



Project  
Leaders

## **DIVISION 00\_FRONT END DOCUMENTS**

Remediate Lead Paint in Mech Rooms

145 Sir William Hearst Ave.

Project No. 1100110- 273857

11/06/2023

This Invitation to Bid Closes before  
**2:00:00 p.m. on November 29, 2023**  
unless otherwise stated in an Addendum.

ONLY CONTRACTORS ON IO VOR LIST INVITED SPECIFICALLY TO THIS SOLICITATION  
MAY BID THIS PROJECT

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## **DRAWINGS**

The Drawings forming part of Contract Documents are listed below and bound separately.

<b>Dwg No.</b>	<b>Title</b>
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<b>NA</b>	
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**END OF LIST OF DRAWINGS**

## 1. INTRODUCTION

### 1.1. Project Description

Division 00\_Front End Documents

### 1.2. General Description of Work

- 1.2.1. The work includes lead paint remediation and repainting of the following four (4) areas: the East Penthouse, the West Penthouse, the basement mechanical room (Room 18), and basement plumbing room (Room 32).

### 1.3. Schedule

- 1.3.1. The following are Project Milestone Dates:

Tender Issued:	11/06/2023
Site Visit:	November 17, 2023
Query End:	November 22, 2023
Tender Closing:	November 29, 2023
Substantial Performance:	On or before March 31, 2024
Ready for Takeover:	On or before March 31, 2024
Total Performance:	On or before April 30, 2024

- 1.3.2. Time will be of the essence of the Contract.

### 1.4. Definitions

- 1.4.1. Owner and Project Manager, acting on behalf of Ontario Infrastructure and Lands Corporation (OILC):

**Colliers Project Leaders Inc.**  
5255 Orbitor Drive, Suite 101  
Mississauga, ON, L4W 5M6, Canada  
Contact: Richa Chaubey  
Tel: 437.236.5097

- 1.4.2. Prime Consultant:

**Pinchin Ltd.**  
2360 Meadowpine Boulevard,  
Mississauga, Ontario, L5N 6S2  
Phone Number: 905.363.0678  
Contact: Mike Horobin  
Tel: 416.818.6001 [mhorobin@pinchin.com](mailto:mhorobin@pinchin.com)

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- 1.4.3. *Advisor*: means any person or firm retained to provide professional advice to any one of the Owner, a Bidder, or a Bidder Team Member as applicable
- 1.4.4. *Applicable Law*: means provincial laws of Ontario and federal laws of Canada
- 1.4.5. *Bid*: defined in Instructions to Bidders section 4.1.1
- 1.4.6. *Bid Documents*: are the documents issued or made available to Bidders for the purpose of preparing a Bid
- 1.4.7. *Bidder*: prequalified general contractors on the OILC Vendor of Record (VOR) list. The invited General Contractor who submits a Bid
- 1.4.8. *Bid Call Process*: is defined as the process for the Bid Call
- 1.4.9. *Bid, Offer, or Bidding*: act of submitting an offer consistent with the requirements herein
- 1.4.10. *Bid Price*: monetary sum identified in the *Bid Form*
- 1.4.11. *Bid Team Members*: means all members of the Bidder team that were identified in the RFT process and were prequalified as a Bidder team to submit a Bid in this Instruction to Bidders
- 1.4.12. *Bid Validity Period*: is defined in Document 00 41 13 Other Declarations
- 1.4.13. *Confidential Information*: information of the Crown or of Colliers Project Leaders Inc/IO, other than confidential information which is disclosed to Bidders in the normal course of the Bidding process, where the Confidential Information is relevant to the Work required by the Bid Documents, their pricing or the Bid evaluation process.
- 1.4.14. *Contact Person*: is defined in Instructions to Bidders section 3.5.2
- 1.4.15. *Contract*: are those documents listed as the "Contract" Instruction to Bidders Section 7.1.3
- 1.4.16. *General RFI's*: is defined in Instruction to Bidders section 3.5
- 1.4.17. *Ineligible Persons Affiliate*: is defined in Instructions to Bidders Section 9.2.3
- 1.4.18. *Ineligible Persons*: is defined in Instructions to Bidders Section 9.2.1
- 1.4.19. *Prohibited Act*: means;
- 1.4.19.1. offering, giving or agreeing to give to the Owner, IO or any public body (or anyone employed by or acting on their behalf), or to any family member of such person, any gift or consideration of any kind as an inducement or reward:

1.4.19.1.1. for doing or not doing, or for having done or not having done, any act in relation to a Bidder becoming a Successful Bidder; or

1.4.19.1.2. for showing or not showing favour or disfavour to any person in relation to a Bidder's Bid;

provided that this definition shall not apply to a Bidder or Bidder Team Member (or anyone employed by or acting on their behalf) providing consideration to the Owner, IO or any public body in the ordinary course;

1.4.19.2. entering into any other agreement with the Owner, IO or any public body in connection with the Project if a commission or a fee has been paid or has been agreed to be paid by a Bidder or any Bidder Team Members, Key Individuals or any of their Affiliates, or on its behalf or to its knowledge, to the Owner, IO or any public body (or anyone employed by or acting on their behalf), or to any family member of such person, unless, before the relevant agreement is entered into, particulars of any such commission or fee have been disclosed in writing to the Owner, IO, provided that this definition shall not apply to a fee or commission paid by the Bidder or any Bidder Team Member or any of their Affiliates (or anyone employed by or acting on their behalf) to the Owner, IO or any public body pursuant to an agreement where such fee or commission is paid in the ordinary course without contravening the intent of this section;

1.4.19.3. breaching or committing any offence under *Applicable Law* in respect of corrupt or fraudulent acts in relation to this Bid Call Process; or

1.4.19.4. defrauding or attempting to defraud or conspiring to defraud IO or any other public body;

1.4.20. *Project*: is defined in Instructions to Bidders Section 1

1.4.21. *Restricted Person*: means any person who, or any member of a group of persons acting together, any one of which:

1.4.21.1. has, directly or indirectly, its principal or controlling office in a country that is subject to any economic or political sanctions imposed by Canada or Ontario;

1.4.21.2. has as its primary business the illegal manufacture, sale, distribution or promotion of narcotics substances or arms, or is or has been involved in terrorism;

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- 1.4.21.3. in the case of an individual, he or she (or in the case of a legal entity, any members of its board of directors or its senior executive managers) has been sentenced to imprisonment or otherwise given a custodial sentence, other than a suspended sentence, for any criminal offence or for any offence under any Provincial statute, other than offences under the Highway Traffic Act (Ontario) or corresponding legislation in any other jurisdiction, or under any municipal laws, less than five years prior to the date at which the consideration of whether such individual is a "Restricted Person" is made hereunder;
- 1.4.21.4. has as its primary business the acquisition of distressed assets or investments in companies or organizations which are or are believed to be insolvent or in a financial standstill situation or potentially insolvent;
- 1.4.21.5. is subject to a material claim of IO or the Province under any proceedings (including regulatory proceedings) which have been concluded or are pending at the time at which the consideration of whether such person is a "Restricted Person" is made hereunder, and which (in respect of any such pending claim, if it were to be successful) would, in IOs' view, in either case, be reasonably likely to materially affect the ability of the Bidder to perform its obligations under the Contract, if it were to become the Successful Bidder under the Bid Call Process; or
- 1.4.21.6. has a material interest in the production of tobacco products;
- 1.4.22. *RFI*: Includes General RFI's and Commercially Confidential RFI's
- 1.4.23. *Signing Party or Signing Parties*: is defined as the Party or Parties who sign the Contract
- 1.4.24. *Successful Bidder*: the compliant Bidder, which, having achieved the highest scoring of its Bid, will be awarded a contract contingent upon approval by OILC.
- 1.4.25. *Technical Submission*: means the combination of relevant team experience and qualifications and, the Project Work Plan
- 1.4.26. *Technical Score*: means the aggregated score of the Technical Submission
- 1.4.27. *Technical Evaluation*: means the act of assessing a Technical Submission for the purposes of determining a Technical Score.
- 1.4.28. *Tender Documents*: means Bid Documents.

## 2. APPLICABLE LAW, ATTORNMENT AND LIMIT ON LIABILITY

2.1. This *Bid Call Process* shall be governed and construed in accordance with *Applicable Law*.

2.2. The *Bidder* agrees that,

2.2.1. any action or proceeding relating to this *Bid Call 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;

2.2.2. it irrevocably waives any right to and shall not oppose any Ontario action or proceeding relating to this *Bid Call Process* on any jurisdictional basis, including forum non conveniens; and

2.2.3. 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 Instruction to Bidders Section 2.

## 3. BID INFORMATION

### 3.1. Document Availability

3.1.1. *Bid Documents* will be distributed by the Owner electronically via *Biddingo.com*.

### 3.2. Intentionally Not Used

### 3.3. Document Examination

3.3.1. Upon receipt of *Bid Documents* the Bidder shall verify that the *Bid Documents* are complete. The *Bidder* shall immediately notify the *Owner* of any discrepancies, errors, inconsistencies or omissions in the *Bid Documents*.

### 3.4. Conflicts or Inconsistencies in Bid Documents

3.4.1. For the purposes of the *Bid Call Process*, if there are any conflicts or inconsistencies among terms and conditions of the documents comprising the *Bid Documents* the following shall apply:

3.4.1.1. In respect of all matters of interpretation of information provided during this *Bid Call Process*, the documents that will form the *Contract* shall prevail over this Instructions to Bidders and all other *Bid Documents* in the order of priority listed in section 7.1.3.; and

3.4.1.2. For the purposes of resolving conflicts or inconsistencies among the documents that constitute the *Contract*, the provisions



of the *Contract* dealing with conflicts or inconsistencies shall govern.

- 3.4.2. Despite Section 3.4.1, if the *Bidder* believes that there is any term or condition in any *Bid Documents* that is ambiguous, or that conflicts or is inconsistent with any other term or condition in the *Bid Documents*, the *Bidder* shall notify the *Owner* of that ambiguity, conflict or inconsistency in accordance with Instructions to Bidders Section 3.5.2, and, for greater clarity, by the deadline set out in Instructions to Bidders Section 3.5.1 for the submission of RFIs.

### 3.5. Inquiries/RFI's

- 3.5.1. The last date for receipt of inquiries from *Bidders* is 17:00:00 on the Query End Date.
- 3.5.2. Address all queries during the *Bid* period to the Contact Person by email at: Richa Chaubey  
[Richa.Chaubey@colliersprojectleaders.com](mailto:Richa.Chaubey@colliersprojectleaders.com) and cc Tyler Robertson @  
[Tyler.Robertson@colliersprojectleaders.com](mailto:Tyler.Robertson@colliersprojectleaders.com)
- 3.5.3. All replies shall be in the form of written Addenda, copies of which will be electronically posted for all *Bidders* on Biddingo.
- 3.5.4. Verbal responses to *Bidders'* queries shall not be binding upon the *Owner* unless confirmed by written Addenda.

### 3.6. Clarification/RFI Submission Process

- 3.6.1. In addition to the requirement set out in Instructions to Bidders Section 3.5.2, the following rules shall apply to *Bidders* when submitting questions or requests for information ("RFIs") to the *Owner* during the *Bid Call Process*:
- 3.6.1.1. *Bidders* are permitted to submit RFIs categorized as follows:
- 3.6.1.2. RFIs that are of general application and that would apply to other *Bidders* ("General RFIs"); and
- 3.6.1.3. RFIs that the *Bidder* considers to be commercially sensitive or confidential to that particular *Bidder* ("Commercially Confidential RFIs");
- 3.6.2. If the *Owner* disagrees with the *Bidder's* categorization of an RFI as a Commercially Confidential RFI, the *Owner* will give the *Bidder* an opportunity to either categorize the RFI as a General RFI or to withdraw the RFI;
- 3.6.3. If the *Owner* determines, in their sole discretion, that a Commercially Confidential RFI, even if it is withdrawn by a *Bidder*, is of general application or would provide a significant clarification of the *Bid Documents* or *Bid Call Process* to *Bidders*, the

*Owner* may issue a clarification to *Bidders* that deals with the same subject matter as the withdrawn Commercially Confidential RFI; and

- 3.6.4. If the *Owner* agrees with the *Bidders'* categorization of a Commercially Confidential RFI, then *Owner* will provide a response to that RFI to only the *Bidder* that submitted the RFI.
- 3.6.5. Responses to RFIs prepared and circulated by the *Owner* are not *Bid Documents* and do not amend the *Bid Documents*. If, in the *Owners'* sole discretion, responses to RFIs require an amendment to the *Bid Documents*, such amendment will be prepared and circulated by Addendum in accordance with Instructions to Bidders Section 3.7. Only a response to an RFI that has been incorporated into or issued as an Addendum will modify or amend the *Bid Documents* and, otherwise, RFIs will have no force or effect whatsoever and shall not be relied upon by any *Bidder*.
- 3.6.6. *Bidders* shall submit RFIs in accordance with the deadlines set out in section
- 3.6.7. *Bidders* shall submit all RFIs to the *Contact Person* electronically in accordance with the instructions set out Section 3.5.2 of this document.
- 3.6.8. The *Owner* will respond to RFIs in written responses circulated to *Bidders* in accordance with section 3.5. the *Owner* may, in their sole discretion, distribute responses to RFIs of a minor or administrative nature to only the *Bidder* who submitted the minor or administrative RFI.
- 3.6.9. It is the *Bidder's* obligation to seek clarification from the *Owner* of any matter it considers to be unclear in accordance with Instructions to Bidders section 3.5.2, and, for greater clarity, by the deadline set out in section 3.5.1. Neither the *Owner*, IO nor the Government of Ontario are responsible in any way whatsoever for any misunderstanding by the *Bidders* or any of its *Bidder Team Members* of the *Bid Documents*, responses to RFIs, any documents uploaded to Biddingo.com or any other type of information provided by or communication made by the *Owner*, IO or the Government of Ontario.

### 3.7. Addenda

- 3.7.1. During the *Bid* period *Bidders* may be advised by Addenda of required additions to, deletions from, or modifications to the requirements of the *Bid Documents*. The information contained in the Addenda may supersede and amend the Drawings, Specifications and Schedules.
- 3.7.2. All Addenda issued during the *Bid* period shall become part of the *Contract Documents*. *Bidders* shall include for all costs associated with these Addenda in their *Bid Price*.

- 3.7.3. *Bidders* shall insert in the spaces provided in the *Bid Form* the number of all Addenda received by the *Bidder* during the Bid period. If no Addenda have been received, the word "NONE" shall be inserted in the space provided.

### 3.8. Mandatory Bidders' Site Visit

- 3.8.1. *Bidders* shall attend the mandatory site visit and ensure they register his/her name, title and company name with the Colliers Project Leaders Inc representative. Failure to attend and to register will result in the *Bid* not being accepted.
- 3.8.2. The site visit will commence at 11:00 AM on 17 Nov, 2023 at the site, 145 Sir William Hearst Ave.. *Bidders* are to meet with the *Asst. Project Manager*, Tyler Robertson. Please contact 437-234-7873 once at site.
- 3.8.3. Each *Bidder* and each of its *Bidder Team Members* is solely responsible, at its own cost and expense, to carry out its own independent research and due diligence and to perform any other investigations, including seeking independent advice, considered necessary by the *Bidder* to satisfy itself as to all existing conditions affecting the *Project* or the *Contract*. The *Bidders'* and *Bidder Team Members'* obligations set out in this Section 3.8 apply irrespective of any *Documents* uploaded to Biddingo.com or information contained in the *Bid Documents* or in responses to RFIs. The *Bidders'* and *Bidder Team Members'* obligation to carry out independent research, investigations, due diligence or to seek independent advice or, if applicable, their ability to rely on information provided by the *Owner* is more particularly set out in *Contract*. If, as a result of any independent research, investigations, due diligence, or independent advice, a *Bidder* believes that there is any insufficiency in the lands for the purpose of performing the Work, the *Bidder* shall immediately, and at its own cost and expense, notify the *Owner* and provide all details the *Owner* may request in considering the issue.
- 3.8.4. Except as explicitly provided in the *Contract*, the *Owner* does not represent or warrant the accuracy or completeness of any information set out in the *Bid Documents* or made available to *Bidders* or *Bidder Team Members* in Biddingo.com as background information or of any other background or reference information or documents prepared by the *Owner* or by third parties and which may be made available to *Bidder* or *Bidder Team Members* by or through the *Owner*. *Bidders* and *Bidder Team Members* shall make such independent assessments as they consider necessary to verify and confirm the accuracy and completeness of all such information as any use of or reliance by *Bidders* or *Bidder Team Members* on any and all such information shall be at the *Bidders'* and *Bidder Team Members'* sole risk and without recourse against the *Owner*, IO or the Government of Ontario.
- 3.8.5. *Bidders* shall, before submitting a *Bid*:

- 3.8.5.1. Examine and read the *Bid Documents* thoroughly;

- 3.8.5.2. Visit the site and its surroundings to become familiar with the local and other conditions affecting the Work;
- 3.8.5.3. Consider the effect of regulatory requirements applicable to the Work;
- 3.8.5.4. Study and correlate *Bidder's* observations with the *Bid Documents*;
- 3.8.5.5. Immediately notify the contact person specified in section 3.5.2 of all perceived errors, omissions, conflicts and discrepancies in the *Bid Documents*; and
- 3.8.5.6. Be satisfied that the *Bidder* understands the *Bid Documents* and is competent to undertake the Work. The *Owner* has full discretion to schedule additional site visits if deemed necessary to accommodate the interest of *Bidders*.

