the Surety's liability being subsequently established. Any payments made by the Surety in respect of the Mitigation Work shall form part of its Obligation under this Bond and shall reduce the Bond Amount by the amount of any such payments.
- 5.6 For greater clarity, any Necessary Interim Work being performed by the Owner pursuant to Section 4 may continue to be performed pending an agreement, if any, as to the Mitigation Work.
- 5.7 Subject to the foregoing provisions in this Section 5, the Surety shall not raise the mere fact that the Mitigation Work proceeded as a defence to any claim by the Owner hereunder.

6. Surety's Options

- 6.1 If the Surety has accepted liability pursuant to this Bond, the Surety shall promptly select and commence one of the following options:
- a) remedy the default; or
 - b) complete the Contract in accordance with its terms and conditions; or
 - c) obtain a bid or bids for submission to the Owner for completing the Contract in accordance with its terms and conditions and, upon determination by the Owner and the Surety of the lowest responsible bidder:
 - i. arrange for a contract between such bidder and the Owner; and
 - ii. make available as work progresses (even if there should be a default, or a succession of defaults, under the contract or contracts of completion, arranged under this paragraph) sufficient funds to complete the Contractor's obligations in accordance with the terms and condition of the Contract including any applicable value-added taxes for which the Surety may be liable, less the Balance of Contract Price; or
 - d) pay the Owner the lesser of: (1) the Bond Amount, or (2) without duplication, the Owner's Direct Expenses plus the Owner's proposed cost of completion of the Contract and any applicable value-added taxes for which the Surety may be liable, less the Balance of Contract Price.
- 6.2 The option selected by the Surety is referred to in this Bond and the Schedules as the "**Surety Option**".

7. Owner's Direct Expenses

- 7.1 Where the Surety is liable under this Bond, then the Surety shall be liable for the following fees and expenses, without duplication (the "**Owner's Direct Expenses**"):
- a) reasonable professional fees incurred by the Owner to complete the Contract which are a direct result of the Contractor's default and which would not have been incurred but for the default of the Contractor;
 - b) reasonable external legal fees incurred by the Owner to complete the Contract, which are a direct result of the Contractor's default and which would not have been incurred but for the default of the Contractor, with the exception of legal fees incurred by the Owner in defending a claim or action by the Contractor, or incurred by the Owner in pursuing an action against the Contractor;
 - c) reasonable, miscellaneous and out-of-pocket expenses incurred by the Owner to complete the Contract which are a direct result of the default of the Contractor and which would not have been incurred but for the default of the Contractor;
 - d) direct costs incurred as a result of an extension of the duration of the supply of services or materials used or reasonably required for use in the performance of the Contract, which are a direct result of the default of the Contractor and which would not have been incurred but for the default of the Contractor;
 - e) reasonable costs of the Necessary Interim Work;
 - f) reasonable costs of the Mitigation Work; and
 - g) any additional fees and expenses agreed to by the Obligee, the Principal and the Surety.
- 7.2 For the purpose of Section 7.1(d), the "direct costs" incurred are the reasonable costs of performing the Contract during the extended period of time, including costs related to the additional supply of services or materials (including equipment rentals), insurance and surety bond premiums, and costs resulting from seasonal conditions, that, but for the extension, would not have been incurred.
- 7.3 Subject to any agreement to the contrary, between the Obligee, the Principal and the Surety, the Surety shall not be liable under this Bond for:
- a) any liquidated damages under the Contract;
 - b) if no liquidated damages are specified in the Contract, any damages caused by delayed performance or non-performance of the Contractor, except as provided in Section 7.1(d); or

- c) any indirect or consequential damages, including but not limited to costs of financing, extended financing, hedging arrangements, loss of or deferral of profit, productivity or opportunity, or head office overhead costs.

7.4 If the Surety is liable under this Bond then, at the Owner's option, Owner's Direct Expenses may be deducted by the Owner from the Balance of the Contract Price as defined hereinafter or will be promptly reimbursed by the Surety subject to the other terms, conditions and limitations of this Bond and will reduce the Bond Amount.

8. Conditions Precedent

- 8.1 The Surety shall have no liability or Obligations under this Bond unless all of the following conditions precedent (the "**Conditions Precedent**") have been satisfied:
- a) The Contractor is, and is declared by the Owner to be, in default under the Contract;
 - b) The Owner has given such notice to the Contractor of a default of the Contractor, as may be required under the terms of the Contract;
 - c) The Owner has performed the Owner's obligations under the Contract; and
 - d) The Owner has agreed to pay the Balance of Contract Price to the Surety or as directed by the Surety.

9. Balance of Contract Price

- 9.1 The term "**Balance of Contract Price**" means the total amount payable by the Owner to the Contractor under the Contract, including any adjustments to the price in accordance with the terms and conditions of the Contract, or other amounts to which the Contractor is entitled, reduced by any amounts deducted by the Owner for the Owner's Direct Expenses under Section 7.4 and all valid and proper payments made to or on behalf of the Contractor under the Contract.
- 9.2 The Balance of Contract Price shall be used by the Owner to first mitigate against any potential loss to the Surety under this Bond and then under the Labour & Material Payment Bond, and the Owner shall assert all rights and remedies available to the Owner to the Balance of Contract Price and make payment of the Balance of Contract Price as directed by the Surety.

10. Limitations on the Surety's Liability

- 10.1 Notwithstanding anything to the contrary contained in this Bond or in the Contract, the Surety shall not be liable for a greater sum than the Bond Amount under any circumstances.
- 10.2 The Surety's responsibility to the Owner under this Bond in respect of any Surety Option or Owner's Direct Expenses shall not be greater than that of the Contractor under the Contract.

11. Right of Action

- 11.1 No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Owner named herein, or the heirs, executors, administrators or successors of the Owner.

12. Commencement of Action

- 12.1 It is a condition of this Bond that any suit or action must be commenced before the expiration of two (2) years from the earlier of: (a) the date of substantial performance of the Contract as defined under the *Construction Act* (the "**Act**"); or (b) the date on which a Notice in respect of the default that is the subject of such suit or action is received by the Surety under this Bond.
- 12.2 The Owner, the Contractor and the Surety agree that any suit or action is to be made to a court of competent jurisdiction in Ontario and agree to submit to the jurisdiction of such court notwithstanding any terms to the contrary in the Contract.

13. Common Law Rights

- 13.1 The rights and obligations of the Owner, the Contractor, and the Surety under this Bond are in addition to their respective rights and obligations at common law and in equity.

14. Applicable Law

- 14.1 This Bond is governed by the laws of the Province of Ontario.