### 3.9. Bid Submission

- 3.9.1. The *Owner* will accept *Bid Submissions* received via Biddingo.com only. The vendor must click the "Confirm and Submit your Bid Response" button within the Biddingo Electronic Bidding System in order to successfully submit their proposal and make it available to the owner.
- 3.9.2. To ensure that the price does not influence the technical evaluation, the *Bid* form shall be secured so that a password is required to open the file and the password must not be submitted with the *Bid Form*.
- 3.9.3. *Bidders* shall review the tender documents and upload all required sections, compiled into pdf documents to Biddingo.com.
- 3.9.4. Electronic Contract Security is to be uploaded to Biddingo.com separately as per section 4.9.
- 3.9.5. For all inquiries regarding the process of electronic submissions contact Biddingo directly.

### 3.10. Bid Closing Location, Date and Time

- 3.10.1. Only *Bids* received via Biddingo.com prior to 2:00:00 p.m. on November 29, 2023 will be considered.
- 3.10.2. *Bidders* shall be solely responsible to upload their *Bids* in the manner and time prescribed.
- 3.10.3. For more information please go to: [www.biddingo.com/training](http://www.biddingo.com/training)

### 3.11. Bid Amendments

3.11.1. The *Bidder* acknowledges that any *Bid* is subject to the terms and conditions of this *Bid Call*.

3.11.2. Amendments to a *Bid* price must be in the form of a new complete submission in compliance with section 3.9 via Biddingo.com by clicking update *Bid Response*.

### 3.12. Posting of Bid Results

3.12.1. The *Owner* may post the results of the *Bid Price* on Biddingo.com within 24 hours of the completion of the evaluation process.

3.12.2. Posting of *Bid Prices* will be unofficial and will remain under review by the *Owner* until notification of award.

3.12.3. Any time after the *Successful Bidder* has been identified, the *Owner* will formally notify all *Bidders* via Biddingo.com who were not successful in the *Bid Call Process* that they have not been selected. Notwithstanding such notification, the *Bidders'* *Bid* shall be irrevocable until the expiration of the *Bid Validity Period* (or extended *Bid Validity Period*, if applicable).

### 3.13. Debrief

3.13.1. *Bidders* may request a debriefing after receipt of a Notification of Award. *Bidder* requests must be in writing to the Colliers Project Leaders Inc *Project Manager* no later than 30 days of receipt of the notification. The *Owner* will determine the format and contents of the debriefing session.

### 3.14. Procurement Policy

Infrastructure Ontario's (IO) procurement policy ("Procurement Policy") applies to all Bidders of this solicitation, as well as to the Successful Bidder. The Procurement Policy is available on IO's website: <https://www.infrastructureontario.ca/Procurement>. Bidders are responsible to review the Procurement Policy and ensure that their conduct complies with the Procurement Policy at all times.

## 4. BID SUBMISSION

### 4.1. Bid Contents

4.1.1. The *Bid Submission* shall consist of the following documents compiled into pdf documents:

- Part 1 Technical
  - Contract Security in electronically verifiable pdf format as per section 4.9 and 5.4.1.4
  - The following shall be compiled into one pdf. document

- Construction Project Manager – Resume,
  - Construction Superintendent – Resume,
  - Reference Projects,
  - Project Work Plan
  - Any other document required for this Bid Call other than Part 2 Bid Form (Technical document shall not include any financial information)
- Part 2 Bid Form
    - *Bid Form* shall be secured so that the password is required to open the file and the password **must not** be submitted with the *Bid Form*
    - If the technical submission reveals any financial information the *Bid* may be deemed non-compliant at the owners' discretion and no further evaluation will be completed
    - If the *Bid Form* is not secured with a password the *Bid* may be deemed non-compliant and no further evaluation will be completed
    - The *Owner* will request the password for the *Bid Form* after evaluation of Part 1 Technical has been completed. The Respondent must provide the password within 24 hours of the request. The *Owner* reserves the right to deem the submission as non-compliant if the password is not provided within this timeframe
  - Cost Breakdown shall be submitted as per section 8 of this document

## 4.2. Bid Form

- 4.2.1. *Bidders* shall submit their bids on the supplied *Bid Form* (Document 00 41 13) secured with a password without interlineations, alterations or erasures.
- 4.2.2. Signatures shall be longhand and executed by a person(s) authorized to bind the Company.

## 4.3. Withdrawal of Bids

- 4.3.1. A *Bidder* may withdraw its *Bid* via Biddingo.com by clicking the "Withdraw my eBid Response" button and following the prompts
- 4.3.2. Withdrawn *Bids* may be resubmitted providing the resubmitted *Bid* is received through Biddingo.com specified in Instructions to Bidders section 4, before the submission deadline.
- 4.3.3. *Bids* may not be withdrawn after the Submission Deadline and shall be open to acceptance by the Owner until:

4.3.3.1. Some other Bidder has entered into a contract with IO for the performance of Work; or

4.3.3.2. Until the end of the Bid Validity Period.

#### 4.4. Bidder Costs

4.4.1. The *Bidder* and the *Bidder Team Members* shall bear all costs and expenses incurred by them relating to any aspect of their participation in this *Bid Call Process*, including all costs and expenses related to the *Bidder's* involvement in:

4.4.1.1. the preparation, presentation and submission of their *Bids*;

4.4.1.2. attendance at any meeting with the *Owner*;

4.4.1.3. due diligence and information gathering processes;

4.4.1.4. site visits or additional visits;

4.4.1.5. preparation of responses to questions or requests for information from the *Owner*; and

4.4.1.6. preparation of the *Bidder's* own RFIs during the clarification process.

#### 4.5. Cash Allowances

All Cash Allowance items listed in the *Bid Form* and as described in the *Bid Documents* shall be subject to the requirements of the General Conditions as modified by the Supplementary Conditions.

The total value of all Cash Allowance items shall be included in the *Bid Price*.

Whether items on the Cash Allowance list are ultimately tendered by the *Owner* or the Contractor, the Contractor shall contract with the selected suppliers and/or subcontractors, for execution of the parts of the Work identified under these Cash Allowances.

Such suppliers and subcontractors shall have the same status as other suppliers and subcontractors on the Work and the Contractor shall be as responsible for such suppliers and subcontractors, so nominated, as for the Contractor's other suppliers and subcontractors on the Work

#### 4.6. Intentionally Not Used

#### 4.7. Intentionally Not Used



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#### **4.8. Intentionally Not Used**

#### **4.9. Contract Security**

4.9.1. Submit an Electronic Bid Bond digitally verifiable and the results of the digital verification process shall provide a clear and immediate indication that the document received is the true document executed and that the content has not been changed or altered. Instructions for performing the digital verification shall be included with the bond. This Bond must be in the amount of 10% of the Bid price, which is to remain in effect for the validity period identified in the Bid Form.

4.9.2. Submit an Electronic Agreement to Bond digitally verifiable and the results of the digital verification process shall provide a clear and immediate indication that the document received is the true document executed and that the content has not been changed or altered. Instructions for performing the digital verification shall be included with the bond. This Bond must be in conformance with the requirements set out in GC 11.2 CONTRACT SECURITY and as modified by the Supplementary Conditions.

For further information regarding e-Bonding please go to <http://www.surety-canada.com/en/ebonding/index.html>

4.9.3. Provided that there is substantial compliance with the requirements of paragraphs 4.9.1 and 4.9.2, the *Owner* reserves the right to ask for clarifications relating to any technical errors or irregularities in such electronic submissions. The *Bidder* must respond to such request for clarifications within 24 hours.

#### **4.10. Construction Project Manager - Resume**

4.10.1. Submit a resume, not to exceed two pages in length, for the Construction Project Manager proposed to lead the *Bidder's* project team, detailing the project specific qualifications and relevant experience of the proposed individual. Identify the Construction Project Manager's committed time allocation/involvement in the Project, presented as the number of hours spent on the project per week for the duration of the project.

#### **4.11. Construction Superintendent – Resume**

4.11.1. Submit a resume, not to exceed two pages in length, for the *Bidder's* proposed Construction Superintendent, detailing the project specific qualifications and relevant experience of the proposed individual.

#### **4.12. Reference Projects**

4.12.1. Using Document 00 41 16 – Reference Projects, submit details of two (2) projects of similar size, scope and complexity.



4.12.2. Preference will be given to Reference Projects that have achieved Substantial Completion by the *Bidder* within the last 10 years.

4.12.3. Preference will be given to Reference Projects where the *Bidder* can demonstrate that the Project Manager and Superintendent have worked together

4.12.4. The *Owner* reserves the right to contact at its sole discretion, any references provided by the proponents to obtain clarification relating to the information.

#### 4.13. Project Work Plan

4.13.1. Submit a proposed Work Plan demonstrating the *Bidder's* understanding of the project and an action plan to deal with the following during the construction period:

- ability to gather resources, initiate project and mobilize on site within a reasonable time; and
- change management process, keeping costs low and providing cost effective options for the *Owner*; and
- schedule management process, understanding that time is of the essence and committing to achieving the established Substantial Performance date; and
- quality management: maintain quality assurance and control in the workmanship of subcontractor and trades on site; and
- project close-out: strategy for closing out a project within a reasonable period, including completion of deficiencies and submission of closeout materials.

### 5. EVALUATION OF BIDS

#### 5.1. General

5.1.1. The *Owner* will establish an evaluation team to evaluate Bid Submissions. The evaluation team will reach consensus on a single technical score per Bidder.

5.1.2. Compliant *Bid* Submissions will be evaluated and scored based on the following points breakdown:

Bid Price	70 points
Resumes & Reference Projects	20 points
Project Work Plan	10 points
<b>Total</b>	<b>100 points</b>

5.1.3. Minimum Technical Score

Submissions that receive less than 60% of the Technical Evaluation after VPP deductions (if any) have been applied will not be evaluated further, meaning the Financial submission will not be opened.

5.1.4. It is the *Owner's* intent to award a *Contract* to the highest scoring compliant *Bidder* that has met all the tender submission requirements.

5.1.5. If the evaluation of *Bid* submissions results in two or more submissions achieving equal Total Scores (the Total Score being the sum of the *Bid Price* Score, the Resumes and Reference Projects Score, and the Project Work Plan Score), then the *Successful Bidder* shall be the *Bidder* with the highest *Bid Price* Score.

**5.2. Offer Acceptance/Rejection/General Rights of the Owner**

5.2.1. *Bids* shall remain irrevocable for acceptance for a period of sixty days after the *Bid Closing Date*.

5.2.2. The *Owner* reserves the right, in its absolute discretion, to:

- a. Reject the *Key Individuals* proposed in a *Bid* and, if not satisfactorily substituted, reject the *Bid*;
- b. Accept any *Bid* in whole or in part, in its sole and absolute discretion;
- c. Elect to discontinue the *Bid Call Process* at any time before the end of the *Bid Call Process*;
- d. Waive any irregularities in any *Bid*;
- e. Reject any or all *Bids*;
- f. Request written clarification from any *Bidder* and incorporate a *Bidder's* response to that request for clarification into the *Bidder's Bid*;
- g. Verify with any *Bidder* or with a third party any information in a *Bid*;
- h. Make changes, including substantial changes, to this invitation to *bid* provided that those changes are issued by way of addenda in the manner set out in this invitation to *Bid*;
- i. Alter the schedule, *Bid call process*, procedures or objective of the *Contract* or any other aspects of the *Bid call*, as it may determine in its sole and absolute discretion;
- j. Cancel the *Bid call* at any time without incurring any liability whatsoever to any *Bidder*;

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- k. Re-advertise for new *Bids*;
  - l. Negotiate a *Contract* with the highest scoring compliant *Bidder* in circumstances where the *Owner* needs to request an extension to the *Bid* irrevocability period or the *Bids* exceed the *Owners'* budget, and
  - m. Accept the *Bid*, which, in the *Owner's* sole judgment, is most advantageous to its own corporate needs, whether or not such *Bid* contains the lowest *Bid Price*.
  - n. Accept a *Bid* where the *Bid Price* is indicated in numerals where the *Owner* determines, in its sole discretion, that the *Bid Price* is legible;
  - o. Rescind any *Contract* awarded to *Bidder* in the event that the *Owner*, in its sole and absolute discretion, determines that the *Bidder* has not complied with or adhered to its requirements and obligations under the *Contract*.
- 5.2.3. Without limitation to any other rights of the *Owner* hereunder, in order to ensure the integrity, openness and transparency of the *Bid Call Process*, the *Owner* may, in their sole discretion:
- a. impose at any time on all *Bidders* and any *Bidder Team Members* additional conditions, requirements or measures with respect to bidding practices or ethical behaviour of the *Bidders* and *Bidder Team Members*; and
  - b. require that any or all *Bidders* and/or any *Bidder Team Member* at any time during the *Bid Call Process* provide the *Owner* with copies of its internal policies, processes and controls establishing ethical standards for its bidding practices and evidence of compliance by the *Bidder* and all *Bidder Team Members* with such policies, processes and controls.
- 5.2.4. Further to Instructions to Bidders Sections 5.2 and in the event that any *Bidder* and/or *Bidder Team Member*:
- a. fails to comply with any requirement prescribed by the *Owner* pursuant to Instructions to Bidders Section 5.2, or
  - b. complies with the *Owners'* requirement as prescribed in accordance with Instructions to Bidders section 5.2, but the *Owner* determine that any *Bidder* and/or *Bidder Team Member* has or may have engaged in inappropriate bidding practices or unethical behaviour,
- 5.2.5. The *Owner* shall have the right, at any time and in their sole discretion to reject and not consider a *Bid* from a *Bidder*, to require the *Bidder* to remove and/or replace any *Bidder Team Member* or to otherwise elect not to proceed further in the procurement process with such *Bidder*.

### 5.3. Special Circumstances

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- 5.3.1. If the *Owner* determines that all of the Bids submitted are non-compliant, the *Owner* may, in their sole discretion:
- a. take any action in accordance with Instructions to Bidders Section 5.2;
  - b. enter into negotiations with any one of the *Bidders* to attempt to finalize an agreement.
- 5.3.2. If the *Owner* receives, one *Bid* and that *Bid* is compliant; or more than one *Bid*, but only one compliant *Bid*,
- a. The *Owner* may, in their sole discretion:
  - b. take any action in accordance with Instructions to Bidders section 5.2; or
  - c. enter into negotiations with the Bidder that submitted a compliant *Bid*.
- 5.3.3. The *Owner* may, in their sole discretion, waive a failure to comply with the requirements of the *Bid Documents*. The *Owner* may, in their sole discretion, decline to disqualify a non-compliant Bid.

#### 5.4. Mandatory Requirements

##### 5.4.1. Bid Form

The *Bid Form* is a mandatory submission requirement. A *Bid Form* that is unsigned, or improperly signed, conditional, illegible, obscure, contain arithmetical errors, erasures, alterations, or irregularities of any kind may be declared informal and rejected.

##### 5.4.1.1. Conflict of Interest Declaration

- a. Each *Bidder* must include in its *Bid* confirmation that the *Bidder* does not and will not have any actual, potential, or perceived conflict of interest or any other type of unfair advantage in submitting its *Bid* or, if selected, with the contractual obligations of the *Bidder* as Contractor under the *Contract*. Where applicable, a *Bidder* must declare in its *Bid* any situation that may be a conflict of interest, actual or perceived, in submitting its *Bid* or, if selected, with the contractual obligations of the *Bidder* as Contractor under the Agreement as defined in Instructions to Bidders section 9.
- b. In addition to the other information and representations made by each *Bidder* in the completed *Bid Form*, each *Bidder* will be assessed based upon whether or not it has an actual or potential

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*Conflict of Interest*, and if so, does that conflict prevent the *Bidder* from being awarded the *Contract*.

- c. If the *Bidder* does not disclose any information concerning a *Conflict of Interest* in the completed *Bid Form*, the *Bidder*, by submitting the completed Document 00 41 10 - *Bid Form*, warrants that to its best knowledge and belief, no actual or potential *Conflict of Interest* exists with respect to the Bid or performance of the contemplated *Contract*. The definitions in these Instructions to Bidders should be referred to by *Bidders* while completing the conflict portions in the *Bid Form*
- d. The *Bid* of any *Bidder* may be disqualified where the *Bidder* fails to provide confirmation of the foregoing or makes misrepresentations regarding any of the above. *Bidders* who, in the sole opinion of the *Owner*, are found to have a *Conflict of Interest* may be disqualified. Further, the *Owner* shall have the right to rescind any *Contract* with the selected *Bidder* in the event that the *Owner* in their sole discretion determines that the selected *Bidder* has made a misrepresentation regarding any of the above, in addition to or in lieu of any other remedies that the *Owner* has in law or in equity.

#### 5.4.1.2. Confidential Information

Each *Bidder* shall confirm in the *Bid Form* that it does not possess and has not previously possessed any *Confidential Information*. Failure to abide this requirement may render the *Bid* non-compliant.

#### 5.4.1.3. Litigation History

- a. The *Bidder*, by submitting the *Bid*, warrants and represents that it is not currently engaged in litigation other than those situations explicitly disclosed in the completed *Bid Form*. Where the *Owner* discovers a *Bidder's* misrepresentation of the facts in the completed *Bid Form* or its failure to disclose its litigation history as described herein, the *Owner* may disqualify the *Bidder* or terminate the *Contract* awarded to the *Successful Bidder*.
- b. The *Owner* will be assessing each *Bidder* and reserves the right to assess any related entities who share all or some of the same directors and officers as the *Bidder* in light of past or current litigation to determine if the *Owner* and/or the Ontario government would face unacceptable risks if the *Owner* were to enter into a *Contract* with the *Bidder*. The *Owner* reserves the

right to disqualify the *Bidder* from this invitation to bid or terminate the *Contract* awarded to the *Successful Bidder* as a result of its assessment of the risks of entering into a *Contract* with that *Bidder*.