15. Notices

15.1 All notices under this Bond shall be delivered by registered mail, facsimile, or electronic mail at the addresses set out below, subject to any change of address in accordance with this Section. Any notice given by facsimile or electronic mail shall be deemed to have been received on the next business day or, if later, on the date actually received if the person to whom the notice was given establishes that he or she did not, acting in good faith, receive the notice until that later date. Any notice given by registered mail shall be deemed to have been received five (5) days after the date on which it was mailed, exclusive of Saturdays and holidays or, if later, on the date actually received if the person to whom the notice was mailed establishes that he or she did not, acting in good faith, receive the notice until that later date. A change of address for the Surety is publicly available on the Financial Services Commission of Ontario website (see: https://www5.fscs.gov.on.ca/Licensing/LicClass/eng/lic_companies_class.aspx). The address for the Owner or the Contractor may be changed by giving notice to the other parties setting out the new address in accordance with this Section.

The Surety:

[Surety corporate name] [address]
[fax] [email]

The Owner:

[Owner proper name]
[address]
[fax]
[email]

The Contractor:

[Contractor corporate name] [address]
[fax] [email]

16. Headings for Reference Only

16.1 The headings and references to them in this Bond are for convenience only, shall not constitute a part of this Bond, and shall not be taken into consideration in the interpretation of this Bond.

IN WITNESS WHEREOF, the Contractor and the Surety have Signed and Sealed this Bond this day of
..... in the year

[Contractor proper name]

Witnessed by :

By: _____

Name:

Name of Witness:

Title:

Address of Witness:

I have authority to bind the corporation.

[Surety corporate name]

By: _____

By: _____

Name:

Name:

Attorney-in-fact:

Attorney-in-fact:

* IF THERE ARE TWO OR MORE COMPANIES IN PARTNERSHIP OR JOINT VENTURE, JOINTLY AND SEVERALLY BOUND, INSERT THE NAME OF EACH PARTNER OR JOINT VENTURE PARTY, AND INSERT THE WORD "COLLECTIVELY" AFTER THE WORD "HEREINAFTER" IN THE FIRST LINE.

** IF THERE ARE TWO OR MORE SURETY COMPANIES, JOINTLY AND SEVERALLY BOUND, INSERT THE "[Name of the surety company], a corporation created and existing under the laws of [Place of incorporation]," FOR EACH SURETY, FOLLOWED BY "each as a surety and each duly authorized to transact the business of Suretyship in the Province of Ontario and hereinafter collectively called the "Surety"".

*** INSERT THE CROWN, A MUNICIPALITY OR A BROADER PUBLIC SECTOR ORGANIZATION, AS APPLICABLE, OR SUCH OTHER PARTY DEEMED TO BE THE OWNER UNDER THE ACT, AND ENTERING INTO THE PUBLIC CONTRACT WITH THE CONTRACTOR.

SCHEDULE A

Form of Notice

[date]

[Surety name] [Surety
address] [Surety
address]

[Surety's electronic/email address] **Attention:**

Re:

Bond No:

Contractor:

Owner:

Contract:

Dear Sir/Madam,

We hereby notify you that the Contractor is in default of the captioned Contract. In general terms the details of the default are as follows:

[insert description of the Contractor Default]

We have given such notice of this default to the Contractor as is required under the Contract and enclose a copy for your records, and confirm that we have honoured our obligations under the Contract.

We call on you as Surety to honour your obligations under the Bond. We represent and warrant that we have in our possession the original, executed Performance Bond and herein enclose a copy.

Please provide us with potential dates and times to conduct the Post-Notice Conference under Section 5.1 of the Bond.

OPTIONAL: In the circumstances we plan to proceed with work and incur expenses necessary in the circumstances to ensure public safety or to preserve or protect the work under the Contract from deterioration or damage, referred to as the Necessary Interim Work under Section 4.1 of the Bond, and will provide you with information and access to discuss and observe this work. In the interim the following is a general description of the anticipated Necessary Interim Work:

OPTIONAL: To assist you in your Investigation we enclose with this Notice the documents and information indicated in Appendix A to this Notice. *[In addition to Appendix A, the Owner is encouraged to provide any information or material that may expedite the Investigation.]*

We look forward to receiving your acknowledgment of this Notice no later than four (4) business days of receipt and your request for any additional documentation or information you require to meet your obligations under the Bond.

Your truly,

[Full corporate title]

By:

[Name]

[Title]

[Phone]

[Email address]

CC: [Contractor]

Appendix A

The following checked documents and information are enclosed with this Notice:

- Copy of full, executed Contract (with letter of award), including approved changes and pending changes relevant to this Notice (along with a copy of the Change Order log)
- Copy of original schedule and latest approved schedule for the Contract including actual progress and the order to commence work
- Specifications and drawings, including tender and post tender addenda, if any, applicable to the Contractor's scope of work
- Copies of and summary reconciliation of all invoices received under the Contract
- Copies of and summary reconciliation of all payments made and holdback of any kind retained under the Contract
- Copy of the most recent approved or certified payment application including the applicable Schedule of Values and copies of all unpaid payment applications
- A detailed list of all outstanding work in the Contractor's scope of work (including any deficiencies identified to date)
- Any issued or pending backcharges from the Owner to the Contractor
- Copy of any notice or correspondence to and from the Contractor related to the Contract and relevant to this Notice
- Copy of any claim for lien, legal proceeding or other documents received on the Contract
- Copy of any correspondence from subcontractors, suppliers or others indicating claims for unpaid amounts related to the Contract
- Copy of the executed and delivered Performance Bond
- [\[Additional documents or information\]](#)

SCHEDULE B

Surety's Acknowledgement of a Notice

[date]

[Name/corporate title of the Owner]

[Address]

[Address]

[E-mail address (if provided in the Notice of Claim)]

Attention:

Re:

Bond No:

Contractor:

Owner:

Contract:

Dear Sir/Madam,

On behalf of the Surety defined in the captioned Bond we acknowledge receipt on of your Notice
(date of receipt)

of your Notice under the captioned Performance Bond.

Please advise as soon as possible which of the following proposed dates and times and logistics are convenient to conduct the Post-Notice Conference:

Proposed Date	Proposed Time	Meeting or conference/video conference logistics

To enable our Investigation of the Notice please provide us promptly with the information and/or documentation identified in Appendix A to this Acknowledgement (and as necessary with access for our staff or appointed representatives to attend the place where the Contract is being performed to inspect the condition and progress of the work), hereinafter the Information.

We will provide you with the Surety's Position to the Notice no later than twenty (20) business days of our receipt of the Notice based on the information, documentation and access you have provided.

We continue to reserve all of our rights pursuant to the Bond and at law.

Yours truly;

[Corporate name of the Surety]

By:

[Name]

[Title]

[Phone]

[Email address]

CC: [Contractor]

Appendix A to Surety's Acknowledgement
Surety's Request for Information

Please identify and provide contact information for a person who is knowledgeable about the circumstances of the Notice and any Necessary Interim Work and Mitigation Work, and who can speak for the Owner.

Please identify and provide contact information for a person with whom arrangements can be made for access to the site where the work under the Contract is being performed.

Please provide copies of the following documentation in digital or hard format:

- Copy of full, executed Contract (with letter of award), including approved changes and pending changes relevant to this Notice (along with a copy of the Change Order log)
- Copy of original schedule and latest approved schedule for the Contract including actual progress and the order to commence work
- Specifications and drawings, including tender and post tender addenda, if any, applicable to the Contractor's scope of work
- Copies of and summary reconciliation of all invoices received under the Contract
- Copies of and summary reconciliation of all payments made and holdback of any kind retained under the Contract
- Copy of the most recent approved or certified payment application including the applicable Schedule of Values and copies of all unpaid payment applications
- A detailed list of all outstanding work in the Contractor's scope of work (including any deficiencies identified to date)
- Any issued or pending backcharges from the Owner to the Contractor
- Copy of any notice or correspondence to and from the Contractor related to the Contract and relevant to this Notice
- Copy of any Notice of Non-payment issued under the Act
- Copy of any Notice of Adjudication issues under the Act
- Copy of any claim for lien, legal proceeding or other documents received on the Contract
- Copy of any correspondence from subcontractors, suppliers or others indicating claims for unpaid amounts related to the Contract
- Copy of the executed and delivered Performance Bond
- [\[Additional documents or information\]](#)

SCHEDULE C
Surety's Position

[date]

[Name/corporate title of the Owner]

[Address]

[Address]

[E-mail address (if provided in the Notice of Claim)] Attention:

Re:

Bond No:

Contractor:

Owner:

Contract:

Dear Sir/Madam,

Based on the Information you have provided and given the current status of our Investigation, we can advise that [use only one of these Options]:

OPTION A

The Surety accepts liability under the Bond. To satisfy our Obligation we propose, under Section 6.1 of the Bond, to:
[Select 1 and delete the others]

- a) Promptly remedy the Contractor Default. *[Describe proposal and timelines.]*
or
- b) Complete the Contract in accordance with its terms but only on the condition that the Owner undertakes to pay or to make available to the Surety the Balance of the Contract Price. *[Describe proposal and timelines.]*
or
- c) Obtain a bid or bids for submission to the Owner for completing the Contract in accordance with its terms and conditions and, upon determination by the Owner and the Surety of the lowest responsible bidder:
 - i. arrange for a contract between such bidder and the Owner; and
 - ii. make available as work progresses (even if there should be a default, or a succession of defaults, under the contract or contracts of completion, arranged under this paragraph) sufficient funds to complete the Contractor's obligations in accordance with the terms and conditions of the Contract including any applicable value-added taxes for which the Surety may be liable, less the Balance of Contract Price. *[Describe proposal and timelines.]***or**
- d) pay the Owner the lesser of : (1) the Bond Amount, or (2) without duplication, the Owner's Direct Expenses plus the Owner's proposed cost of completion of the Contract and any applicable value-added taxes for which the Surety may be liable; less the Balance of Contract Price. *[Describe proposal and timelines.]*

OPTION B

The Surety disputes the Notice. The reasons are as follows:

OPTION C

Based on the Information you have provided and the time available for our Investigation

[if applicable] and taking into account genuine disputed issues as between the Owner and the Contractor that have not been resolved according to the terms of the Contract as outlined generally below,

the Surety is unable to determine whether or not one or more of the Conditions Precedent has been satisfied and, therefore, is not able to accept liability under the Bond.

In particular we have been unable to determine that

[delete those that do not apply]

- a) the Contractor is, in fact, in default of its obligations under the Contract. *[Provide further explanation as appropriate.]*
and/or
- b) the Owner has performed its obligations under the Contract. *[Provide further explanation as appropriate.]*
and/or
- c) the Owner has given the notice to the Contractor of a Contractor Default as required under the terms of the Contract. *[Provide further explanation as appropriate.]*
and/or
- d) the Owner has agreed to apply the Balance of Contract Price as necessary to enable the Surety to exercise the Surety Option under the Bond. *[Provide further explanation as appropriate.]*

With your agreement and assistance we are willing to extend our Investigation in an effort to resolve outstanding issues. Should this extended Investigation allow us to provide you with an alternative Surety's Position we will do so promptly.

[If applicable] Under a full reservation of all of our rights under the Bond and the applicable law, and without prejudice to the rights and obligations of the Owner, the Contractor or the Surety under the Bond we propose to proceed as follows:

We continue to reserve all of our rights pursuant to the Bond and at law.

If you have any questions or concerns, please do not hesitate to contact us.

Yours truly;

[Corporate name of the Surety]

By:

[Name]

[Title]

[Phone]

[Email address]

CC: **[Contractor]**

FORM 31
LABOUR AND MATERIAL PAYMENT BOND UNDER SECTION 85.1 OF THE ACT

Construction Act

No. _____ (the “**Bond**”) Bond Amount \$ _____

(name of the contractor*)

as a principal, hereinafter [collectively] called the “**Contractor**”, and

(name of the surety
company**)

a corporation created and existing under the laws of _____
(place of incorporation)

as a surety, and duly authorized to transact the business of Suretyship in the Province of Ontario and hereinafter called the “**Surety**”, are held and firmly bound unto _____
(name of the owner***)

as obligee, hereinafter called the “**Owner**”, in the amount of \$ _____ hereinafter called the “**Bond Amount**”,
(Bond Amount in figures)

for the payment of which sum the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally in accordance with the provisions of this Bond (the “**Obligation**”).

WHEREAS the Contractor has entered into a written contract with the Owner dated the _____ day of _____
(name of month)

in the year _____ for _____
(title or description of the contract)

(the “**Original Contract**”) and, for the purpose of specifying the conditions of the Obligation, this contract together with amendments made in accordance with its terms are by reference made part hereof and are hereinafter referred to collectively as the “**Contract**”;

NOW THEREFORE the condition of this Obligation is such that if the Contractor shall make payment to all Claimants as hereinafter defined in accordance with the terms of their respective subcontracts or sub-subcontracts for all labour and material used or reasonably required for use in the performance of the Contract then this Obligation shall be null and void, otherwise it shall remain in full force and effect subject to the following conditions:

1. Every corporate or natural person, including a union or workers trust fund on behalf of unionized workers, having a direct contract with the Contractor (hereinafter called a “Subcontractor”) or with any Subcontractor (hereinafter called a “Sub-subcontractor”) for labour, material or both used or reasonably required for use in the performance of the Contract is a “Claimant” under this Bond. The entitlement under this Bond of any Sub-subcontractor, however, is limited to such amounts as the Contractor would have been obligated to pay to the Sub-subcontractor under the *Construction Act* (the “Act”). The entitlement under this Bond of any union or workers trust fund is limited to wages and monetary supplementary benefits, as defined in the Act. The terms “labour” and “material” include that part of water, gas, power, light, heat, oil, gasoline, telephone or digital service or rental equipment directly applicable to the Contract provided that a Claimant who rents equipment to the Contractor or a Subcontractor to be used in the performance of the Contract under a contract which provides that all or any part of the rent is to be applied towards the purchase price thereof shall only be a Claimant to the extent of the prevailing industrial rental value of such equipment for the period during which the equipment was used in the performance of the Contract. The prevailing industrial rental value of equipment shall be determined, insofar as it is practical to do so, by the prevailing rates in the equipment marketplace in which the work is taking place.
2. The Owner is not obligated to do or take any action or proceeding against the Surety on behalf of the Claimant to enforce the bond.