- c. Regardless of when any litigation was commenced, the *Owner* reserves the right to disqualify the *Bidder* from this *Bid Call Process* or terminate the *Contract* following award to the *Successful Bidder* as a result of its own assessment of the risks of entering into a *Contract* with that *Bidder*.

#### 5.4.1.4. Contract Security

The Contract Security as referred to in section 4.9, issued to Colliers Project Leaders Inc. is a mandatory submission requirement. Contract Security that does not satisfy the requirements of the General Conditions and the Supplementary Conditions may render the *Bid* non-compliant.

### 5.5. Evaluation of Bid Price

- 5.5.1. The lowest base *Bid* submission will receive the maximum points available for the *Bid Price* criteria. All other submission will receive a percentage of the maximum points available, calculated by dividing the lowest bid submission price by the evaluated bid submission price and multiplying by the maximum points available.

### 5.6. Evaluation of Construction Project Manager and Superintendent

- 5.6.1. The candidates proposed by the *Bidder* for the roles of Construction Project Manager and the Construction Superintendent will be evaluated with regard to the following criteria:
  - Qualifications
  - Experience in comparable role
  - Experience in a comparable role with the *Bidder's* organization
  - Experience on comparable projects

### 5.7. Evaluation of Reference Projects

- 5.7.1. The Reference Projects submitted by the *Bidder* using Document 00 41 16 – Reference Projects will be evaluated with regard to the following criteria:
  - Similar Size
  - Similar Scope

- Similar Complexity
- Preference will be given to Reference Projects where the Bidder can demonstrate that the Project Manager and Superintendent have worked together
- Preference will be given to Reference Projects demonstrating completion within the last 10 years

## 5.8. Evaluation of Work Plan

5.8.1. The *Bidder's* submitted Work Plan will be evaluated with regard to:  
Personnel Allocations

- Ability to gather Resources and Mobilize
- Change Management
- Schedule Management
- Quality Management
- Close-Out Process

## 5.9. Evaluation of VPP Score

5.9.1. Subject to Article 4 of the Vendor Performance Program, a VPP Score shall be applied as a deduction to the score of any submission of a bidding VPP Participant made in response to this procurement.

For further information related to IO's Vendor Performance Program please visit:

<https://infrastructureontario.ca/Vendor-Performance-Program/>

## 6. GENERAL EVALUATION AND DISQUALIFICATION PROVISIONS

### 6.1. The *Owners'* Discretion in Determining Compliance, Scoring and Ranking

6.1.1. the *Owner* shall, in their sole discretion, determine:

6.1.1.1 whether a *Bid* is compliant with the *Bid Documents*;

6.1.1.2 whether a *Bid* or a *Bidder*,

6.1.1.2.1 is disqualified; or

6.1.1.2.2 will cease to be considered in the evaluation process.

6.1.2 The *Owners'* discretion in determining compliance, scores and disqualification of the *Bidders* and their *Bids* is not limited or restricted in

any way by the fact that a prequalification process preceded this *Bid Call Process*.

## 6.2 Disqualification

6.2.1 The *Owner* may, in its sole discretion, disqualify a *Bidder*, a *Bidder Team Member* or a *Bid* or reverse their decision to make an award if,

6.2.1.1 the *Bid* is determined to be non-compliant;

6.2.1.2 the *Bidder* contravenes Instructions to Bidders Section 10

6.2.1.3 the *Bidder* fails to comply with *Applicable Law*;

6.2.1.4 the *Bidder*, any *Bidder Team Member*, their identified subcontractors, or any of their directors, officers, employees or *Affiliates* have engaged in a *Prohibited Act*;

6.2.1.5 the *Bidder*, any *Bidder Team Member*, their identified subcontractors, or any of their directors, officers, employees or *Affiliates* are a *Restricted Person*;

6.2.1.6 the *Bid*, including any form attached to the *Bid*, contains false or misleading information or a misrepresentation;

6.2.1.7 the *Bidder* or any *Bidder Team Member* fails to disclose any information that would materially adversely affect Is' evaluation of the *Bid*;

6.2.1.8 the *Bid*, in the opinion of the *Owner*, reveals a material *Conflict of Interest* as described in Instructions to Bidders Section 9 and the *Bid*,

6.2.1.8.1 does not receive a waiver from the *Owner* in accordance with Instructions to Bidders Section 9.1.6 or does not receive a consent, as applicable; or

6.2.1.8.2 fails to substitute the person or entity giving rise to the *Conflict of Interest*;

6.2.1.9 in the thirty-six months prior to the Submission Deadline, the *Owner* became aware that the *Bidder* or any *Bidder Team Member* failed to disclose an actual *Conflict of Interest* in any past or current procurement issued by the *Owner*, unless the *Bidder* has demonstrated to the satisfaction of the *Owner* that the *Bidder* has implemented measures to prevent future false or omitted disclosure of actual *Conflicts of Interest*;



- 6.2.1.10 in the opinion of the *Owner*, acting reasonably, the *Bidder* or a *Bidder Team Member* or any of their respective *Advisors*, employees or representatives directly or indirectly colluded with one or more other *Bidders* or its *Bidder Team Members* or any of their respective *Advisors*, employees or representatives in the preparation or submission of a *Bidder's Bid* or otherwise contravened Instructions to Bidders;
- 6.2.1.11 the *Bidder* has committed a material breach of any existing agreement between the *Bidder* and the *Owner*;
- 6.2.1.12 the *Bidder* or any *Bidder Team Member* has been convicted of an offence in connection with, or any services rendered to the *Owner*, IO or any Ministry, agency, Board or Commission of the Government of Ontario;
- 6.2.1.13 there are any convictions related to inappropriate *Bidding* practices or unethical behavior by a *Bidder* or a *Bidder Team Member* or any of their *Affiliates* in relation to a public or broader public sector tender or procurement in any Canadian jurisdiction; or
- 6.2.1.14 the *Bidder*, or any *Bidder Team Member*, has an economic or other interest or relationship that:
- 6.2.1.14.1 is, or could reasonably be perceived to be, contrary to the objectives of the *Project*; or
- 6.2.1.14.2 could potentially compromise the *Owners'* reputation or integrity or the *Owners'* procurement process, so as to affect public confidence in that process, whether or not such interest creates a *Conflict of Interest*.

## 7 CONSTRUCTION CONTRACT

### 7.1. Form of Contract

- 7.1.1 The *Successful Bidder* acknowledges and agrees that the entering into of the *Contract* by the *Signing Party* or *Signing Parties* is conditional on and subject to the *Signing Party* or *Signing Parties* obtaining any necessary authorization and approvals required in connection with the *Project*, including, for certainty, the approval of any relevant government authority.

7.1.2 The *Successful Bidder* will execute a CCDC 2 – 2020 Stipulated Price Construction Contract as modified by the Supplementary Conditions and as stipulated in section 7.3 below.

7.1.3 The construction contract between the *Owner* and the *Successful Bidder* will include:

- CCDC-2 2020 for Stipulated Price Contract, English Version
- Supplementary Conditions
- Owner Project Requirements
- General Requirements
- Specifications
- Drawings
- Bid Documents
- Addenda
- Pre-Award meeting Minutes; if applicable
- Ontario Fair Wage Program Labour Conditions including the applicable Schedule of Fair Wage Rates;
- Performance Bond
- Labour and Material Payment Bond
- Insurance Certificates
- WSIB Clearance Certificate
- Vendor Performance Program and Vendor Performance Scorecard

## 7.2. Contract Submission Requirements

Prior to execution of the construction *Contract* the *Successful Bidder* is to submit to the *Owner* the following documentation:

### 7.2.1. Bonding

Bonds as per GC 11.2 CONTRACT SECURITY and as modified by the Supplementary Conditions, issued to Colliers Project Leaders Inc.

### 7.2.2. Insurance Certificates

At the Contract execution stage, the contractor shall submit the Colliers Project Leaders Inc. Insurance Certificate document, included herewith in as Appendix A, fully completed and executed by an insurer or insurers licensed to underwrite insurance in the jurisdiction of the Place of the Work meeting the requirements in GC 11.1 of the *Contract* and as amended by the Supplementary Conditions.

If the contractor fails to provide any or all insurances listed in the attached Colliers Project Leaders Inc. insurance certificate within 10

business days of the contract award, Colliers Project Leaders Inc. reserves the right to purchase the required coverage and reduce the *Contract* amount by the cost corresponding to such coverage purchase.

Any delays by the contractor in producing the insurance certificates will not constitute grounds for a schedule extension.

**7.2.3. Fair Wage Program Documentation**

Submit an executed Fair Wage document and applicable Fair Wage schedule.

**7.2.4. WSIB Certificate of Clearance**

Submit a current Workplace Safety and Insurance Board (WSIB) Certificate of Clearance.

**7.3. Electronic Contract Form and Execution**

7.3.1. The parties to this *Contract* agree that the *Contract Documents* shall be executed and maintained in electronic format in accordance with the protocol set forth in this Electronic Contract Form and Execution.

7.3.2. The Contractor shall affix on the signature page of the *Contract* such copyright sticker as may be required to evidence compliance with the requirements of CCDC. Upon execution of this *Contract* by the Contractor, the Contractor shall, as an attachment in .pdf format, email the execution page of the Agreement together with all other pages bearing the Contractor's signature or initial, if any, to the *Owner* at the following email [Richa.Chaubey@colliersprojectleaders.com](mailto:Richa.Chaubey@colliersprojectleaders.com)

7.3.3. The *Owner* shall upon receipt of the .pdf referenced in subparagraph 7.3.2 hereof, execute the *Contract* and affix its signature or initial to such other pages bearing the Contractor's signature or initial, if any.

7.3.4. The *Owner* shall thereupon convert the Contract Documents, including the documents referenced in subparagraphs 7.3.2 and 7.3.3 hereof, into a single electronic file in un-editable .pdf format and shall email a copy of such single file of such Contract Documents to the Contractor.

7.3.5. Upon completion of the steps set forth in subparagraph 7.3.4 hereof, the electronic files posted on Biddingo.com for the *Project*, during the tender period, including without limitation, plans and specifications, addenda and supplementary conditions shall be deemed to constitute the reference copy of such of the Contract Documents. for all purposes of this *Contract* and, together with the standard CCDC 2-2020 form, shall be binding upon the parties.

7.3.6. The parties agree that for the purposes of execution, any true electronic signature of the representatives of the parties duly authorized to execute

the *Contract* shall be deemed to constitute the signature of such authorized representative for all purposes of the *Contract*

- 7.3.7. The parties agree that execution by them in counterparts in the manner set forth in paragraphs 7.3.2 and 7.3.3 hereof shall be sufficient to evidence execution of the *Contract* for all purposes.
- 7.3.8. The Contractor is to provide an electronically verifiable performance bond and a labour and material bond, in the form set out in the *Contract Documents*, in an amount equal to 50% of the Contract Price.
- 7.3.9. The Contractor is to provide completed Colliers Project Leaders Inc. Certificate of Insurance Template with coverage as per GC 11.1 General Conditions and Supplementary Conditions

## 8. COST BREAKDOWN

- 8.1. Using the *Owner/Consultant* provided prescribed form, all bidders are required to submit the Cost Breakdown within twenty-four (24) hours of receipt of written request for financial password.

## 9. CONFLICT OF INTEREST AND INELIGIBLE PERSON

### 9.1. Conflict of Interest

- 9.1.1. *Bidders* and *Bid Team Members* and each of their *Advisors*, shall disclose, in their *Bid Form*, all perceived, potential and actual *Conflicts of Interest*. For clarity, *Bidders* have an ongoing obligation to comply with this Instruction to Bidders section 9.
- 9.1.2. If *Bidder*, a *Bidder Team Member* or any of their respective *Advisors*, prior to or following submission of its *Bid*, discovers any perceived, potential or actual *Conflicts of Interest*, the *Bidder* shall promptly disclose the perceived, potential or actual *Conflict of Interest* to the *Owner* in a written statement to the *Contact Person*.
- 9.1.3. At the request of the *Owner*, the *Bidder* shall provide the *Owner* with the *Bidder's* proposed means to mitigate and minimize to the greatest extent practicable any perceived, potential or actual *Conflict of Interest*. The *Bidder* shall submit any additional information to the *Owner* that the *Owner* considers necessary to properly assess the perceived, potential or actual *Conflict of Interest*.
- 9.1.4. The *Owner* may, in their sole discretion, exclude any *Bidder Team Member* or *Bidder Advisor* on the grounds of *Conflict of Interest*.
- 9.1.5. Without limiting the generality of Instruction to Bidders section 9, the *Owner* may, in their sole discretion, require the *Bidder*, *Bidder Team Member* or a *Bidder's Advisor* to substitute a new person or entity for the person or entity giving rise to the *Conflict of Interest*.

- 9.1.6. The *Owner* may, in their sole discretion, waive any and all perceived, potential or actual *Conflicts of Interest* of *Bidders* or *Bidder Team Members*, or any of their respective *Advisors*. A waiver may be upon such terms and conditions as the *Owner*, in their sole discretion, require to satisfy themselves that the *Conflict of Interest* has been appropriately managed, mitigated and minimized, including requiring the *Bidder* to put into place such policies, procedures, measures and other safeguards as may be required by and be acceptable to the *Owner*, in their sole discretion, to manage, mitigate and minimize the impact of such *Conflict of Interest*.
- 9.1.7. For the purposes of this *Bid Call Process* ("Conflict of Interest") includes any situation or circumstance where a *Bidder*, any *Bidder Team Member*, any *Bidder Advisor* or any of the employees of a *Bidder*, *Bidder Team Member* or *Bidder Advisor* engaged in the development or oversight of development of the *Bidder's Bid* (including for such employees in their personal capacities):
- 9.1.7.1. has commitments, relationships or financial interests or involvement in any litigation or proceeding that:
  - 9.1.7.2. could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of the independent judgment by any personnel of the *Owner*, the Client or their *Advisors*; or
  - 9.1.7.3. 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 the *Successful Bidder* under the *Bid Call Process*;
  - 9.1.7.4. has contractual or other obligations to the *Owner* that could or could be seen to have been compromised or otherwise impaired as a result of its participation in the *Bid Call Process* or the *Project*; or
  - 9.1.7.5. has knowledge of confidential information (other than *Confidential Information*) that,
  - 9.1.7.6. has been made available to the *Bidder*, any *Bidder Team Member* or any *Bidder Advisor* by the *Owner*, the Client, and Infrastructure Ontario;
  - 9.1.7.7. is of strategic and/or material relevance to the *Bid Call Process* or to the *Project*; and
  - 9.1.7.8. is not available to other *Bidders* and that could or could be seen to give the *Bidder* an unfair competitive advantage.

- 9.1.8. The final determination of whether a perceived, potential or actual Conflict of Interest exists shall be made by the *Owner* in their sole discretion.

## 9.2. Ineligible Persons

- 9.2.1. As a result of their involvement in the *Project*, the persons named as ("Ineligible Persons") in the Instructions to Bidders, together with any persons who formerly worked on behalf of either the *Owner* or IO and in the course of such work had knowledge of *confidential information* of strategic and/or material relevance to the *Bid Call Process* or to the *Project* that is not available to other *Bidders* and that could or could be seen to give the *Bidder* an unfair advantage (collectively, "Ineligible Persons"), their employees, and any of their subcontractors, *Advisors*, consultants or representatives engaged in respect of this *Project* and, subject to Instructions to Bidders sections 9.2.1 and any person controlled by, that controls or that is under common control with the *Ineligible Persons* (each an "Ineligible Person's Affiliate") are not eligible to participate as a *Bidder Team Member* or *Advisor* to the *Bidder*.
- 9.2.2. The *Owner* may amend the *Ineligible Persons* list in the Instructions to *Bidders* from time to time during the *Bid Call Process*. The *Ineligible Person* list is the following: [NTD: Procurement to insert list]
- 9.2.3. An *Ineligible Person's Affiliate* may be eligible to participate as a *Bidder Team Member* or *Advisor* to the *Bidder* only after it has obtained a written consent from the *Owner* permitting it to participate as a *Bidder Team Member* or *Advisor* to the *Bidder*. To obtain consent for an *Ineligible Person's Affiliate* to participate as a *Bidder Team Member* or *Advisor* to the *Bidder*, the *Bidder* must submit a request for consent to the *Contact Person* that includes the following information:
- 9.2.3.1. the full legal name of the *Ineligible Person's Affiliate* that the *Bidder* wishes to include on its team or as a *Bidder Team Member* or *Advisor* to the *Bidder*;
  - 9.2.3.2. information regarding the *Ineligible Person's Affiliate's* relationship to the *Ineligible Person* listed in the Instructions to *Bidders*; and
  - 9.2.3.3. a description of the policies and procedures that will be put in place to manage, mitigate or minimize the impact of any perceived, potential or actual *Conflict of Interest* with respect to the *Ineligible Person's Affiliate*.
- 9.2.4. Upon the *Contact Person's* receipt of a *Bidder's* properly completed request for consent in accordance with Instructions to Bidders Sections 9.2.3, the *Owner* shall, in their sole discretion, make a determination as to whether they consider there to be a real, perceived or potential or actual *Conflict of Interest* and whether the impact of such real, perceived or potential *Conflict of Interest* can be appropriately managed, mitigated or

minimized. The *Bidder* shall be notified of the *Owners'* decision by means of a consent letter setting out the nature of the consent and the management, mitigation or minimization measures required as a condition of consent. If the *Ineligible Person's Affiliate* is considered to have a *Conflict of Interest*, the impact of which cannot be properly managed, mitigated or minimized, the *Owner* shall add the *Ineligible Person's Affiliate* to the *Ineligible Persons list* by Addendum.