3. Every Claimant who has not been paid for labour, material or both used or reasonably required for use in the performance of the Contract, after the date on which payment was due and payable under the terms of its subcontract or sub-subcontract may demand payment under this Bond by giving the Surety, with a copy to the Contractor and the Owner, a written Notice of Claim, substantially in the form prescribed in Schedule A for a Subcontractor or Schedule B for a Sub- subcontractor, hereinafter called the “**Notice of Claim**”.
4. Where the Surety includes two or more companies a Notice of Claim may be delivered to the first listed Surety on behalf of all Sureties. The first listed Surety is hereby authorized to respond to a Notice of Claim on behalf of the Surety, and a Claimant is not required to make separate Notices of Claim to each Surety and is entitled to correspond with the first listed Surety on behalf of all Sureties.
5. It is a condition precedent to the liability of the Surety under this Bond that a Claimant shall have submitted a Notice of Claim
 - a) in respect of any amount required to be held back from the Claimant by the Contractor, or by a Subcontractor, under either the terms of the Claimant’s contract with the Contractor or Subcontractor or under the *Act*, whichever is the greater, hereinafter and for the purposes of this Bond called the “Holdback”, within one hundred and twenty (120) calendar days after the Claimant should have been paid in full under its contract with the Contractor or with a Subcontractor; and
 - b) in respect of any amount other than for Holdback within one hundred and twenty (120) calendar days after the date on which the Claimant last performed labour or provided materials for which the Notice of Claim was given.
6. For each Notice of Claim provided by a **Subcontractor**:
 - a) No later than three (3) business days after receipt by the Surety of a Notice of Claim the Surety shall acknowledge receipt of the Notice of Claim, substantially in the form prescribed at Schedule C, and request from the Claimant any information and documentation the Surety requires to determine the Claimant’s entitlement under this Bond (hereinafter called the “**Information**”); and
 - b) No later than the earlier of: (a) ten (10) business days after receipt by the Surety of the Information, (b) twenty-five (25) business days after receipt by the Surety of a Notice of Claim, or (c) such longer time as agreed by the Surety and the Subcontractor, the Surety shall provide a position in response to the Notice of Claim, substantially in the form prescribed at Schedule D, hereinafter called the “**Surety’s Position**”.
7. For each Notice of Claim provided by a **Sub-subcontractor**:
 - a) No later than three (3) business days after receipt by the Surety of a Notice of Claim the Surety shall acknowledge receipt of the Notice of Claim, substantially in the form prescribed at Schedule C, and request from the Claimant any information and documentation the Surety requires to determine the Claimant’s entitlement under this Bond (hereinafter called the “**Information**”); and
 - b) No later than the earlier of: (a) fifteen (15) business days after receipt by the Surety of the Information, (b) thirty-five (35) business days after receipt by the Surety of a Notice of Claim, or (c) such longer time as agreed by the Surety and the Sub-subcontractor, the Surety shall provide a position in response to the Notice of Claim, substantially in the form prescribed at Schedule D, hereinafter called the “**Surety’s Position**”.
8. No later than ten (10) business days after the Surety’s Position being provided to any Claimant the Surety shall pay such amounts included in the Notice of Claim that are undisputed by the Surety, except to the extent that the Surety makes an application to the Court with respect to such amounts in accordance with Section 12 below. This payment of undisputed amounts shall be without prejudice to the Surety’s position regarding any disputed portions of a Notice of Claim.
9. If the subject matter of a notice of adjudication which is delivered in accordance with the *Act* by the Contractor or a Claimant (the “**Notice of Adjudication**”) is substantially the same as that contained in a Notice of Claim, the obligations of the Surety under this Bond shall be stayed until the Surety receives a copy of the adjudicator’s determination or there is otherwise a failure to complete or a termination of the adjudication under Section 13.14 of the *Act*.
10. By submitting a claim under this Bond, a Claimant agrees that, in the event of an adjudication between itself and the Surety pursuant to which the Surety pays the Claimant pursuant to an adjudicator’s interim binding determination, the Surety shall be entitled to bring an action against the Claimant to obtain a final and binding decision in respect of the Claimant’s entitlement under this Bond.
11. The Surety shall not in any circumstances be liable for a greater sum than the Bond Amount.
12. The Bond Amount shall be reduced by and to the extent of any payment or payments made under this Bond. If the aggregate of all Notices of Claim exceed, or the aggregate of amounts for which Notices of Claim might be given are believed by the Surety to exceed, the Bond Amount then the Surety may apply to the Court for direction in the interest of all Claimants.

13. Upon payment to a Claimant under this Bond in respect of any indebtedness of the Contractor or Subcontractor to the Claimant, the Surety shall be subrogated to all of the rights of the Claimant in respect of any and all claims, causes of action and rights to recovery which the Claimant may have against any person, firm or corporation because of or in connection with or arising out of such indebtedness, and the Claimant undertakes to extend to the Surety or the Surety's designee any warranties and/or guarantees under the Contract in respect of all labour and materials for which the Claimant has been paid.
14. As a condition precedent, any suit or action under this Bond must be commenced within one (1) year after the date on which the Contractor last performed work on the Contract, including work performed under any warranty or guarantees provided in the Contract.
15. The parties to this Bond and a Claimant by providing a Notice of Claim agree that any suit or action is to be made to a court of competent jurisdiction in Ontario and agree to submit to the jurisdiction of such court notwithstanding any terms to the contrary in the Contract.
16. The rights and obligations of the Owner, the Contractor, and the Surety under this Bond are in addition to their respective rights and obligations at common law and in equity.
17. This Bond shall be governed by the laws of the Province of Ontario.
18. All notices ("Notices") under this Bond shall be delivered by registered mail, facsimile, or electronic mail at the addresses set out below, subject to any change of address in accordance with this Section. Any Notice given by facsimile or electronic mail shall be deemed to have been received on the next business day or, if later, on the date actually received if the person to whom the Notice was given establishes that he or she did not, acting in good faith, receive the Notice until that later date. Any Notice given by registered mail shall be deemed to have been received five (5) days after the date on which it was mailed, exclusive of Saturdays and holidays or, if later, on the date actually received if the person to whom the Notice was mailed establishes that he or she did not, acting in good faith, receive the Notice until that later date. A change of address for the Surety shall be publicly available on the Financial Services Commission of Ontario website (see: https://www5.fsco.gov.on.ca/Licensing/LicClass/eng/lic_companies_class.aspx). The address for the Owner or the Contractor may be changed by giving Notice to the other parties setting out the new address in accordance with this Section.

The Surety:

[Surety corporate name] [address]
[fax] [email]

The Owner:

[Owner proper name]
[address]
[fax]
[email]

The Contractor:

[Contractor corporate name] [address]
[fax] [email]

Contractor

Signature

Name of person signing

Surety

Signature

Name of person signing

* IF THERE ARE TWO OR MORE COMPANIES IN PARTNERSHIP OR JOINT VENTURE, JOINTLY AND SEVERALLY BOUND, INSERT THE NAME OF EACH PARTNER OR JOINT VENTURE PARTY, AND INSERT THE WORD "COLLECTIVELY" AFTER THE WORD "HEREINAFTER" IN THE FIRST LINE.

**** IF THERE ARE TWO OR MORE SURETY COMPANIES, JOINTLY AND SEVERALLY BOUND, INSERT THE “[Name of the surety company], a corporation created and existing under the laws of [Place of incorporation],” FOR EACH SURETY, FOLLOWED BY “each as a surety and each duly authorized to transact the business of Suretyship in the Province of Ontario and hereinafter collectively called the “Surety””.**

***** INSERT THE CROWN, A MUNICIPALITY OR A BROADER PUBLIC SECTOR ORGANIZATION, AS APPLICABLE, OR SUCH OTHER PARTY DEEMED TO BE THE OWNER UNDER THE ACT, AND ENTERING INTO THE PUBLIC CONTRACT WITH THE CONTRACTOR.**

[Contractor proper name]

Witnessed by :

By: _____

Name:

Name of Witness:

Title:

Address of Witness:

I have authority to bind the corporation.

[Surety corporate name]

By: _____

By: _____

Name:

Name:

Attorney-in-fact:

Attorney-in-fact:

*** IF THERE ARE TWO OR MORE COMPANIES IN PARTNERSHIP OR JOINT VENTURE, JOINTLY AND SEVERALLY BOUND, INSERT THE NAME OF EACH PARTNER OR JOINT VENTURE PARTY, AND INSERT THE WORD “COLLECTIVELY” AFTER THE WORD “HEREINAFTER” IN THE FIRST LINE.**

**** IF THERE ARE TWO OR MORE SURETY COMPANIES, JOINTLY AND SEVERALLY BOUND, INSERT THE “[Name of the surety company], a corporation created and existing under the laws of [Place of incorporation],” FOR EACH SURETY, FOLLOWED BY “each as a surety and each duly authorized to transact the business of Suretyship in the Province of Ontario and hereinafter collectively called the “Surety””.**

***** INSERT THE CROWN, A MUNICIPALITY OR A BROADER PUBLIC SECTOR ORGANIZATION, AS APPLICABLE, OR SUCH OTHER PARTY DEEMED TO BE THE OWNER UNDER THE ACT, AND ENTERING INTO THE PUBLIC CONTRACT WITH THE CONTRACTOR.**

SCHEDULE A
Notice of Claim
[Subcontractor]

[date]

[Surety name] [Surety
address] [Surety
address]
[Surety's electronic/email address] **Attention:**

Re:

Bond No:

Contractor:

Owner:

Contract:

Dear Sir/Madam,

We have a subcontract with the Contractor for
(title or description of the Contract)
(our "Subcontract") related to the Contract between the Owner and the Contractor for
..... in
(town/city, province)

We have given notice to the Contractor as required under our Subcontract that an amount is due and payable under the Subcontract and remains unpaid contrary to the terms of the Subcontract.

For Holdback amounts we hereby demand payment of \$ under the captioned Bond.

For amounts other than Holdback we hereby demand payment of \$ under the captioned Bond for all labour and material used or reasonably required for use in the performance of the Contract.

To assist in your evaluation of this Notice of Claim we invite you to contact our representative as follows:

[Name] [Title]
[Company address]
[Phone (mobile)]
[Email address]

We also enclose the following documents supporting our Notice of Claim:

[The following is a suggested list of documents to be considered for delivery to the Surety. Please check off the documents (if any) that you are providing with this Notice of Claim.]

- Copy of full, executed Subcontract [or Purchase Order or Collective Bargaining Agreement], including approved changes and pending changes relevant to this Notice of Claim
- Copy of the prime contract between the Contractor and the Owner
- Copy of original schedule and latest approved schedule for the Subcontract
- Copies of all invoices submitted to the Contractor
- Copies of all payments from the Contractor to the Claimant

- Summary reconciliation of all invoices issued under the Subcontract
- Summary reconciliation of all payments received under the Subcontract
- Confirmation from the Owner or Contractor that the Claimant has completed all of its work including rectification of all identified deficiencies and the delivery of all required close-out documents
- Copy of any notice or correspondence to and from the Contractor relevant to this Notice of Claim
- Confirmation of the last day the Claimant performed work pursuant to the Subcontract including proof thereof
- Copy of any claim for lien, legal proceeding or other documents to enforce your entitlement to payment
- Copy of the executed Labour and Material Payment Bond under which this Notice of Claim is being made
- [additional documents]

We look forward to receiving your acknowledgment of this Notice of Claim within three (3) business days of receipt and your request for any additional documentation or information you require to meet your obligations under the Bond.

Yours truly;

[Full corporate title]

By:

[Name]
[Title]
[Phone]
[Email address]

CC: **[Contractor]**

SCHEDULE B
Notice of Claim
[Sub-subcontractor]

[date]

[Surety name] [Surety
address] [Surety
address]
[Surety's electronic/email address] **Attention:**

Re:
Bond No:
Contractor:
Subcontractor
Owner:
Contract:

Dear Sir/Madam,

We have a written subcontract with _____ (the "Subcontractor") for
_____ (name of the
_____ (our "Subcontract") related to the Contract
_____ (title or description of the Sub-subcontract)
between the Owner and the Contractor for _____ in
_____ (title or description of the Contract)
.....
(town/city, province)

We have given notice under our Sub-subcontract to the Subcontractor that an amount is due and payable under the Sub-subcontract and remains unpaid contrary to the terms of the Sub-subcontract. A copy of that notice has also been provided to the Contractor.

We hereby demand payment of \$ _____ under the captioned Bond.

To assist in your evaluation of this Notice of Claim we invite you to contact our representative as follows:

[Name] [Title]
[Company address]
[Phone (mobile)]
[Email address]

We also enclose the following documents supporting our Notice of Claim:

[The following is a suggested list of documents to be considered for delivery to the Surety. Please check off the documents (if any) that you are providing with this Notice of Claim.]