9.2.5. If applicable, the Bidder, Bidder Team Members and their respective *Advisors* shall submit a request as per the following:

- 9.2.5.1. no later than the date set out in section 3.5.1, disclose all information in respect of the *Project* which the *Bidder*, the *Bidder Team Member*, or their respective *Advisors* have generated or have available to them as a result of work carried out by the *Bidder*, *Bidder Team Members* or their respective *Advisors*, for the *Owner* in respect of, or in anticipation of, the *Project*; and
- 9.2.5.2. at the request of the *Owner*, provide a director's or officer's certificate confirming that the requirements of Instructions to Bidders sections 9.2.3 have been complied with by the *Bidder* and, as applicable, the *Bidder Team Members* and their respective *Advisors*.

For clarity, the *Owner* may, in their sole discretion, circulate the information provided pursuant to Instructions to Bidders sections 9.2.3 to other *Bidders*, *Bidder Team Members*, and their respective *Advisors*. If any *Bidder* or *Bidder Team Member* becomes aware of relevant information of the type set out in Instructions to Bidders sections 9.2.3 that has not been made available to all *Bidders*, that *Bidder* shall disclose such information promptly to the *Contact Person*.

## 10. COMMUNICATION RESTRICTIONS

### 10.1. Communication with Other Government Authorities

- 10.1.1. Under no circumstances will any special rules set out other *Bid Documents* override the provisions of this Instructions to Bidders.
- 10.1.2. Neither the *Owner*, the Client, IO nor the Government of Ontario are, in any way whatsoever, responsible for any representations, statements, assurances, commitments or agreements which *Bidders*, *Bidder Team Members* or their respective *Advisors* receive or believe they may have received from a municipality, a government authority, or a utility. *Bidders*, *Bidder Team Members* and their respective *Advisors* rely on any such representations, assurances, commitments or agreements at their sole risk without recourse against the *Owner*, the Client, IO or the Government of Ontario.

### 10.2. Prohibited Contacts and Lobbying Prohibition



10.2.1. *Bidders* and *Bidder Team Members* and all of their respective *Advisors*, employees and representatives are prohibited from engaging in any form of political or other lobbying, of any kind whatsoever, to influence the outcome of the *Bid Call Process*.

10.2.2. Without limiting the generality of Instructions to Bidders section 9.2.1, neither *Bidders* nor *Bid Team Members* nor any of their respective *Advisors*, employees or representatives shall contact or attempt to contact, either directly or indirectly, at any time during the *Bid Call Process*, any of the following persons or organizations on matters related to the *Bid Call Process*, the *Bid Documents*, or the *Bids*:

10.2.2.1. any member of the evaluation committee;

10.2.2.2. any *Advisor* to the *Owner*, IO, the Client(s), or the evaluation committee;

10.2.2.3. any employee or representative of:

10.2.2.3.1. the *Owner*

10.2.2.3.2. IO;

10.2.2.3.3. Client

10.2.2.3.4. the Premier of Ontario's office or the Ontario Cabinet office;

10.2.2.4. any Member of the Provincial Parliament (including the Premier) or his or her staff or representatives; or

10.2.2.5. any directors, officers or consultants of any entity listed in Instructions to Bidders sections 9.2.

10.2.3. If a *Bidder* or a *Bidder Team Member* or any of their respective *Advisors*, employees or representatives, in the opinion of the *Owner*, contravenes Instructions to Bidders section 9.2.1 or Instruction to Bidders 9.2.2, the *Owner* may, in its sole discretion,

10.2.3.1. take any action in accordance with Instructions to Bidders section 6.2 (disqualification); or

10.2.3.2. impose conditions on the *Bidder's* or *Bidder Team Member's* continued participation in the *Bid Call Process* that the *Owner* consider, in their sole discretion, to be appropriate.

For clarity, the *Owner* is not obliged to take the actions set out in section 6.2.

### 10.3. Media Releases, Public Disclosure and Public Announcements

10.3.1. A *Bidder* shall not, and shall ensure that its *Advisors*, employees,



representatives and *Bidder Team Members*, and their respective *Advisors*, employees and representatives do not, issue or disseminate any media release, public announcement or public disclosure (whether for publication in the press, on the radio, television, internet or any other medium) that relates to the *Bid Call Process*, the *Bid Documents* or the *Project* or any matters related thereto, without the prior written consent of the *Owner*.

- 10.3.2. Neither the *Bidders* or the *Bidder Team Members* or any of their respective *Advisors*, employees or representatives shall make any public comment, respond to questions in a public forum, or carry out any activities to either criticize another *Bidder* or *Bid* or to publicly promote or advertise their own qualifications, interest in or participation in the *Bid Call Process* without the *Owner's* prior written consent, which consent may be withheld in the *Owner's* sole discretion. Notwithstanding this Instructions to Bidders section 10.3, *Bidders*, *Bidder Team Members* and their respective *Advisors*, employees and representatives are permitted to state publicly that they are participating in the *Bid Call Process*.
- 10.3.3. For the purpose of greater clarity, Instructions to Bidders section 10.3. does not prohibit disclosures necessary to permit the *Bidder* to discuss the *Project* with prospective subcontractors but such disclosure is permitted only to the extent necessary to solicit those subcontractors' participation in the *Project*.

#### **10.4. Restrictions on Communication between Bidders - No Collusion**

- 10.4.1. A *Bidder* shall not discuss or communicate, directly or indirectly, with any other *Bidder*, any information whatsoever regarding the preparation of its own *Bid* or the *Bid* of the other *Bidder* in a fashion that would contravene *Applicable Law*. *Bidders* shall prepare and submit *Bid* independently and without any connection, knowledge, comparison of information or arrangement, direct or indirect, with any other *Bidder*.

For greater clarity, Instructions to Bidders section 10.4.1. applies to *Bidder* and *Bidder Team Members* and their respective *Advisors*, employees and representatives.

### **11. FREEDOM OF INFORMATION, CONFIDENTIALITY AND COPYRIGHT MATTERS**

#### **11.1. Freedom of Information and Protection of Privacy Act**

- 11.1.1. *Bidders* are advised,
- 11.1.1.1. that the *Owner* or IO may be required to disclose the Bid Documents and a part or parts of any *Bid* pursuant to the *Freedom of Information and Protection of Privacy Act* (Ontario), as amended from time to time ("FIPPA"); and

- 11.1.1.2. Bidders are also advised that *FIPPA* does provide protection for confidential and proprietary business information. *Bidders* are strongly advised to consult their own legal *Advisors* as to the appropriate way in which confidential or proprietary business information should be marked as such in their *Bids*.
- 11.1.1.3. Subject to the provisions of *FIPPA*, the *Owner* or IO will use reasonable commercial efforts to safeguard the confidentiality of any information identified by the *Bidder* as confidential but shall not be liable in any way whatsoever to any *Bidder* or *Bidder Team Member* if such information is disclosed based on an order or decision of the Information and Privacy Commissioner or otherwise as required under *Applicable Law*.

## 11.2. Confidential Information

- 11.2.1. For the purpose of this *Bid Call Process*, (“*Confidential Information*”) means all material, data, information or any item in any form, whether oral or written, including in electronic or hard-copy format, supplied by, obtained from or otherwise provided by the *Owner*, IO or the Government of Ontario in connection with the *Bid Call Process*, the *Bid Documents* or the *Project*, whether supplied, obtained from or provided before or after the *Bid Call Process*.
- 11.2.2. The *Bidder* agrees that all *Confidential Information*:
  - 11.2.2.1. shall remain the sole property of the *Owner*, IO or the Government of Ontario, as applicable, and the *Bidder* shall treat it as confidential;
  - 11.2.2.2. shall not be used by the *Bidder* for any purpose other than developing and submitting a *Bid* in response to this *Bid Call Process* or the performance of any subsequent agreement relating to the *Project*;
  - 11.2.2.3. shall not be disclosed by the *Bidder* to any person who is not involved in the *Bidder's* preparation of its *Bid* or the performance of any subsequent agreement relating to the *Project*, without prior written consent of the *Owner*, IO or the Government of Ontario, as applicable;
  - 11.2.2.4. shall not be used in any way detrimental to the *Owner*, IO or the Government of Ontario; and
  - 11.2.2.5. if requested by the *Owner* or IO, all Confidential Information shall be returned by the *Bidder* to the *Owner* or IO no later than ten calendar days after that request.

- 11.2.3. Each *Bidder* shall be responsible for any breach of the provisions of this Instructions to Bidders 11.2 and 5.4.1.2 by any person to whom the *Bidder* discloses the *Confidential Information* including, for greater clarity, the *Bidders'* employees, representatives and *Advisors* and the *Bidder Team Members* and their employees, representatives and *Advisors*. Each *Bidder* shall indemnify each of the *Owner*, IO and the Government of Ontario and each of their related entities and each of their respective directors, officers, consultants, employees, agents and representatives and save each of them fully harmless from and against any and all loss, cost, damage, expense, fine, suit, claim, penalty, demand, action, obligation and liability of any kind or nature (including, without limitation, professional fees on a full indemnity basis) suffered or incurred by any of them arising as a result of or in connection with any breach of any of the provisions of this Instructions to Bidders by the *Bidder* or by any person to whom the *Bidder* has disclosed the *Confidential Information*. Each *Bidder* agrees that the *Owner* act as trustee for each of their related entities and the *Owner*, IO, the Government of Ontario and each of their respective directors, officers, consultants, employees, agents and representatives with respect to all rights contemplated hereunder arising in favour of a related entity or the Government of Ontario or any of their respective directors, officers, consultants, employees, agents or representatives and that the *Owner* have agreed to accept such trust and hold and enforce such rights on behalf of each related entity or the Government of Ontario and each of their respective directors, officers, consultants, employees, agents and representatives.
- 11.2.4. Each *Bidder* acknowledges and agrees that a breach of the provisions of this Instructions to Bidders section 10 would cause the *Owner*, IO, the Government of Ontario and their related entities to suffer loss that could not be adequately compensated by damages, and that the *Owner*, IO, the Government of Ontario and any of their related entities may, in addition to any other remedy or relief, enforce any of the provisions of this Instructions to Bidders Section 10 upon application to a court of competent jurisdiction without proof of actual damage to the *Owner*, IO, the Government of Ontario or any of their related entities.
- 11.2.5. Notwithstanding anything else to the contrary in this Instructions to Bidders, the provisions of this Instructions to Bidders Section 10 shall survive any cancellation of this *Bid Call Process* and the conclusion of the *Bid Call Process* and, for greater clarity, shall be legally binding on all *Prequalified Parties*, whether or not they submit a *Bid*.
- 11.2.6. The confidentiality obligations of the *Bidder* shall not apply to any information which falls within the following exceptions:

- 11.2.6.1. information that is lawfully in the public domain at the time of first disclosure to the *Bidder*, or which, after disclosure to the *Bidder*, becomes part of the public domain other than by a breach of the *Bidder's* confidentiality obligations or by any act or fault of the *Bidder*;
- 11.2.6.2. information which was in the *Bidder's* possession prior to its disclosure to the *Bidder* by the *Owner*, and provided that it was not acquired by the *Bidder* under an obligation of confidence; or
- 11.2.6.3. information which was lawfully obtained by the *Bidder* from a third party without restriction of disclosure, provided such third party was at the time of disclosure under no obligation of secrecy with respect to such information.

### 11.3. Open Data Directive

- 11.3.1.1. *Bidders* acknowledge that the *Bid Documents* and a part or parts of any *Bid* are subject to the *Open Data Directive* and that the Ontario ministries and agencies are required to disclose or publish certain data in accordance with the *Open Data Directive*.

## END OF INSTRUCTIONS TO BIDDERS

**From (Bidder):**

\_\_\_\_\_  
Legal Name of Company

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City or Town

\_\_\_\_\_  
Postal Code

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Fax

\_\_\_\_\_  
Email Address

**To (Owner):**

Colliers Project Leaders Inc.  
5255 Orbitor Drive, Suite 101  
Mississauga, ON, L4W 5M6, Canada

**Re: Bid Submission for**

**Project:**      **Division 00\_Front End Documents**  
Remediate Lead Paint in Mech Rooms  
145 Sir William Hearst Ave.  
Project No: 1100110- 273857  
Issue Date: 11/06/2023

I/We agree to supply all labour, materials, plant, equipment and services necessary for the execution and completion of the Project in accordance with the Tender Documents, for the stipulated **Bid Price** of:

\$ \_\_\_\_\_ /00 in CAD  
*Bid Price in words*

Except for Harmonized Sales Tax (HST), the Bid Price is inclusive of all other applicable taxes and custom duties and is in accordance with the General Conditions of the Contract, as may be modified by the Supplementary Conditions.

The HST amount that is additional to the Bid Price is:

\$ \_\_\_\_\_ /00 in CAD  
*Amount in words*

Submitted as per the Tender Document instructions is our Bid Bond in the amount of 10% of the Bid Price and made payable to Colliers Project Leaders Inc.

Submitted as per the Tender Document instructions is our Agreement to Bond in conformance with the requirements set out in GC 11.2 CONTRACT SECURITY and as modified by the Supplementary Conditions.

I/We confirm that the personnel whose resumes are submitted as part of this Bid and as set out in sections 4.10 and 4.11 of the Instructions to Bidders, will serve the Project from contract award to Total Completion.

I/We confirm that I/we remain committed to implement the work plan that is submitted as part of the Bid and set out in section 4.13 of the Instructions to Bidders.

I/We have included in the **Bid Price** all Cash Allowances as indicated in the table below:

Cash Allowance Description	Allowance Price
Security escorts (commissionaires)	\$8,000

In preparing the Bid Price, I/We have received and included for Addenda numbered: \_\_\_\_\_ to \_\_\_\_\_ .

I/We have listed the names of the Subcontractors intended to be used for the Project.

Trade or Item of Work	Name of Subcontractor
Abatement	
Caulking	
Painting	

## Litigation History

I/We confirm that:

- ☐ I/We are not currently engaged in litigation as per section other than those situations explicitly disclosed below, as per section 5.4.1.3.

OR

- ☐ The following is a list of situations, in which we are engaged in litigation as per section 5.4.1.3.

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## Conflict of Interest Declaration

For the purposes of this form, the terms "Conflict of Interest" and "Confidential Information" have the same meaning as that in Clause 5.4.1.1 and Clause 5.4.1.2 respectively, in the Instructions to Bidders.

I/We confirm that:

- ☐ there is not nor was there any actual or perceived Conflict of Interest or any other type of unfair advantage in our submitting this Bid or performing or observing the contractual obligations of the Contractor in the Agreement.

OR

- ☐ the following is a list of situations, each of which may be a Conflict of Interest or an instance of unfair advantage, or appears as potentially a Conflict of Interest or unfair advantage in our company submitting this Bid or the contractual obligations of the Contractor under the Agreement.

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In submitting this Bid:

- ☐ our company **has no** knowledge of or the ability to avail ourselves of Confidential Information of the Crown or of Colliers Project Leaders Inc. (other than confidential information which may have been disclosed by Colliers Project Leaders Inc. to the Bidders in the normal course of the bidding process) and the Confidential Information was relevant to the Work, its pricing or the Bid evaluation process.

OR

- ☐ our company **has** knowledge of or the ability to avail ourselves of Confidential Information of the Crown or of Colliers Project Leaders Inc. (other than confidential information which may have been disclosed by Colliers Project Leaders Inc. to the bidders in the normal course of the bidding process) and the Confidential Information was relevant to the Work, its pricing or the Bid evaluation process.

The following individuals, whether as employees, *advisors* or in any other capacity:

- a) participated in the preparation of our Bid; and
- b) were employees of Colliers Project Leaders Inc. and/or OILC and have ceased that employment within 12 months prior to the Tender Closing date:

Name of Individual	
Job Classification (of last position with Colliers Project Leaders Inc. and/or OILC)	
Last Date of Employment with Colliers Project Leaders Inc. and/or OILC	
Name of Last Supervisor with Colliers Project Leaders Inc. and/or OILC	
Brief Description of Individual's Job Functions (at last position with Colliers Project Leaders Inc. and/or OILC)	
Brief Description of Nature of Individual's Participation in Preparation of Bid	

(Repeat above for each identified individual)

I/We agree that, upon request, I/we shall provide the Owner with a Conflict of Interest Declaration from each individual identified above in the form prescribed by Colliers Project Leaders Inc..

#### **Tax Compliance Declaration**

(a) I/We hereby certify that at the time of submitting our Bid, we are in full compliance with all tax statutes administered by the Ministry of Finance for Ontario and that, in particular, all returns required to be filed under all provincial tax statutes have been filed and all taxes due and payable under those statutes have been paid or satisfactory arrangements for their payment have been made and maintained.



(b) I/We consent to the Ministry of Finance releasing the taxpayer information described in the Tax Compliance Declaration Form included herein. For the purpose of verifying that we are in full compliance with all statutes administered by the Ministry of Finance.

**Other Declarations**

I/We understand that the price(s) submitted in this Bid is/are based upon the acceptance of the Bid to the end of the 60th day after the Bid closing date (Bid Validity Period). In cases where the expiry date of the acceptance period falls on a Saturday, Sunday or holiday in Ontario, the time for acceptance shall be extended to the end of the next business day. If the Owner wishes to extend the Bid Validity Period, the Owner shall submit a request to extend to Bidders

I/We confirm that I/we have carefully examined the Place of the Work and all the Bid Documents and have a clear and comprehensive knowledge of the Work required under this Contract and of all the working conditions.