- Copy of full, executed Sub-subcontract [or Purchase Order or Collective Bargaining Agreement], including approved changes and pending changes relevant to this Notice of Claim
- Copy of the prime contract between the Subcontractor and the Contractor
- Copy of original schedule and latest approved schedule for the Sub-subcontract
- Copies of all invoices submitted to the Subcontractor

- Copies of all payments from the Subcontractor to the Claimant
- Summary reconciliation of all invoices issued under the Sub-subcontract
- Summary reconciliation of all payments received under the Sub-subcontract
- Confirmation from the [Owner, Contractor or Subcontractor] that the Claimant has completed all of its work including rectification of all identified deficiencies and the delivery of all required close-out documents
- Copy of any notice or correspondence to and from the Subcontractor or Contractor relevant to this Notice of Claim
- Confirmation of the last day the Claimant performed work pursuant to the Sub-subcontract including proof thereof
- Copy of any claim for lien, legal proceeding or other documents to enforce your entitlement to payment
- Copy of the executed Labour and Material Payment Bond under which this Notice of Claim is being made
- [additional documents]

We look forward to receiving your acknowledgment of this Notice of Claim under the Bond and your request for any additional documentation or information you require to meet your obligations under the Bond.

Yours truly;

[Full corporate title]

By:

[Name]
[Title]
[Phone]
[Email address]

CC: **[Contractor and Subcontractor]**

SCHEDULE C
Acknowledgement of Notice of Claim

[date]

[Name/corporate title of the Subcontractor or Sub-subcontractor] [Address]

[Address]

[E-mail address (if provided in the Notice of Claim)] **Attention:**

Re:

Bond No:

Contractor:

Owner:

Contract:

Dear Sir/Madam,

We acknowledge receipt on of your Notice of Claim dated.....
(date of receipt)

Subject to a full reservation of all of our rights pursuant to the Bond and at law and to assist us in evaluating your Notice of Claim we ask that you provide the following information and/or documentation promptly:

This request for information is not an acknowledgement of the validity of your claim. We look forward to hearing from you.

Yours truly;

[Corporate name of the Surety]

By:

[Name]

[Title]

[Phone]

[Email address]

CC: [Contractor]

SCHEDULE D
Surety's Position

[date]

[Name/corporate title of the Subcontractor or Sub-subcontractor] [Address]
[Address]
[E-mail address (if provided in the Notice of Claim)]

Attention:

Re:

Bond No:

Contractor:

Owner:

Contract:

Dear Sir/Madam,

Having reviewed the information and documentation provided to us in support of your Claim, we can advise as follows:

A – Disputed Amount(s)

The following amounts in your Claim are disputed at the present time for the reasons indicated:

With respect to any disputed amounts we invite you to contact us promptly with further information or documentation in support of your Claim.

B – Undisputed Amount(s)

The following amounts in your Claim are not disputed at the present time, however we reserve the right to dispute any amount should an ultimate determination find that amounts included in your Claim were not payable by the Contractor:

We continue to reserve all of our rights pursuant to the Bond and at law.

If you have any questions or concerns, please do not hesitate to contact us.

Yours truly;

[Corporate name of the Surety]

By:

[Name

]

[Title]

[Phone

]

CC: [Contractor]

**THE CORPORATION OF THE CITY OF VAUGHAN
STANDARD FORM IRREVOCABLE LETTER OF CREDIT**

LETTER OF CREDIT NO.: _____

DATE: _____

APPLICANT: _____

BENEFICIARY: The Corporation of the City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

We hereby authorize you to draw on _____
(Bank, Address, Postal Code)

for account of _____
(name of Applicant)

up to an aggregate amount of _____ Dollars (\$ _____)

available on demand as follows:

Pursuant to the request of our customer, the said _____,
(name of Applicant)

we _____
(name of Bank)

hereby establish and give to you an Irrevocable Letter of Credit in your favour in the total amount of

_____ DOLLARS (\$)) CAD

which may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you which demand we shall honour without enquiring whether you have a right as between yourself and our said customer to make such demand and without recognizing any claim of our said customer.

Provided, however, that you are to deliver to us at such time as a written demand for payment is made upon us a certificate signed by you agreeing and/or confirming that monies drawn pursuant to this Letter of Credit are to be retained and used to meet obligations in connection with:

**THE CORPORATION OF THE CITY OF VAUGHAN
STANDARD FORM IRREVOCABLE LETTER OF CREDIT**

CONTRACT NO. _____

CITY FILE OR APPROVAL NO: _____ (as applicable)

SITE LOCATION: _____

DESCRIPTION OF WORKS: _____

The amount of this Letter of Credit shall be reduced from time to time as advised by notice in writing given to us from time to time by you.

This Letter of Credit will expire on _____, but shall be deemed to be automatically extended without any formal amendment or notice to that effect, from year to year for successive periods of one year each from the present or any future expiration date hereof, unless not less than thirty (30) days prior to the present or any future expiration we shall notify you in writing that the bank elects not to renew this Letter of Credit for any such additional period. This notification shall be delivered by Registered Mail to the attention of:

The Corporation of the City of Vaughan
2141 Major Mackenzie Drive, Level 100
Vaughan, Ontario
L6 A 1T1
Level 100
Attention: Director, Procurement Services

Upon receipt by you of such notice, you may draw by means of your demand accompanied by your above written certificate.

Partial drawings are permitted.

The drawings under this credit are to state that they are drawn under the

(Name of Bank, Address)

LETTER OF CREDIT NO. _____
(Number)

[signature page to follow]

**THE CORPORATION OF THE CITY OF VAUGHAN
STANDARD FORM IRREVOCABLE LETTER OF CREDIT**

Authorized Signature (For Applicant)

Name:

Title:

Date:

Authorized Signature (For Bank)

Name:

Title:

Date:

Please find below a preview only of certain schedules (collectively, "Schedules") that will need to be completed online only through the Bidding System by Bidders as part of their Bid submission.

The Bidder acknowledges that the preview below is provided as a courtesy only (to assist the Bidder in determining the size and scope of the project, etc.) and shall not be relied upon in any way.

Please note that the Schedules shown below are subject to change/addition/deletion by addendum(s) issued by the Owner. Following the issuance of each addendum, such changes may be reflected in the electronic Schedules to be completed, but will not be reflected in this document. It is the Bidder's responsibility to review all addendums and ensure that their Bid is submitted based on the current requirements.

For greater certainty, the Bidder shall submit their Bid by completing all Schedules and fields in the online Bidding System. Any Bid submitted on the basis of the preview Schedules below may in the Owner's sole discretion, be disqualified and rejected on the basis of being incomplete.

Q19-202 - Removal of All Existing Wall Stucco and Supply & Install New Wall Stucco

Opening Date: July 31, 2019 3:00 PM
Closing Date: August 19, 2019 3:00 PM

Schedule of Prices

When inputting your unit price(s), the total field(s) will automatically calculate

Red asterisk (*) within the table denotes a "MANDATORY" line item. This would need to be completed in order to successfully submit your bid.

The first table is a Summary Table which provides your Sub-Total for each pricing table and also indicates whether or not the table is mandatory or not. Asterisk's within the table denotes a "MANDATORY" line item.

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 unless you are prepared to provide the line item at zero dollars to the Owner.

If a table is "NON-MANDATORY" and you are bidding on it, you must bid on all line items with an asterisk.

If there are multiple tables, you must click the "EDIT PRICING" button inside the Summary Table to display the applicable Pricing Table that you wish to bid on.

When all of the required fields have been completed, click "Save My Bid" button.

As each pricing table is filled in, a subtotal will be automatically generated and a green check mark will appear when the table has been completed.

All prices submitted shall be in Canadian funds.

Prices shall exclude Harmonized Sales Tax ("HST"), but shall include all other taxes and duties, as well as any reduction in the Contractor's operating costs due to rebating of any sales taxes.

All work performed under the Contract will be subject to HST only.

The Bidder hereby bids and offers to enter into the Contract referred to and to supply and do all or any part of the Work, at the unit prices, and/or lump sums, hereinafter stated.

The Bidder also understand and accepts that the quantities shown in the Bid Documents are approximate estimates only and are subject to increase, decrease or deletion entirely if found not to be required.

Q19-202 Pricing

ITEM	DESCRIPTION	Unit of Measure	Quantity	Bid Price *	Extended Price
1	Removal of All Existing Wall Stucco and Supply & Install New Wall Stucco	Lump Sum	1		
Subtotal:					

Summary Table

Bid Form	Amount
Q19-202 Pricing	
Subtotal Contract Amount:	

Bid Questions

Please provide your registered HST Number.

Disclosure

If Bidder agrees with all listed items in the "Disclosure" section below, click on the box "We will not be submitting for Disclosure". A confirm message will appear. Click on the "yes" button to confirm that Bidder does not have any item to disclose.

Otherwise, if Bidder disagrees with one or more of the listed items in "Disclosure" section, Bidder shall complete and provide specific details of disclosure indicate in below section:

We will not be submitting for Disclosure

Description	Response *	Specify details of Disclosure *
<p>The Bidder acknowledges that, except for any matters specifically disclosed by the Bidder in the Bidder's Bid with respect to the following matters (hereafter called the "Disclosure"):</p> <p>(a) The Bidder is not currently the subject of legal proceedings by the City of Vaughan in respect of Vaughan's Property Standards By-law or Zoning Bylaws.</p> <p>(b) The Bidder has not been convicted by a court of such a matter set out in (a) above where the contravention remains.</p> <p>(c) The Bidder is not a named party in litigation, judicial or arbitral proceedings against or by the City with respect to any other procurement, contract or business transaction.</p> <p>The Bidder agrees that its Disclosure, if any, shall provide specific details of the Disclosure. The Bidder further agrees that the Owner shall be entitled at its sole discretion to reject this Bid as a result of any Disclosure.</p>	<input type="text" value="Select A Value"/>	

Please provide your registered HST Number

Privacy & Information

All Bids are subject to the provisions of the Municipal Freedom of Information and Protection of Privacy Act, RSO 1990, c M.56 ("MFIPPA"). In accordance with MFIPPA, the personal information provided by Bidders in response to this Request for Quote is being collected under the authority of the Municipal Act, 2001, SO 2001, c 25 and will be used exclusively in the selection process.

All Bids submitted shall become the property of the City.

In accordance with the requirements of MFIPPA, Bidders shall identify in their Bid any specific scientific, technical, commercial, proprietary, or similar confidential information, the disclosure of which could cause them injury. Complete Bids shall not be identified as confidential. Should you have any questions in this regard, please contact the City's Access and Privacy Officer in the Office of the City Clerk at 905-832-8585 extension 8987.

If Bidder does not have any specific scientific, technical, commercial, proprietary, or similar confidential information, the disclosure of which could cause them injury to declare, click on the box "We will not be submitting for Privacy & Information" button. A confirm message will appear. Click on the "yes" button to confirm that Bidder does not have confidential information to disclose.

Otherwise, Bidder shall complete and provide specific details of confidential information in the section below:

We will not be submitting for Privacy & Information

Question	Response *	If Yes, Please specify *
<p>Does your Bid include any specific scientific, technical, commercial, proprietary, or similar confidential information, the disclosure of which could cause you injury?</p> <p>If Yes, Please identify the specific scientific, technical, commercial, proprietary, or similar confidential information, the disclosure of which could cause you injury to the right hand field</p>	<input type="text" value="Select A Value"/>	

Please provide your registered HST Number.

List subcontractors

List of Subcontractors form

- Provide type of Work and subcontractor proposed to be used.
- The Bidder acknowledges that all subcontractors whom it proposes to use to carry out any of the Work, who are non-resident in Ontario or Canada, will be required to obtain a GST/HST Registration Number before they commence any work under the Contract.
- If trades are listed below and a subcontractor is not required, state **OWN FORCES**.
- Bidders shall not show "**Own Forces**" in their list of subcontractors, except where the Bidder's intent is to employ the Bidder's own qualified on-staff personnel to perform such work.
- Bidders shall not indicate "TBD" (To Be Determined) or "TBA" (To Be Announced) or similar wording and shall not indicate multiple choices of subcontractor names for any Subcontractor Category in their list of proposed subcontractors (such use may result in Bid disqualification). One subcontractor name shall be indicated for each Subcontractor Category.
- No names, either of proposed subcontractors or "**Own Forces**" may be changed after submission of this List of the Subcontractors unless prior written approval is received from the Owner (see Instructions to Bidders for further details).
- The Owner reserves the right to reject a proposed subcontractor for reasonable cause. Upon such rejection, the Bidder shall be required to propose an alternate subcontractor without and other resulting change to the Bid.
- The awarded Bidder may be required to produce a schedule of references for all or any proposed subcontractors.
- The awarded Bidder shall only use those subcontractors approved by the Owner and shall be held fully responsible to the Owner for the acts and omissions of its subcontractors.