I/We confirm to be in a position to commence the Work immediately upon receipt of the Owners' written direction and to carry it through to a prompt and satisfactory conclusion as per schedule specified in Clause 1.3 in the Instructions to Bidders.

Signed, witnessed and submitted by:

\_\_\_\_\_  
*Legal Name of Contractor*

\_\_\_\_\_  
*Signature of Company Official*  
*I have the authority to bind the company*

\_\_\_\_\_  
*Name & Title – Printed or typed*

\_\_\_\_\_  
*Signature of Company Official*  
*I have the authority to bind the company*

\_\_\_\_\_  
*Name & Title – Printed or typed*

\_\_\_\_\_  
*Signature of Witness*

\_\_\_\_\_  
*Name – Printed or typed*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**END OF BID FORM**

**Note: This Form to be completed and submitted with the Bid Submission.**

Submit details of two (2) projects of similar size, scope and complexity completed by the Bidder on which Substantial completion was achieved in the last 10 years.

Reference Projects – Details	
Project name:	
City located:	
Client name:	
Client phone no.:	
Client e-mail address (if applicable):	
Project description (include Construction cost):	
Describe contractor's role:	
Construction Start Date	
Construction Finish Date	
Were there any Health and Safety Incidents?	Y/N, if yes provide details in a separate attachment (1 page limit):
Were there any Claims/Disputes on the project?	Y/N, if yes provide details in a separate attachment (1 page limit):
Relevance to this Project	



<b>Cost Breakdown</b>		
<b>Project Type 2</b>		
<b>Upgrade or Replacement of Base Building Components</b>		
Total actual Project Cost - as per Close Out Section 4.1		\$0.00
GSF Total construction Area - if relevant to this project (enter number only)		o <input type="text"/>
<b>Cost Item</b>	<b>Comments</b>	
01. General conditions	o	o \$
02. Designated substance remediation	o	o \$
04. Painting	o	o \$
05. Cash Allowance (Security escorts)		\$8,000
06. TOTAL ACTUAL PROJECT COST		

**Note: This Form to be completed and submitted only by the successful Bidder.**

Ontario  
Ministry of Labour

**FAIR WAGE PROGRAM**

LABOUR CONDITIONS  
FOR INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL SECTOR  
CONSTRUCTION CONTRACTS

(Labour classifications and wage rates are listed in attached Schedules)

DEFINITIONS

1. In these Labour Conditions,

- (a) "Contract" means a contract between  
("Owner")

Ministry Crown Corporation/agent

and the Contractor for the Work at \_\_\_\_\_  
location

- (b) "Contractor" refers to

\_\_\_\_\_  
name of business

\_\_\_\_\_  
business address

\_\_\_\_\_  
business phone No./fax No.

- (c) "Employee" means a person in the employ of the Contractor or a Sub-Contractor doing or contracting to do the whole or any part of the Work contemplated by this Contract.
- (d) "Employer" means the Contractor, and/or any of the Contractor's Sub-Contractors, who has control or direction of, or is directly or indirectly responsible for, the employment of a person therein.
- (e) "Fair Wage" or "Fair Wage Rates"- means the respective wage rates listed in the attached Schedule(s), or any revisions from time to time, for each classification of labour.
- (f) "Non-Urban Zone"- means a geographic area in the Province of Ontario which is designated by the Ontario Ministry of Labour from time to time as non-urban, for the purpose of establishing the Fair Wage Rates.

- (g) "Owner" refers to the ministry, crown corporation or agent named in subsection (a) as one of the contracting parties of the Contract.
- (h) "Owner's Representative" refers to

\_\_\_\_\_  
Name

\_\_\_\_\_  
Business address

\_\_\_\_\_  
Business phone No/fax No.

- (i) "Site" means the area defined on the drawings or in the Contract as the location of the Work.
- (j) "Sub-Contractor" means any person, firm or corporation having a contract for the execution of a part or parts of the Work included in the Contract, or a person, firm or corporation furnishing material called for in the Contract and worked to a special design according to the Contract but does not include one who merely furnishes material not so worked.
- (k) "Urban Zone" means a geographic area in the Province of Ontario which is designated by the Ontario Ministry of Labour from time to time as urban, for the purpose of establishing the Fair Wage Rates,
- (l) "Work" means each and everything that is necessary to be done, furnished or delivered by the Contractor, and by those for whom it is responsible, to perform the Contract, subject only to any express stipulation in the Contract to the contrary.

## CLASSIFICATIONS, WAGES AND HOURS

2.

- (1) All Employees have the right to be paid, as their regular wages, an amount not less than the Fair Wage Rates as revised from time to time, for regular-non-overtime hours, or not less than any other rates fixed by the Ontario Minister of Labour.
- (2) The Fair Wage Rates only apply to work performed under a contract let by a ministry of the Ontario Government, a corporation established under the Capital Investment Planning Act, 1993, or a third party acting on behalf of the Ontario Government as its agent.
- (3) Except where the Ontario Minister of Labour otherwise orders, each Employee has the right to be paid for hours worked in excess of eight (8) hours per day or forty-four (44) hours per week at a rate of not less than one and one-half times the Employee's regular wages.

3.

- (1) For Urban Zones only, Fair Wage Rates represent 85% of the union rate established in the specific zone for the respective trade, as determined by the Ontario Ministry of Labour from time to time, plus 15% in lieu of non-statutory benefits.

- (2) In Urban Zones, employers may 'pay a portion of the Fair Wage Rates, up to a maximum of 15% of the applicable Fair Wage Rate, to their Employees in non-statutory benefits, and the remainder of not less than 85% of the Fair Wage Rate shall be paid to these Employees in wages.

In Non-Urban Zones, Employers shall pay their Employees the full amount (100%) of the Fair Wage Rates in wages, exclusive of non-statutory benefits.

- (3) In the event that an Employer is performing Work in an Urban Zone and it chooses to pay a portion of the Fair Wage Rates to its Employees in non-statutory benefits, the Contractor must inform the Owner prior to commencing the Contract or the relevant sub-contract as to the total cost of such non-statutory benefits to the Contractor and/or its Sub-Contractor where a Sub-Contractor has elected to provide these non-statutory benefits. The cost of any non-statutory benefit paid to Employees shall be calculated in accordance with subsection (5).
- (4) Upon informing the Owner as to its selection in accordance with subsection (2), the Contractor shall provide documentation to the Owner, prior to commencing the Contract or relevant sub-contract, to sufficiently substantiate, in the Owner's opinion, the total cost of the all non-statutory benefits to the Contractor and/or respective Sub-Contractor.
- (5) The cost to the Contractor, and/or a Sub-Contractor, of any non-statutory benefit shall be calculated on the basis of the total weekly cost to the Contractor/Sub-Contractor of each non-statutory benefit provided to Employees divided by forty-eight (48). The total cost of all non-statutory benefits equals the sum of the costs of each non-statutory benefit provided to Employees.
- (6) Where the documentation is not provided to the Owner in accordance with subsections (4) and (5), the Contractor and/or relevant Sub-Contractor is responsible for paying its Employees the full amount (100%) of the Fair Wage Rates in wages, exclusive of non-statutory benefits.
- (7) Notwithstanding subsection (6), where the Contractor fails to inform and/or provide such documentary proof to the Owner as required by subsections (3), (4) and (5) and the Contractor or any of its Sub-Contractors proceeds to pay a portion, up to a maximum of 15%, of the Fair Wage Rates in non-statutory benefits, the Owner may withhold payments under the Contract until such time as the Owner is satisfied that the Employees have received their Fair Wages.
- (8) Once an Employer has made its selection pursuant to subsection (2), it shall continue to pay its Employees in accordance with its initial selection for the entire duration of the Contract and/or relevant sub-contract.

#### DISCRETION OF THE ONTARIO MINISTER OF LABOUR.

4.

- (1) The Ontario Minister of Labour may decide that special circumstances exist which make it expedient for him/her to decide:
- (a) what the current or fair and reasonable wage rates for overtime are; and/or
  - (b) the proper classification of any Work for the purposes of wages and. hours.



- (2) The Contractor and Sub-Contractor(s) shall adjust the wages, hours, and classification of workers accordingly, upon receiving a decision made by the Ontario Minister of Labour.

## REGISTRY

5.

- (1) The Owner shall maintain a register of its contracts subject to the Fair Wage Program.
- (2) The registry will contain the following information:
- (a) project number/name;
  - (b) location of project;
  - (c) Contractor's name; and
  - (d) reference to the applicable Fair Wage Schedule(s).
- (3) Any person or entity may obtain from the registry any of the information set out in subsection (2), by completing the Owner's form in this regard and agreeing to the provisions set out in the form.

## CONTRACTOR'S OBLIGATIONS

6. The Contractor must comply with the requirements set out in these Labour Conditions.

7.

- (1) The Contractor shall post and keep posted these Labour Conditions, and the applicable Schedule, and any revisions thereto, in a conspicuous place on the Site.
- (2) Where applicable in Urban Zones, the Contractor shall ensure that the posted Schedule includes a breakdown of the wages and non-statutory benefits paid to the Employees of the Contractor and each Sub-Contractor electing to pay the Fair Wage Rates in accordance with Section 3(2).

8.

- (1) The Contractor must keep records of the names, addresses, trades, wages paid, and hours worked of its Employees, as well as the Contractor's costs for all non-statutory benefits where the Contractor chooses to pay its Employees Fair Wages in accordance with Section 3(2).
- (2) These records shall be kept separate from records concerning staff who are not performing Work under this Contract.
- (3) These records shall be kept in the Province of Ontario and shall be made available for inspection by the Owner's Representative upon request, whether or not a complaint has been made pursuant to Section 14.

9. The Contractor shall deliver to the Owner, when required by the Contract, a declaration(s) attesting to its compliance with these Labour Conditions.

## CONTRACTOR'S OBLIGATIONS WITH RESPECT TO SUB-CONTRACTORS

10.

- (1) The Contractor is responsible for ensuring that all Sub-Contractors comply with these Labour Conditions.

- (2) The Contractor must provide all Sub-Contractors with a copy of these Labour Conditions and the applicable Schedule before any Work is performed by the Sub-Contractor.
11. Where any Sub-Contractor under this Contract fails to pay Fair Wage Rates to an Employee, the Contractor shall pay directly to the Employee, regardless of whether or not monies are still owed by the Contractor to the Sub-Contractor, the difference between the amount of wages paid and the amount of wages that should have been paid pursuant to the Fair Wage Rates, regardless of whether or not the Contractor had prior notice of these Fair Wage claims.
12. The Contractor shall, in any Contract with a Sub-Contractor, require the Sub-Contractor to,
- (a) pay all Employees in accordance with Sections 2, 3 and 4(2);
  - (b) keep records of the names, addresses, trades, wages paid, and hours worked or all their Employees, as well as the Sub-Contractor's costs for all non-statutory benefits where the Sub-Contractor chooses to pay its Employees Fair Wages in accordance with Section 3(2);
  - (c) keep these records separate from records concerning staff who are not performing Work under this Contract;
  - (d) keep these records in the Province of Ontario and to make them available for inspection by the Contractor and/or the Owner's Representative upon request. whether or not a complaint had been made; and
  - (e) require a sub-sub-contractor under this Contract to assume the same obligations in relation to its own Employees.

#### OWNER'S RIGHT TO HOLD BACK

- 13.
- (1) Where the Owner receives a complaint or finds that an Employee is not being paid Fair Wage Rates, the Owner may withhold the amount owing to an Employee from any payment owed by the Owner to the Contractor, until the Contractor or Sub-Contractor pays the Employee.
- The Owner further reserves the right to set-off any outstanding amount in respect of Fair Wages owing to an Employee against payments owed by the Owner to the Contractor pursuant to other contracts between the Owner and the Contractor.
- (2) An amount withheld under subsection (1) will be paid to the Contractor if,
- (i) the Owner finds that the Employee was in fact being paid Fair Wage Rates; or
  - (ii) subsequent to the Owner verifying that the Employee was not being paid Fair Wage Rates, the Employee was paid the difference between the amount of wages paid and the amount of wages that should have been paid in accordance with Section 2(1).
- (3) If the Owner has found that an amount is owing to an Employee and that amount has not been paid within one hundred and five (105) days of the completion of the Work, the amount withheld may be forfeited to the Crown at the discretion of the Owner, in which case the entitlement of the Contractor under this Contract is reduced by the amount forfeited.

#### CLAIM PROCEDURE

14.

- (1) An Employee may file a complaint in respect of a failure to pay Fair Wage Rates, with the Owner, by completing the form provided by the Owner's Representative.
- (2) An Employee employed by the Contractor shall file his/her completed form regarding a Fair Wage complaint with the Owner's Representative at the earliest time but not later than. Forty-five (45) days following total completion of the Contract, as defined in the Construction Lien Act.
- (3) An Employee employed by a Sub-Contractor shall file his/her completed form regarding a Fair Wage complaint with the Owner's Representative at the earliest time but not later than forty-five (45) days following total completion of the relevant sub-contract, as defined in the Construction Lien Act.
- (4) Third parties may assert a Fair Wage complaint on the Owner's prescribed form on behalf of an Employee where it is based on specific information.
- (5) The Owner shall not disclose the identity or the complainant Employee until the Owner has verified the claim and unless the disclosure is necessary for the Contractor or Sub-Contractor to pay monies to the Employee in respect of the complaint

15.

- (1) An Employee may file a complaint, in respect of a failure to comply with the requirements prescribed in Section 2(3), with the Ontario Ministry of Labour, Employment Practices Branch.
- (2) Where a Contractor or Sub-Contractor fails to pay an Employee wages at all, the employees may file a complaint with the Ontario Ministry of Labour, Employment Practices Branch.

16. In addition to, or alternatively to, an Employee's rights under Sections 14 and 15, an Employee may file a lien claim for wages, in respect of a failure to comply with any requirement under Section 2 under the Construction Lien Act. These lien claims must be filed directly with the Owner,

- (4) Upon informing the Owner as to its selection in accordance with subsection (2), the Contractor shall provide documentation to the Owner, prior to commencing the Contract or relevant sub-contract, to sufficiently substantiate, in the Owner's opinion, the total cost of the all non-statutory benefits to the Contractor and/or respective Sub-Contractor.
- (5) The cost to the Contractor. and/or a Sub-Contractor, of any non-statutory benefit shall be calculated on the basis of the total weekly cost to the Contractor/Sub-Contractor of each non-statutory benefit provided to Employees divided by forty-eight (48). The total cost of all non-statutory benefits equals the sum of the costs of each non-statutory benefit provided to Employees.
- (6) Where the documentation is not provided to the Owner in accordance with subsections (4) and (5), the Contractor and/or relevant Sub-Contractor is responsible for paying its Employees the full amount (100%) of the Fair Wage Rates in wages, exclusive of non-statutory benefits.

- (7) Notwithstanding subsection (6). where the Contractor fails to inform and/or provide such documentary proof to the Owner as required by subsections (3), (4) and (5) and the Contractor or any of its Sub-Contractors proceeds to pay a portion, up to a maximum of 15%, of the Fair Wage Rates in non-statutory benefits, the Owner may withhold payments under the Contract until such time as the Owner is satisfied that the Employees have received their Fair Wages.
- (8) Once an Employer has made its selection pursuant to subsection (2), it shall continue to pay its Employees in accordance with its initial selection for the entire duration of the Contract and/or relevant sub-contract.

#### DISCRETION OF THE ONTARIO MINISTER OF LABOUR.

17.

- (1) The Ontario Minister of Labour may decide that special circumstances exist which make it expedient for him/her to decide:
- (a) what the current or fair and reasonable wage rates for overtime are; and/or
  - (b) the proper classification of any Work for the purposes of wages and. hours.
- (2) The Contractor and Sub-Contractor(s) shall adjust the wages, hours, and classification of workers accordingly, upon receiving a decision made by the Ontario Minister of Labour.

#### REGISTRY

18.

- (1) The Owner shall maintain a register of its contracts subject to the Fair Wage Program.
- (2) The registry will contain the following information:
- (a) project number/name;
  - (b) location of project;
  - (c) Contractor's name; and
  - (d) reference to the applicable Fair Wage Schedule(s).
- (3) Any person or entity may obtain from the registry any of the information set out in subsection (2), by completing the Owner's form in this regard and agreeing to the provisions set out in the form.

#### CONTRACTOR'S OBLIGATIONS

19. The Contractor must comply with the requirements set out in these Labour Conditions.

20.

- (1) The Contractor shall post and keep posted these Labour Conditions, and the applicable Schedule, and any revisions thereto, in a conspicuous place on the Site.
- (2) Where applicable in Urban Zones, the Contractor shall ensure that the posted Schedule includes a breakdown of the wages and non-statutory benefits paid to the Employees of the Contractor and each Sub-Contractor electing to pay the Fair Wage Rates in accordance with Section 3(2).

21.

- (1) The Contractor must keep records of the names, addresses, trades, wages paid, and hours worked of its Employees, as well as the Contractor's costs for all non-statutory

benefits where the Contractor chooses to pay its Employees Fair Wages in accordance with Section 3(2).

- (2) These records shall be kept separate from records concerning staff who are not performing Work under this Contract.
- (3) These records shall be kept in the Province of Ontario and shall be made available for inspection by the Owner's Representative upon request, whether or not a complaint has been made pursuant to Section 14.

22. The Contractor shall deliver to the Owner, when required by the Contract, a declaration(s) attesting to its compliance with these Labour Conditions.

#### CONTRACTOR'S OBLIGATIONS WITH RESPECT TO SUB-CONTRACTORS

23.

- (1) The Contractor is responsible for ensuring that all Sub-Contractors comply with these Labour Conditions.
- (2) The Contractor must provide all Sub-Contractors with a copy of these Labour Conditions and the applicable Schedule before any Work is performed by the Sub-Contractor.

24. Where any Sub-Contractor under this Contract fails to pay Fair Wage Rates to an Employee, the Contractor shall pay directly to the Employee, regardless of whether or not monies are still owed by the Contractor to the Sub-Contractor, the difference between the amount of wages paid and the amount of wages that should have been paid pursuant to the Fair Wage Rates, regardless of whether or not the Contractor had prior notice of these Fair Wage claims.

25. The Contractor shall, in any Contract with a Sub-Contractor, require the Sub-Contractor to,
- (c) pay all Employees in accordance with Sections 2, 3 and 4(2);
  - (d) keep records of the names, addresses, trades, wages paid, and hours worked or all their Employees, as well as the Sub-Contractor's costs for all non-statutory benefits where the Sub-Contractor chooses to pay its Employees Fair Wages in accordance with Section 3(2);
  - (c) keep these records separate from records concerning staff who are not performing Work under this Contract;
  - (d) keep these records in the Province of Ontario and to make them available for inspection by the Contractor and/or the Owner's Representative upon request. whether or not a complaint had been made; and
  - (e) require a sub-sub-contractor under this Contract to assume the same obligations in relation to its own Employees.

#### OWNER'S RIGHT TO HOLD BACK

26.

- (1) Where the Owner receives a complaint or finds that an Employee is not being paid Fair Wage Rates, the Owner may withhold the amount owing to an Employee from any payment owed by the Owner to the Contractor, until the Contractor or Sub-Contractor pays the Employee.

The Owner further reserves the right to set-off any outstanding amount in respect of Fair Wages owing to an Employee against payments owed by the Owner to the Contractor pursuant to other contracts between the Owner and the Contractor.

- (2) An amount withheld under subsection (1) will be paid to the Contractor if,
- (i) the Owner finds that the Employee was in fact being paid Fair Wage Rates; or
  - (ii) subsequent to the Owner verifying that the Employee was not being paid Fair Wage Rates, the Employee was paid the difference between the amount of wages paid and the amount of wages that should have been paid in accordance with Section 2(1).
- (3) If the Owner has found that an amount is owing to an Employee and that amount has not been paid within one hundred and five (105) days of the completion of the Work, the amount withheld may be forfeited to the Crown at the discretion of the Owner, in which case the entitlement of the Contractor under this Contract is reduced by the amount forfeited.

#### CLAIM PROCEDURE

27.

- (1) An Employee may file a complaint in respect of a failure to pay Fair Wage Rates, with the Owner, by completing the form provided by the Owner's Representative.
- (2) An Employee employed by the Contractor shall file his/her completed form regarding a Fair Wage complaint with the Owner's Representative at the earliest time but not later than Forty-five (45) days following total completion of the Contract, as defined in the Construction Lien Act.
- (3) An Employee employed by a Sub-Contractor shall file his/her completed form regarding a Fair Wage complaint with the Owner's Representative at the earliest time but not later than forty-five (45) days following total completion of the relevant sub-contract, as defined in the Construction Lien Act.
- (4) Third parties may assert a Fair Wage complaint on the Owner's prescribed form on behalf of an Employee where it is based on specific information.
- (5) The Owner shall not disclose the identity or the complainant Employee until the Owner has verified the claim and unless the disclosure is necessary for the Contractor or Sub-Contractor to pay monies to the Employee in respect of the complaint

28.

- (1) An Employee may file a complaint, in respect of a failure to comply with the requirements prescribed in Section 2(3), with the Ontario Ministry of Labour, Employment Practices Branch.
- (2) Where a Contractor or Sub-Contractor fails to pay an Employee wages at all, the employees may file a complaint with the Ontario Ministry of Labour, Employment Practices Branch.

29. In addition to, or alternatively to, an Employee's rights under Sections 14 and 15, an Employee may file a lien claim for wages, in respect of a failure to comply with any requirement under Section 2 under the Construction Lien Act. These lien claims must be filed directly with the Owner.

## **FOR CONSTRUCTION CONTRACT BIDS**

**FOR:** Division 00\_Front End Documents  
**Bid #:** 1100110- 273857

**This Non-Disclosure Agreement** (the "NDA") is made in duplicate as of Month Day, 2015.

### **BETWEEN**

**Infrastructure Ontario, acting as agent on behalf of  
His Majesty the King in Right of Ontario as Represented by  
the Minister of Infrastructure** (hereinafter "IO")

### **AND**

\_\_\_\_\_  
(hereinafter the "Recipient")

**WHEREAS** Colliers Project Leaders Inc., on behalf of IO has invited firms to submit Bids in respect of the invitation for Construction Contract Bids for Division 00\_Front End Documents at Remediate Lead Paint in Mech Rooms located at 145 Sir William Hearst Ave. Ontario (BID # 1100110- 273857) (the "Project") and intends to disclose information to the Recipient in connection with the Project and make materials related to the Project physically available for review by the Recipient and/or available in an electronic data room;

**AND WHEREAS** the Recipient intends to submit a Bid in connection with the Project and wishes to access the said information and materials to assist in preparing its Bid;

**NOW THEREFORE** in consideration of the premises and mutual covenants contained in this NDA and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

### **1. Definition of Confidential Information**

- 1.1. For the purposes of this NDA, Confidential Information refers to and shall mean any information disclosed by IO, Ministry Client, or Colliers Project Leaders Inc. to the Recipient with respect to the Project, either electronically, in writing or orally and any other information related to the Project, including but not limited to information obtained by the Recipient directly from IO, its directors, officers, appointees, employees, agents and advisors or made available to the Recipient through an electronic data room.
- 1.2. Confidential Information does **not** include information that:
  - 1.2.1. is now or subsequently becomes generally available to the public through no fault or breach on the part of Recipient; or
  - 1.2.2. the Recipient can demonstrate that it rightfully possessed prior to disclosure to Recipient by IO.

### **2. Non-disclosure and Non-use of Confidential Information**



- 2.1. Recipient shall not disclose, publish, or disseminate the Confidential Information to anyone other than those of its employees, advisors or representatives who will be assisting to prepare a Bid in respect of the Project.
- 2.2. Recipient agrees to take reasonable precautions to prevent any unauthorized use, disclosure, publication, or dissemination of Confidential Information.
- 2.3. Recipient agrees to take appropriate efforts (not less than reasonable efforts) to keep the Confidential Information confidential.
- 2.4. Recipient agrees to accept the Confidential Information for the sole purpose of submitting a Bid with respect to the Project.
- 2.5. Recipient agrees to ensure that anyone, to whom Recipient discloses Confidential Information, further abides by obligations restricting use, restricting disclosure, and ensuring security at least as protective as required under this NDA.
- 2.6. The Recipient agrees not to use the Confidential Information for its own or any third party's benefit without the prior written approval of IO.

### **3. Ownership of Confidential Information**

- 3.1. The Confidential Information shall remain the property of IO and no license or other rights to the Confidential Information are hereby granted or implied.

### **4. No Warranty**

- 4.1. IO makes no representation, warranty or guarantee as to the accuracy or completeness of any of the Confidential Information.
- 4.2. IO shall not be liable to the Recipient or to any other person or entity for any damages suffered as a result of any use of the Confidential Information

### **5. Equitable Relief**

- 5.1. The Recipient hereby acknowledges that unauthorized disclosure or use of Confidential Information could cause irreparable harm and significant injury to IO that may be difficult to ascertain. Accordingly, the Recipient agrees that IO will have the right to seek and obtain immediate injunctive relief to enforce obligations under this Agreement in addition to any other rights and remedies it may have.

### **6. Counterparts**

- 6.1. This NDA may be executed in two or more counterparts which shall be binding on the parties, and all of which shall be considered one and the same agreement and each of which shall be deemed an original. Facsimile signatures shall be deemed valid as to the execution of this NDA.



IN WITNESS WHEREOF the parties hereto have executed this NDA on the day and year first above written.

**RECIPIENT** (Full legal name)

By:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
E-Mail Address

(I have the authority to bind the Recipient.)

**WITNESS**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name and title of person signing)

**Infrastructure Ontario**  
**acting as Agent on behalf of His Majesty the**  
**King in Right of Ontario as Represented by**  
**the Minister of Infrastructure**

By:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

**WITNESS**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name and title of person signing).

## CCDC2-2 2020

### SUPPLEMENTARY CONDITIONS

The Standard Construction Document CCDC-2 2020 for Stipulated Price Contract, English version, consisting of the Agreement Between *Owner* and *Contractor*, Definitions, and General Conditions of the Stipulated Price Contract, Parts 1 to 13 inclusive, governing same is hereby made part of these *Contract Documents*, with the following amendments, additions and modifications. These Supplementary Conditions have been developed by Ontario Infrastructure and Lands Corporation, with the endorsement of the Ontario General Contractors Association.

All references in this contract to the *Owner* shall refer to the entity identified in the Agreement Between *Owner* and *Contractor*, but all rights, benefits, or entitlements reserved to the *Owner* under the terms of this contract shall equally accrue to and be jointly or severally enforceable by *Infrastructure Ontario*, His Majesty the King in Right of Ontario, and the *Owner*.

Where an Article, Definition, General Condition or paragraph thereof is deleted by these Supplementary Conditions, the numbering of the remaining Article, Definition, General Conditions or paragraphs shall remain unchanged, and the numbering of the deleted item will be retained, unused.

### AGREEMENT BETWEEN OWNER AND CONTRACTOR

#### ARTICLE A-3 – CONTRACT DOCUMENTS

3.1 Include in the list of *Contract Documents* in paragraph 3.1:

Supplementary Conditions

*Ontario Fair Wage Program Labour Conditions* including the applicable *Schedule of Fair Wage Rates*

Performance Bond

Labour and Material Payment Bond

Project Specific Supplementary Conditions

#### ARTICLE A-5 – PAYMENT

5.1.2 Delete paragraph 5.1.2 in its entirety and substitute new paragraph 5.1.2:

5.1.2            forthwith following the expiry of the holdback period specified in the *Construction Act* for the retention of holdback funds following *Substantial Performance of the Work* (which for certainty shall not exceed 10 *Working Days* following expiration of the holdback period stipulated in the *Construction Act*), pay to the *Contractor* the unpaid balance of the holdback amount together with such *Value Added Taxes* as may be applicable to such payment, provided that (i) there are no claims for lien registered against title to the *Place of the Work*; (ii) the *Owner* has not received any valid written notices of lien in respect of the *Work*; and (iii) the *Owner* has not published a notice of non-payment in the form prescribed by the *Construction Act* prior to the 40<sup>th</sup> calendar day following the publication of the certificate of *Substantial Performance of the Work*.

5.2.1    Delete paragraph 5.2.1 in its entirety and substitute new paragraph 5.2.1:

5.2            Interest

- .1            Should either party fail to make payments as they become due under the terms of the *Contract* or in an award by *Adjudication*, arbitration or court, interest on such unpaid amounts shall be calculated and payable in accordance with the *Construction Act*, which for certainty shall be the prejudgment interest rate under the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

## ARTICLE A-9 – CONFLICT OF INTEREST

Add new Article A-9 – Conflict of Interest:

9.1            The *Contractor*, all of the *Subcontractors*, and any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall not engage in any activity or provide any services where such activity or the provision of such services creates a conflict of interest (actually or potentially, in the sole opinion of the *Owner*) with the provision of the *Work* pursuant to the *Contract*. The *Contractor* acknowledges and agrees that a conflict of interest includes the use of *Confidential Information* where the *Owner* has not specifically authorized such use.

9.2            The *Contractor* shall disclose to the *Owner*, in writing, without delay any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest, including the retention of any *Subcontractor* or *Supplier* that is directly or indirectly affiliated with or related to the *Contractor*.

9.3            The *Contractor* covenants and agrees that it will not hire or retain the services of any employee or previous employee of Ontario Realty

Corporation, Ontario Infrastructure Projects Corporation, *IO* or the Ontario Public Service where to do so constitutes a breach by such employee or previous employee of the previous employer's conflict of interest policy, as it may be amended from time to time.

- 9.4 A breach of this Article by the *Contractor*, any of the *Subcontractors*, or any of their respective advisors, partners, directors, officers, employees, agents, and volunteers shall entitle the *Owner* to terminate the *Contract*, in addition to any other rights and remedies that the *Owner* has under the *Contract*, in law, or in equity.

## ARTICLE A-10 – CONFIDENTIALITY

Add new Article A-10 – Confidentiality:

- 10.1 The *Contractor* agrees to ensure that it shall, both during or following the currency of the *Contract*, maintain the confidentiality and security of all *Confidential Information* and *Personal Information*, and that it shall not directly or indirectly disclose, destroy, exploit, or use any *Confidential Information* or *Personal Information*, except where required by law, without first obtaining the written consent of the *Owner*. The *Contractor* may disclose any portion of the *Contract Documents* or any other information provided to the *Contractor* by the *Owner* to any *Subcontractor* or *Supplier* if the *Contractor* discloses only such information as is necessary to fulfill the purposes of the *Contract* and the *Contractor* has included a commensurate confidentiality provision in its contract with the *Subcontractor* or *Supplier*. The *Contractor* acknowledges that it will comply with all requirements of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5, as amended. The *Contractor* acknowledges that the *Owner* is bound by the provisions of the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended ("**FIPPA**"), and the *Digital and Data Directive*, as all may be amended from time to time. The *Contractor* further acknowledges that the *Owner* may be required to disclose any or all of the *Confidential Information*, *Personal Information* and *Open Data* in the event that it is compelled to do so by law, through a request under *FIPPA*, the *Digital and Data Directive* or by the rules of any applicable regulatory authority.

## DEFINITIONS

Add the following definitions:

### Adjudication

*Adjudication* means the construction dispute interim adjudication procedure under Part II.1 of the *Construction Act* with respect to any and all matters referred to in Section 13.5 of the *Construction Act*.

### **Affected Party and Affected Parties**

*Affected Party* and *Affected Parties* have the meaning set out in GC 14.6.4

### **As-Built Drawings**

*As-Built Drawings* means drawings prepared by the *Contractor* by marking on a copy of the Drawings the changes from the Drawings which occur during construction including, but are not limited to the exact location of major building components that were shown generally on the Drawings.

### **Confidential Information**

*Confidential Information* means all the information or material of the *Owner* that is of a proprietary or confidential nature, whether it is identified as proprietary or confidential or not, including but not limited to information and material of every kind and description (such as drawings and move-lists) which is communicated to or comes into the possession or control of the *Contractor* at any time, but *Confidential Information* shall not include information that:

- (a) is or becomes generally available to the public without fault or breach on the part of the *Contractor*, including without limitation breach of any duty of confidentiality owed by the *Contractor* to the *Owner* or to any third party, but only after that information becomes generally available to the public;
- (b) the *Contractor* can demonstrate to have been rightfully obtained by the *Contractor* from a third party who had the right to transfer or disclose it to the *Contractor* free of any obligation of confidence;
- (c) the *Contractor* can demonstrate to have been rightfully known to or in the possession of the *Contractor* at the time of disclosure, free of any obligation of confidence; or
- (d) is independently developed by the *Contractor* without use of any *Confidential Information*.

### **Construction Act**

*Construction Act* means the *Construction Act*, R.S.O. 1990, c. C.30, as amended, repealed, superseded or replaced from time to time. For the purposes of this *Contract*, *Payment Legislation* shall mean the *Construction Act*.

### **Contractor Personnel**

*Contractor Personnel* means any *Subcontractor* or *Supplier* or other person performing or supplying any part of the *Work*, for or on behalf of the *Contractor*, and any employees or agents thereof, and any employees or agents of the *Contractor*.

### **Contractor Security Officer or “CSO”**

*Contractor Security Officer* or “CSO” means the individual designated by the *Contractor* as the *Contractor’s* representative who will liaise with the *Owner* for the purposes of coordinating the *Security Clearance Checks* for the *Contractor* and all *Affected Parties* and who will have overall responsibility for carrying out *Contractor’s* security screening obligations outlined in this *Contract*, and to whom any additional information deemed relevant to the required *Security Clearance Checks*, may be communicated during the contractor security screening process.

### **Digital and Data Directive**

*Digital and Data Directive* means the Management Board of Cabinet’s Digital and Data Directive published January 29, 2021, as amended from time to time.

### **Excess Soil**

*Excess Soil* means soil, crushed rock or soil mixed with rock or crushed rock, that has been excavated as part of a project as defined in the *Excess Soil Regulation*.

### **Excess Soil Legislation**

*Excess Soil Legislation* means any laws, ordinances, rules, regulations or codes, which are or become in force during the performance of the *Work* dealing with the excavation, removal and transportation of *Excess Soil* including, without limitation, the *Excess Soil Regulation*.

### **Excess Soil Regulation**

*Excess Soil Regulation* means the On-Site and Excess Soil Management Regulation (O. Reg. 406/19).

### **Fair Wage Program Labour Conditions**

*Fair Wage Program Labour Conditions* refers to the Ontario Fair Wage Program Labour Conditions and applicable Schedule of Fair Wage Rates included in the *Contract Documents*.

### **Infrastructure Ontario or IO**

*Infrastructure Ontario* or *IO* means Ontario Infrastructure and Lands Corporation, the statutory agent and delegate of His Majesty the King in Right of Ontario, as represented by the Minister of Infrastructure or his or her authorized successor.

### **Open Data**

*Open Data* means data that is required to be released to the public pursuant to the Digital and Data Directive.