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

Type of Work	Sub-Contractor	Contact Name	Contact Number	Contact e-mail

Documents

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

- WSIB Clearance Certificate (optional)
- Insurance Certificate (optional)

BONDING UPLOAD SECTION

- Bid Bond * (mandatory)
- Undertaking (Agreement) to Bond * (mandatory)

Declarations & Addenda

BIDDER DECLARATIONS

- 1.** The Bidder, by submitting this Bid offers to enter into a contract with The Corporation of the City of Vaughan (the "City") to perform the Work described in the Bid Documents, do and fulfill everything indicated in the Contract, and complete the Work strictly in accordance with the Contract Documents within the timelines specified therein at the unit and lump sum prices submitted in the Schedule of Prices.
- 2.** The Bidder acknowledges that if this Bid is accepted, the Schedule of Prices will be form part of the Contract.
- 3.** The Bidder acknowledges that the quantities included in the Schedule of Prices are an estimate of the City's requirements and there is no guarantee that the full quantities of products or work will be required or purchased. The Bidder agrees that in the event that Contract requirements exceed the estimates, payment for those item(s) exceeding the estimates will be made at the tendered price(s) for the item(s).
- 4.** The Bidder confirms that all prices submitted are in Canadian funds.
- 5.** The Bidder confirms that it's prices exclude Harmonized Sales Tax ("HST"), but include all other taxes and duties, as well as any reduction in the Contractor's operating costs due to rebating of any sales taxes. The Bidder agrees that all work performed under the Contract will be subject to HST only.
- 6.** The Bidder agrees that this Bid shall remain open for acceptance, and that the prices will remain firm and unchanged, for the irrevocability period specified in the Bid Documents and the City may at, any time within this period, accept this Bid regardless of whether any other Bid has been previously accepted or not.
- 7.** The Bidder acknowledges that if its Bid is accepted and the Bidder fails to properly execute and return the Agreement, in triplicate, to the City, or fails to deliver the bonds, proof of insurance and all other documents required to be delivered to the City upon execution of the Contract, as outlined in the Notification of Award, or if the Bidder purports to improperly withdraws its Bid, the City may, at its option, consider that the Bidder has abandoned its Bid and the acceptance by the City shall be null and void and the City may exercise its rights as outline in the Bid Documents and for certainty:
 - (a)** the City may retain the proceeds of the bid bond as liquidated damages; and
 - (b)** the Bidder shall immediately pay to the City the difference between the amount of the Bidder's Bid and any other Bid that the City accepts if the other Bid is for a greater amount and any costs that the City incurs by reason of recalling the Bids; and
 - (c)** in addition, the Bidder shall indemnify and hold harmless the City, its Council members, employees, successors and assigns, from and against all actions, claims, demands, losses, costs, damages, suits or proceedings whatsoever which may be brought against or made upon the City and against all losses, liabilities, judgments, claims, suits, demands or expenses which the City may sustain, suffer or be put to resulting from, or arising out of, the undersigned's unauthorized withdrawal of its Bid or failure to execute the Agreement.
- 8.** The Bidder agrees that if this Bid is accepted, and the Bidder is non-resident in Ontario or Canada, it shall obtain a GST/HST Registration Number prior to commencement of the Work.
- 9.** The Bidder confirms that it has the necessary experience, skill and expertise required to fulfill the obligations, duties, liabilities and responsibilities of the Contractor under the Contract.
- 10.** The Bidder declares that no person, firm or organization, other than the Bidder, has any interest in this Bid or in the proposed contract for which this Bid is submitted.
- 11.** The Bidder declares that this Bid is made without any connection to, comparison of figures against, arrangement with, or knowledge of, any other corporation, firm or person submitting a Bid and is in all respects fair and without collusion or fraud.
- 12.** The Bidder agrees that no member of City Council, or officer or employee of the City is, will be, or has become, interested directly or indirectly, as a contracting party, partner, stockholder, surety or otherwise, in the performance of the Contract, or in any portion of the profit thereof, or any supplies to be used therein, or in any of the monies to be derived therefrom.
- 13.** The Bidder confirms that it has examined the location where the Work will be performed, and the Bid Documents, and is fully informed as to the nature of the Work and conditions relating to its performance.
- 14.** The Bidder acknowledges that any reports made available by the City were compiled for the use of the City and no responsibility will be assumed by the City for the correctness or completeness of the reports.
- 15.** The Bidder agrees to comply with the Occupational Health and Safety Act, RSO 1990, c O.1 and Regulations and all other applicable laws when performing the Work if awarded a Contract.
- 16.** The Bidder declares and confirms that it is not engaged in Unresolved Litigation with the City as of the date of submission of this Bid, or has declared such in its Bid.
- 17.** If the Bidder is an incorporated company, the Bidder represents to the City that:
 - (a)** the Bidder is a corporation validly subsisting under the laws of the jurisdiction in which it was incorporated and has full corporate power and

capacity to submit this Bid and enter into an Agreement arising from this Bid; and

(b) all necessary corporate action has been taken by the Bidder to authorize the execution and delivery of this Bid.

Disclosures (Legal and Conflicts of Interest)

18. The Bidder represents that, except for any "Matters" specifically disclosed:

(a) The Bidder is not currently the subject of legal proceedings by the City of Vaughan in respect of Vaughan's Property Standards By-law or Zoning By-laws.

(b) The Bidder has not been convicted by a court of such a matter set out in (a) above where the contravention remains.

(c) The Bidder is not a named party in litigation, judicial or arbitral proceedings against or by the City with respect to any other procurement, contract or business transaction.

(d) There is no Conflict of Interest with respect to Bidder participating in this procurement process or providing goods or services if awarded a contract hereunder.

The Bidder agrees that the Owner shall be entitled at its sole discretion to reject this Bid as a result of any **Matter** disclosed above / below or otherwise in existence at time of Bid, and for Bidder's failure to make full, honest, accurate disclosures (if any) at time of Bid submission.

19. Privacy and Information

(a) All Bids are subject to the provisions of the Municipal Freedom of Information and Protection of Privacy Act, RSO 1990, cM.56 ("MFIPPA").

(b) In accordance with MFIPPA, the personal information provided by Bidders in response to this Request for Tender is being collected under the authority of the Municipal Act, 2001, SO 2001, c 25 and will be used exclusively in the selection process.

(c) All Bids submitted shall become the property of the City.

(d) In accordance with the requirements of MFIPPA, Bidders shall identify in their Bid any specific scientific, technical, commercial, proprietary, or similar confidential information, the disclosure of which could cause them injury. Complete Bids shall not be identified as confidential.

(e) Should you have any questions in this regard, please contact the City's Access and Privacy Officer in the Office of the City Clerk at 905-832-8585 extension 8987.

20. Acknowledgement of Receipt of Addenda

(a) The Bidder shall acknowledge receipt of addenda by checking the boxes in the "I have reviewed the below addendum and attachments (if applicable)" column below.

(b) Bids that do not contain evidence of receipt of all addenda will be deemed to be "INCOMPLETE" and will not be accepted in the Bidding system website.

(c) The Bidder acknowledges and agrees that the addenda listed below form part of the Bid Documents.

21. BID IRREVOCABLE PERIOD

(a) Unless properly withdrawn, Bids are irrevocable for a sixty (60) Working Day period, starting on the RFQ closing date.

(b) If for any reason a Contract with a successful Bidder is not executed within sixty (60) Working Days from the Bid closing time, City may (without notice or liability) award that Contract to another Bidder.

The Bidder agrees to be bound by all terms and conditions contained in the Bid Documents, and the person named below has the authority to submit this Bid on behalf of the Bidder and has the authority to bind the Bidder.

The Bidder / Proponent 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 / Proponent acknowledges and agrees that the addendum/addenda below form part of the Bid / Proposal 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.