### **Personal Information**

*Personal Information* has the same definition as in subsection 2(1) of *FIPPA* and includes an individual's name, address, age, date of birth, sex, and religion, whether recorded in printed form, on film, by electronic means, or otherwise and disclosed to the *Contractor*.

### **PPEB**

*PPEB* means the Program & Policy Enablement Branch, Supply Chain Ontario, Ministry of Government & Consumer Services, or any successor thereof.

### **Proper Invoice**

*Proper Invoice* shall have the meaning ascribed thereto in GC 5.2.1.

### **Project Leader**

*Project Leader* means the "project leader" within the meaning of the *Excess Soil Regulation*.

### **Security Clearance Check**

*Security Clearance Check* includes all of the following:

- (a) a written declaration by an individual disclosing any unresolved charges and previous convictions under the offense provisions of federal statutes, including but not limited to the *Criminal Code*, R.S.C. 1985, C. C-46, as amended, for which a pardon under the *Criminal Records Act*, R.S.C. 1985, C. C-47, as amended, has not been granted;
- (b) a police records check through the Canadian Police Information Centre and provincial and municipal police force records for information about the individual in relation to:
  - convictions under the offense provisions of federal statutes, including but not limited to the *Criminal Code*, R.S.C. 1985, C. C-46, as amended, for which a pardon under the *Criminal Records Act*, R.S.C. 1985, C. C-47, as amended, has not been granted;
  - findings of guilt in relation to federal statutes for which a court has granted a discharge;
  - charges laid under the offense provisions of any federal statutes that are unresolved; and

- records of judicial orders in effect made in relation to the offense provisions of federal statutes;
- (c) a police records check in other jurisdictions as deemed necessary by the information provided to the *PPEB* during a Security Clearance Check; and
- (d) if deemed necessary by *PPEB* considering the circumstances of the Project, a driving records check.

## GENERAL CONDITIONS

### GC 1.1 CONTRACT DOCUMENTS

.1 Delete the second sentence of paragraph 1.1.2.

.2 Delete paragraphs 1.1.3 and 1.1.4 and substitute as follows:

1.1.3 The *Contractor* shall review the *Contract Documents* and shall report promptly to the *Consultant* any error, inconsistency, or omission the *Contractor* may discover. Such review by the *Contractor* shall be undertaken with the standard of care described in paragraph 3.9.1 of the *Contract*. Except for its obligation to make such review and report the result, the *Contractor* does not assume any responsibility to the *Owner* or to the *Consultant* for the accuracy of the *Contract Documents*. The *Contractor* shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the *Contract Documents*, which the *Contractor* could not reasonably have discovered through the exercise of the required standard of care. If the *Contractor* does discover any error, inconsistency, or omission in the *Contract Documents*, the *Contractor* shall not proceed with the work affected until the *Contractor* has received corrected or missing information from the *Consultant*.

1.1.4 If, at any time, the *Contractor* finds errors, inconsistencies, or omissions in the *Contract Documents* or has any doubt as to the meaning or intent of any part thereof, the *Contractor* shall immediately notify the *Consultant*, and request a *Supplemental Instruction*, *Change Order*, or *Change Directive*, as the case may require. Neither the *Owner* nor the *Consultant* will be responsible for the consequences of any action of the *Contractor* based on oral instructions.

.3 Add new sentence to the end of paragraph 1.1.9:

1.1.9 The *Specifications* are divided into divisions and sections for convenience but shall be read as a whole and neither such division nor anything else contained in the *Contract Documents* will be construed to place



responsibility on the *Consultant* to settle disputes among the *Subcontractors* and *Suppliers* or as between them and the *Contractor* with respect to such divisions.

### GC 1.3 RIGHTS AND REMEDIES

.1 Delete the word “No” from the beginning of paragraph 1.3.2 and substitute the words:

1.3.2 “Except with respect to the notice requirements set out in paragraphs 6.4.1, 6.5.4, and 6.6.1, no ...”.

### GC 1.4 ASSIGNMENT

.1 Delete paragraph 1.4.1 in its entirety and substitute new paragraph 1.4.1:

1.4.1 The *Owner* may assign the *Contract* or a portion thereof without the consent of the *Contractor*, where such assignment is to an entity undertaking the *Project* for the use of the Crown in Right of Ontario or Canada. The *Contractor* may not assign the *Contract* or a portion thereof without the written consent of the *Owner*, and the granting of such consent shall be in the *Owner's* discretion, not to be unreasonably withheld.

### GC 2.2 ROLE OF THE CONSULTANT

.1 Add the following to the end of paragraph 2.2.1:

2.2.1 , and where applicable, in accordance with the recommended procedures outlined in the OAA/OGCA Document No. 100-2018 dated July 1, 2018 (reissued January 8, 2019) and the OAA/OGCA Guide to Project Closeout Procedures dated November 2010, as each may be amended from time to time.

.2 Delete GC 2.2.4 and substitute new paragraph 2.2.4:

2.2.4 The *Consultant* will participate in a monthly pre-screening meeting with the *Owner* and the *Contractor* in accordance with the *Owner's* timing and requirements to review the particulars, details, information and documentation, including the breakdown of the schedule of values, proposed to constitute the basis of *Contractor's Proper Invoice* for such month, so as to assist the *Contractor* with the preparation and submission of its *Proper Invoices* on a monthly basis. Upon receipt of a *Proper Invoice*, the *Consultant* shall review the *Proper Invoice* and issue to the *Owner*, no

later than five (5) calendar days after receipt of the *Proper Invoice*, a certificate for payment in accordance with GC 5.3.1.1.

## **GC 2.4 DEFECTIVE WORK**

.1 Add new subparagraphs 2.4.1.1 and 2.4.1.2:

2.4.1.1 The *Contractor* shall rectify, in a manner acceptable to the *Owner* and the *Consultant*, all defective work and deficiencies throughout the *Work*, whether or not they are specifically identified by the *Owner* or the *Consultant*.

2.4.1.2 When applicable, the *Contractor* shall give priority to the correction of any defective work or deficiencies which the *Owner* determines adversely affect its day-to-day operations.

## **GC 3.1 CONTROL OF THE WORK**

.1 Add new paragraph 3.1.3:

3.1.3 Prior to commencing the *Work*, the *Contractor* shall verify, at the *Place of the Work*, all relevant measurements and levels necessary for the proper completion of the *Work* and shall further carefully compare such field measurements and conditions with the requirements of the *Contract Documents*. Where dimensions are not included or exact locations are not apparent in the *Contract Documents*, the *Contractor* shall immediately notify the *Consultant* in writing and obtain *Supplemental Instructions* from the *Consultant* before proceeding with any part of the affected work.

## **GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS**

.1 Delete subparagraph 3.2.2.1 in its entirety

.2 Add new subparagraph 3.2.3.5:

3.2.3.5 Subject to General Condition 9.4 - CONSTRUCTION SAFETY, where paragraph 3.2.3 of General Condition 3.2 - CONSTRUCTION BY OWNER OR OTHER CONTRACTORS applies, for the *Owner's* own forces and for *Other Contractors* performing work identified in the *Contract Documents*, assume overall responsibility for compliance with all aspects of the applicable health and safety legislation at the *Place of the Work*, including all of the responsibilities of the constructor as that term is defined in the *Occupational Health and Safety Act*, R.S.O 1990, c. O.1, as amended.

## GC 3.4 CONSTRUCTION SCHEDULE

.1 Delete paragraph 3.4.1 in its entirety and substitute new paragraph 3.4.1:

3.4.1 The *Contractor* shall,

- .1 within 15 days following the award of the *Contract*, prepare and submit to the *Owner* and the *Consultant* for their review, a construction schedule that indicates the timing of the activities of the *Work* and provides sufficient detail of the critical events and their inter-relationship to demonstrate the *Work* will be performed in conformity with the *Contract Time* and in accordance with the *Contract Documents*. Unless otherwise agreed to in writing, in advance by the *Owner* and the *Contractor*, when required by the *Specifications* to employ construction scheduling software, the *Contractor* shall employ the software Microsoft Project in generating the construction schedule, which permits the progress of the *Work* to be monitored in relation to the critical path established in the schedule. The *Contractor* shall provide the construction schedule and any successor or revised schedules to the *Owner* in electronic format and paper copy. When required by the *Specifications* to employ construction scheduling software, the *Contractor* shall provide the construction schedule to the *Owner* in editable format, together with a record version in PDF format. Once reviewed by the *Owner* and the *Consultant*, the construction schedule submitted by the *Contractor* shall become the baseline construction schedule. The review of the construction schedule by the *Owner* and the *Consultant* shall not be perceived as their approval in any way of the construction schedule. The *Contractor* is fully responsible for the means and methods necessary to meet the baseline construction schedule or any revision(s) thereto. The *Owner* and the *Consultant's* review are solely intended to help establish the *Contractor's* ability to meet the requirements of the *Contract*;
- .2 provide the expertise and resources, such resources including manpower and equipment, as are necessary to maintain progress under the baseline construction schedule or any successor or revised schedule pursuant to General Condition 3.4 – CONSTRUCTION SCHEDULE;
- .3 monitor the progress of the *Work* on a weekly basis relative to the baseline construction schedule, or any successor or revised schedule pursuant to General Condition 3.4 – CONSTRUCTION SCHEDULE, update the schedule on a monthly basis and advise the

*Consultant* and the *Owner* in writing of any variation from the baseline or slippage in the schedule; and

- .4 if, after applying the expertise and resources required under subparagraph 3.4.1.2, the *Contractor* forms the opinion that the variation or slippage in schedule reported pursuant to subparagraph 3.4.1.3 cannot be recovered by the *Contractor*, it shall, in the same notice, indicate to the *Consultant* and the *Owner* if the *Contractor* intends to apply for an extension of *Contract Time* as provided in PART 6 of the General Conditions - CHANGES IN THE WORK.

- .2 Add new paragraph 3.4.2:

- 3.4.2 If, at any time, it should appear to the *Owner* or the *Consultant* that the actual progress of the *Work* is behind schedule or is likely to become behind schedule, or if the *Contractor* has given notice of such to the *Owner* or the *Consultant* pursuant to subparagraph 3.4.1.3, the *Contractor* shall take appropriate steps to cause the actual progress of the *Work* to conform to the schedule or minimize the resulting delay and shall produce and present to the *Owner* and the *Consultant* a recovery plan demonstrating how the *Contractor* will achieve the recovery of the schedule. If the *Contractor* intends to apply for a change in the *Contract Price* in relation to a schedule recovery plan, then the *Contractor* shall proceed in accordance with General Condition 6.5 – DELAYS.

## GC 3.5 SUPERVISION

- .1 Delete paragraph 3.5.1 in its entirety and substitute new paragraph 3.5.1:

- 3.5.1 The *Contractor* shall provide all necessary supervision and appoint competent representatives who shall be in attendance at the *Place of the Work* while work is being performed. The appointed representatives shall not be changed except for valid reasons, and upon the *Contractor* obtaining the *Owner's* prior written consent, which consent will not be unreasonably withheld.

- .2 Add new paragraph 3.5.3:

- 3.5.3 The *Owner* may, at any time during the course of the *Work*, request the replacement of the appointed representative(s), where the grounds for the request involve conduct which jeopardizes the safety and security of the site or the *Owner's* operations. Immediately upon receipt of the request, the *Contractor* shall make arrangements to appoint an acceptable replacement.

## GC 3.7 LABOUR AND PRODUCTS

.1 Delete paragraph 3.7.3 and replace with new paragraph 3.7.3:

3.7.3 Unless otherwise specified in the *Contract Documents*, *Products* provided shall be new and as specified. The *Contractor* shall not provide substitutions for specified *Products* without the express written consent of the *Consultant* and the *Owner*.

.2 Add new paragraph 3.7.4:

3.7.4 The *Contractor* shall comply with all requirements set out in the *Fair Wage Program Labour Conditions*. The hours of work, the rates of wages paid, and the working conditions shall be in accordance with the Labour Conditions and applicable Schedule of Fair Wage Rates, included therein, as amended from time to time.

Add new General Conditions 3.9, 3.10, and 3.11:

## GC 3.9 PERFORMANCE BY CONTRACTOR

3.9.1 In performing its services and obligations under the *Contract*, the *Contractor* shall exercise the standard of care, skill, and diligence that would normally be provided by an experienced and prudent contractor supplying similar services for similar projects. The *Contractor* acknowledges and agrees that throughout the *Contract*, the performance of the *Contractor's* obligations, duties, and responsibilities shall be judged against this standard. The *Contractor* shall exercise the same standard of care, skill, and diligence in respect of any *Products*, personnel, or procedures which it may recommend to the *Owner*.

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

- .1 the personnel it assigns to the *Project* are appropriately experienced;
- .2 it has a sufficient staff of qualified and competent personnel to replace any of its appointed representatives, subject to the *Owner's* approval, in the event of death, incapacity, removal or resignation; and
- .3 there are no pending, threatened or anticipated claims that would have a material effect on the financial ability of the *Contractor* to perform its work under the *Contract*.

## GC 3.10 RIGHT OF ENTRY

- 3.10.1 The *Owner* shall have the right to enter or occupy the *Work* in whole or in part for the purpose of placing fittings and equipment or for other uses before *Ready-For-Takeover*, if, in the reasonable opinion of the *Consultant* and *Contractor*, such entry or occupation does not prevent or substantially interfere with the *Contractor's* completion of the *Contract* within the *Contract Time*. Such entry or occupation shall not be considered as acceptance of the *Work* or in any way relieve the *Contractor* from responsibility to complete the *Contract*.

## GC 3.11 OAA/OGCA TAKE-OVER PROCEDURES

- 3.11.1 Unless otherwise required by this Contract, *Contractor* shall execute the closing stages of the *Work* in accordance with the OAA/OGCA Document No. 100-2018 dated July 1, 2018 (reissued January 8, 2019) and the OAA/OGCA Guide to Project Closeout Procedures dated November 2010, as each may be amended from time to time.

## GC 4.1 CASH ALLOWANCES

- .1 Add new paragraph 4.1.8:

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

## GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

- .1 Revise the heading, “GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER” to read, “GC 5.1 FINANCING INFORMATION REQUIRED”.
- .2 Delete paragraph 5.1.1 in its entirety and substitute new paragraph 5.1.1:
- 5.1.1 The *Owner* and *Contractor* shall provide each other with timely *Notice in Writing* of any material change in their financial ability to fulfil their respective obligations under the *Contract*.
- .3 Delete paragraph 5.1.2 in its entirety.

## GC 5.2 APPLICATIONS FOR PAYMENT

- .1 Revise the heading, “GC 5.2 - APPLICATIONS FOR PAYMENT” to read, “GC 5.2 - REQUIREMENTS OF A *PROPER INVOICE*, PROCESS AND TIMING FOR ISSUANCE OF *PROPER INVOICES*”.
- .2 Delete GC 5.2.1 in its entirety and replace with the following:
  - 5.2.1 “*Proper Invoice*” shall mean a written bill or other request for payment for services and/or materials comprising the *Work* performed under this *Contract* issued by the *Contractor*, provided such bill or request:
    - (A) contains the information set out in Section 6.1 of the *Construction Act*, which for certainty includes the following:
      1. The *Contractor’s* name and address;
      2. The date of the invoice and the period during which the services or materials were supplied;
      3. Information identifying the authority, whether in this *Contract* or otherwise, under which the services or materials were supplied;
      4. A description, including quantity where appropriate, of the services or materials that were supplied;
      5. The amount payable for the services or materials that were supplied, and the payment terms;
      6. The name, title, telephone number and mailing address of the person at the *Contractor* to whom payment is to be sent; and
      7. Any other information that may be prescribed by the *Construction Act*,
    - (B) contains the following information and meets the following requirements:
      1. The name of the *Owner’s* project manager for the *Project*;
      2. The *Owner’s* and *Contractor’s* full legal names;
      3. The *Proper Invoice* must include the applicable purchase order number, tax registration number and project number applicable to the *Work*;
      4. The *Proper Invoice* must not be combined with any other invoices when issued;
      5. Outlines the aggregate amount of the holdback retained by the *Owner* under the *Contract* and the amount of the holdback retained under and applicable to the *Proper Invoice*; and
      6. The invoice must accurately reflect all required components of the *Proper Invoice* and the amount billed thereunder.
    - (C) meets the additional requirements with respect to process and contain such information as required by *Owner* as outlined in GC 5.2.2, 5.2.3, 5.2.4, 5.2.5 and 5.2.6 .



- .3 Delete GC 5.2.2, 5.2.3, 5.2.4, 5.2.5, 5.2.6, 5.2.7 and 5.2.8 in their entirety and replace with the following:
- 5.2.2 The *Contractor* shall submit to both the *Owner* and the *Consultant*, no later than five (5) *Working Days* after the *Work* has commenced, a schedule of values for the *Work*, aggregating the total amount of the *Contract Price* so as to facilitate review of the *Proper Invoices* for the *Work*.
- 5.2.3 On a monthly basis, the following process shall be followed in relation to applications for payment on account as provided in Article A-5 of the Agreement – PAYMENT pursuant to the delivery of *Proper Invoices*, as follows:
- .1 By not later than the ninth (9<sup>th</sup>) day of the calendar month, which date shall be a *Working Day*, the *Contractor* shall submit to both the *Owner* and the *Consultant*, a breakdown of the schedule of values for costs incurred during the immediately preceding month for the *Work*, including outlining the total amount of the *Contract Price*. Such breakdown shall be provided in such form and supported by such evidence as the *Owner* or the *Consultant* may reasonably require;
- .2 By not later than the fifteenth (15<sup>th</sup>) day of the calendar month, the *Contractor* shall participate in a monthly pre-screening meeting with the *Owner* and the *Consultant*, the time and location of which shall be specified by the *Owner* in writing (which date shall be a *Working Day*), to review the particulars, details, information and documentation, including the breakdown of the schedule of values, proposed to constitute the basis of the *Contractor's Proper Invoice* for such month, so as to assist the *Contractor* with the preparation and submission of its *Proper Invoices* on a monthly basis;
- .3 By not later than the twenty-fifth (25<sup>th</sup>) day of the calendar month, between the hours of 9:00 A.M. and 5:00 P.M. on a *Working Day*, the *Contractor* shall submit simultaneously to the *Owner* (to the *Owner's Finance Department* with a copy to the *Owner's project manager for the Project*) and to the *Consultant*, a *Proper Invoice* for payment, for the immediately preceding month, including with the *Proper Invoice* the following:
- .1 a Statutory Declaration on an original form CCDC Document 9A-2018, declaring that payments in connection with the *Work*, as noted in the Statutory Declaration, have been made to the end of the period immediately preceding that covered by the current application and attesting to the truth of the statements made therein;



- .2 evidence of compliance with workers' compensation at the *Place of the Work* including a Workplace Safety & Insurance Board Clearance Certificate, including payments due thereunder, with each application for progress payment; and
    - .3 an unconditional written declaration, duly signed by an authorized representative of the *Contractor*, stating that there has been no delay in the progress of the *Work* for which the *Contractor* has any claim against the *Owner* with the exception of any such claim previously disclosed in accordance with the applicable provisions of the *Contract*.
  - .4 For clarity, if the *Proper Invoice* referenced in GC 5.2.3.3 is received by the *Owner* after 5:00 P.M. on a *Working Day* or at any time on a non-*Working Day*, the *Proper Invoice* shall be deemed to be received by the *Owner* on the following *Working Day*.
- 5.2.4 The *Contractor* shall prepare current *As-Built Drawings* during the course of the *Work*, which current *As-Built Drawings* shall be maintained and made available to the *Consultant* for review with each *Proper Invoice*. The *Consultant* may retain a reasonable amount and up to a maximum of the amounts outlined in paragraph GC 5.4.7, from any application for payment for the value of the *As-Built Drawings* not presented for review until the *As-Built Drawings* are presented for review.
- 5.2.5 The *Contractor* agrees that any *Proper Invoice* submitted prior to the twenty-fifth (25<sup>th</sup>) day of the calendar month, as required pursuant to GC 5.2.3.3, shall be deemed to be received on the twenty-fifth (25<sup>th</sup>) day of the calendar month.
- 5.2.6 The *Contractor* agrees that any *Proper Invoice* which is not submitted by the twenty-fifth (25<sup>th</sup>) day of the calendar month, as required pursuant to GC 5.2.3.3, shall be the basis for the issuance of a notice of non-payment by the *Owner* in accordance with the *Construction Act*.

### GC 5.3 PAYMENT

- .1 Revise the heading, "GC 5.3 - PAYMENT" to read, "GC 5.3 - PROCESS AND TIMING FOR PAYMENT FOLLOWING *OWNER'S RECEIPT OF PROPER INVOICE*".
- .2 Delete GC 5.3.1 in its entirety and replace with the following:
  - 5.3.1 After receipt of a *Proper Invoice* submitted by the *Contractor* in accordance with GC 5.2 - REQUIREMENTS OF A PROPER INVOICE, PROCESS AND TIMING FOR ISSUANCE OF PROPER INVOICES:

- .1 The *Consultant* shall review the *Proper Invoice* and issue to the *Owner*, no later than five (5) calendar days after the *Consultant's* receipt of the *Proper Invoice*, a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due following its review of such *Proper Invoice*. The issuance by the *Consultant* to the *Owner* of such certificate for payment is solely for the *Owner's* internal purposes and the *Owner's* receipt or approval of such certificate shall not be a condition of the giving of payment of the *Proper Invoice* in respect of which such certificate has been issued.
- .2 In the event that all or a portion of the *Proper Invoice* is disputed, the *Owner* shall issue a notice of non-payment of such portion of the *Proper Invoice*, in accordance with the *Construction Act*. After the *Owner* and the *Consultant* have reviewed the *Proper Invoice*, the *Contractor* shall amend it and submit to both the *Owner* and the *Consultant*, a revised *Proper Invoice* for the non-disputed portion of the *Proper Invoice* within two (2) *Working Days* following receipt of the *Owner's* notice of non-payment, incorporating all of the information set out in the original *Proper Invoice* applicable to the non-disputed portion thereof. For clarity, the form and date of the *Proper Invoice* cannot change despite such a revision.
- .3 Subject to the provisions of the *Construction Act*, payment shall be made by the *Owner* to the *Contractor* of the amount outlined in the *Proper Invoice* within twenty-eight (28) calendar days of the *Owner's* receipt of the *Proper Invoice*, unless within fourteen (14) calendar days of the *Owner's* receipt of the *Proper Invoice*, the *Owner* issues a notice of non-payment to the *Contractor* in accordance with the *Construction Act*. If a notice of non-payment is issued by the *Owner*, the *Owner* shall pay the *Contractor* the undisputed portion of the *Proper Invoice* within twenty-eight (28) calendar days after receiving the *Proper Invoice*.
- .4 On receipt of payment or notice of non-payment from the *Owner*, the *Contractor* shall comply with the *Construction Act* and either cause payment to be made to all *Subcontractors*, trade contractors, workers and *Suppliers* promptly when due in accordance with the *Construction Act* or issue notices of non-payment in accordance with the timelines and requirements of the *Construction Act*. Additionally, the *Contractor* shall take all necessary steps to ensure that *Subcontractors* and *Suppliers* comply with the payment requirements of the *Construction Act*.

## GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK AND PAYMENT OF HOLDBACK

.1 Delete paragraphs 5.4.2, 5.4.3 and 5.4.4 in their entirety, renumber paragraphs 5.4.5 and 5.4.6 as 5.4.10 and 5.4.11 and substitute new paragraphs 5.4.2, 5.4.3, 5.4.4, 5.4.5, 5.4.6, 5.4.7, 5.4.8 and 5.4.9:

- 5.4.2 Immediately prior to the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor*, in consultation with the *Consultant*, shall establish reasonable dates for finishing the *Work* and correcting deficiencies.
- 5.4.3 Within 7 calendar days of receiving a copy of the certificate of *Substantial Performance of the Work* issued by the *Consultant*, the *Contractor* shall publish a copy of the certificate in a construction trade newspaper (as that term is defined in the *Construction Act* or the regulations promulgated thereunder) and shall provide to the *Consultant* and the *Owner* the date of publication and the name of the construction trade newspaper in which the publication occurred. If the *Contractor* fails to comply with this provision, the *Owner* may publish a copy of the certificate and charge the *Contractor* with the costs so incurred.
- 5.4.4 Prior to submitting its written application for *Substantial Performance of the Work*, the *Contractor* shall submit to the *Consultant* all:
- .1 guarantees;
  - .2 warranties;
  - .3 certificates;
  - .4 testing and balancing reports;
  - .5 distribution system diagrams;
  - .6 spare parts;
  - .7 maintenance manuals;
  - .8 samples;
  - .9 existing reports and correspondence from authorities having jurisdiction in the *Place of the Work*;
  - .10 commissioning verification form(s);
  - .11 computerized maintenance management system form(s) for base building and/or client equipment;

and other materials or documentation required to be submitted under the *Contract*, together with written proof acceptable to the *Owner* and the *Consultant* that the *Work* has been substantially performed in conformance

with the requirements of municipal, governmental, and utility authorities having jurisdiction in the *Place of the Work*.

- 5.4.5 Where the *Contractor* is unable to deliver the documents and materials described in paragraph 5.4.4, then, provided that none of the missing documents and materials interferes with the use and occupancy of the *Project* in a material way, the failure to deliver shall not be grounds for the *Consultant* to refuse to certify *Substantial Performance of the Work*. If the *Contractor* fails to deliver any of the materials required in subparagraphs 5.4.4.7 or 5.4.4.8, the *Owner* may retain from the payment of holdback under paragraph 5.4.9, the amount set out in paragraph 5.4.6, until the materials required pursuant to subparagraphs 5.4.4.7 or 5.4.4.8 are delivered, provided the *Owner*, within 40 calendar days after publication of the applicable certificate of *Substantial Performance of the Work*, publishes a notice of non-payment in the form prescribed by the *Construction Act*.
- 5.4.6 The amount to be retained by the *Consultant* as contemplated in subparagraphs 5.2.4 and 5.4.5 is as follows:
- .1 where the *Contract Price* is less than \$100,000 the amount to be retained is \$5,000;
  - .2 where the *Contract Price* is greater than \$100,000 but less than \$500,000, the amount to be retained is 5% of the *Contract Price*;
  - .3 where the *Contract Price* is greater than \$500,000 but less than \$5,000,000, the amount to be retained is the greater of \$25,000 or 3% of the *Contract Price*;
  - .4 where the *Contract Price* is greater than \$5,000,000, the amount to be retained is 1.5% of the *Contract Price* up to a maximum of \$1,000,000.00.
- 5.4.7 Except for payment of holdback, from which amounts can only be retained or withheld in accordance with the *Construction Act*, should the *As-Built Drawings* not be delivered in accordance with subparagraph 5.2.4 or any documents or materials not be delivered in accordance with paragraph 5.4.4 by the earlier of 50 days following the date of *Substantial Performance of the Work* and the submission of the *Contractor's* application for final payment under paragraph 5.5.1 of General Condition 5.5 – FINAL PAYMENT, then the amount previously retained pursuant to paragraph 5.2.4 or 5.4.6 shall be forfeit to the *Owner* as compensation for the damages deemed to have been incurred by the *Owner*, and not as a penalty, arising

from the failure to deliver the documents or materials, and the *Contract Price* shall be reduced accordingly.

5.4.8 Together with the submission of its written application for *Substantial Performance of the Work*, the *Contractor* shall submit to the *Consultant* and to the *Owner* a statutory declaration setting forth in reasonable detail any then outstanding and unresolved disputes or claims between the *Contractor* and any *Subcontractor* or *Supplier*, including any claims allegedly arising from delay, which are, directly or indirectly, related to any then outstanding or anticipated disputes or claims between the *Contractor* and the *Owner*, and this disclosure shall, at a minimum:

- .1 identify the parties involved;
- .2 identify the amount in dispute;
- .3 provide a brief statement summarizing the position of each party;
- .4 include copies of any correspondence or documents in support of either party's position;
- .5 include copies of any documents of any court or arbitration process related to the matter;
- .6 identify the dispute or claim between the *Contractor* and the *Owner* to which the matter relates; and
- .7 include a copy of any written agreement or a summary of any oral agreement between the parties related to resolution of the matter.

The disclosure requirements detailed herein are of a continuing nature and survive completion of the *Work*. Accordingly, the *Contractor* shall supplement the information provided with the original statutory declaration with additional materials pertaining to new or existing disputes or claims, as they become available. The *Contractor* shall not be entitled to recover from the *Owner* any amount pertaining to any claim or dispute referred to in this paragraph, if the provisions of this paragraph have not been fully complied with. For greater certainty, the *Contractor* is not obliged to make the aforementioned disclosure with respect to any dispute or claim that is not related to or does not touch upon any then outstanding and unresolved dispute or claim between the *Contractor* and the *Owner*.

5.4.9 The *Contractor* submit an application for payment of the lien holdback amount pursuant to the *Proper Invoice* in accordance with GC 5.3 –

PAYMENT. All holdback amounts shall be due and payable forthwith following the expiry of the holdback period specified in the *Construction Act* for the retention of holdback funds following *Substantial Performance of the Work* (which for certainty shall not exceed 10 *Working Days* following expiration of the holdback period stipulated in the *Construction Act*), unless (i) a claim for lien has been registered against title to the *Place of the Work*; (ii) the *Owner* has received a valid written notice of lien in respect of the *Work*; or (iii) the *Owner* has published a notice of non-payment in the form prescribed by the *Construction Act* prior to the 40<sup>th</sup> calendar day following the publication of the certificate of *Substantial Performance of the Work*.

## GC 5.5 FINAL PAYMENT

- .1 Delete paragraph 5.5.1 in its entirety and substitute new paragraph 5.5.1:

5.5.1 When the *Contractor* considers that the *Work* is completed, the *Contractor* shall submit an application for final payment pursuant to a *Proper Invoice*. The *Contractor's* application for final payment pursuant to a *Proper Invoice* shall be accompanied by any documents or materials not yet delivered pursuant to paragraph 5.4.4 and the delivery of such documents and materials shall constitute a requirement of the *Proper Invoice* for the final payment under this *Contract*. The *Work* shall be deemed not to be performed until all of the aforementioned documents have been delivered.

- .2 Delete from the first line of paragraph 5.5.2 the words, “calendar days” and substitute the words:

“*Working Days*”.

- .3 Delete from the second line of paragraph 5.5.4 the words, “calendar days” and substitute the words:

“*Working Days*”.

- .4 Add new paragraph 5.5.5:

5.5.5 Prior to the release of the finishing holdback provided for under the *Construction Act*, the *Contractor* shall submit:

- .1 *Contractor's* written request for release of the finishing holdback, including a statement that no written notices of lien have been received by it;

- .2 a Statutory Declaration CCDC 9A-2018; and
- .3 a final Workplace Safety & Insurance Board Clearance Certificate.

## GC 6.1 OWNER'S RIGHT TO MAKE CHANGES

### .1 Add new GC 6.1.3 – GC 6.1.4 as follows:

- 6.1.3 If any change in the *Work* results in either a deletion of a part of the *Work* or the removal of a part of the *Work* in circumstances where the *Owner* determines, in its discretion, that the removed scope should be performed by the *Owner's* own forces or by *Other Contractors*, the *Contractor* shall not be entitled to any compensation for loss of profit or other consequential loss as a result of the deletion or removal.
- 6.1.4 Where the *Contractor* is required to perform changed or additional *Work*, resulting in an adjustment to the *Contract Price*, and provided that the parties do not agree to value the changed or additional work on a lump sum basis, the adjustment in the *Contract Price* for a change carried out by either a *Change Directive* or a *Change Order* shall be determined on the basis of the cost of the *Contractor's* actual, net direct expenditures and savings attributable to the *Change Directive* or *Change Order*, as the case may be, valued in accordance with GC 6.3.7 and as follows:
  - .1 If the change results in a net increase in the *Contractor's* cost, the *Contract Price* shall be increased by the amount of the net increase in the *Contractor's* cost, plus the *Contractor's* percentage fee on such net increase.
  - .2 If the change results in a net decrease in the *Contractor's* cost, the *Contract Price* shall be decreased by the amount of the net decrease in the *Contractor's* cost, with a corresponding reduction to the *Contractor's* percentage fee on such net decrease.
  - .3 When both additions and deletions covering related work or substitutions are involved in a change to the *Work*, the change in the *Contract Price* shall be calculated on the basis of the net difference, if any, between (i) the net increase in the *Contractor's* cost plus the *Contractor's* percentage fee on such net increase resulting from additions involved in the change to the *Work*, and (ii) the net decrease in the *Contractor's* cost with a corresponding reduction to the *Contractor's* percentage fee on such net decrease resulting from deletions involved in the change to the *Work*.
  - .4 The *Contractor's* percentage fee for overhead and profit and, to the extent any changes in the *Work* are performed by *Subcontractor's* or sub-



Subcontractors, the *Subcontractor's* percentage fee for overhead and profit shall be as follows:

.1 For the *Contractor*:

.1 15% for work carried out by the *Contractor's* own forces;  
and

.2 10% for work carried out by *Subcontractors*.

.2 For the *Subcontractors*:

.1 15% for work carried out by their own forces; and

.2 10% for work carried out by their subcontractors.

.5 In no event shall the maximum aggregate mark-up applied by all levels of contract for overhead and profit exceed 40% of an approved change.

.6 The *Contractor's* overhead includes without limitation all site and head office costs including head office personnel, insurance and bonding (except where additional bonding is at the *Owner's* expense pursuant to paragraph 11.2.3), traveling costs, financing costs including those related to holdback; the salaries, premiums for overtime or shift time unless otherwise approved by the *Owner* in writing prior to the *Work* being performed, and other miscellaneous employee benefits of superintendents and sub-trade superintendence, engineers, timekeepers, accountants, clerks, watch persons and security, office administration; processing correspondence, changes, shop drawings, engineering, *As-Built Drawings*, maintenance manuals and all other documents required to be provided prior to certification of *Substantial Performance* of the *Work*, costing and accounting, payroll, technical staff, and all other site supervision staff above foreperson employed directly on the *Work*; coordination with other trades affected, use of temporary offices, plant, tools and equipment including operators, sheds, storage compounds and other general temporary site support facilities and all utilities used therein; first aid, safety and protection measures, including training; licences and permits; scheduling; temporary protection; daily clean up; disposal; garbage chute; scaffolding; hoisting and unloading; commissioning; cutting and patching, and shall be applied to both extras and credits equally.

## GC 6.2 CHANGE ORDER



- .1 Delete from the second line of paragraph 6.2.1 the words “that can be reasonably evaluated” and replace with “acceptable to the *Consultant*”.
- .2 Delete GC 6.2.2 and substitute with the following:
  - 6.2.2 The adjustment in the *Contract Price* for a change carried out by way of a *Change Order* shall be determined in accordance with GC 6.1.4. When the *Owner* and *Contractor* agree to the adjustments in the *Contract Price*, the *Contractor's* percentage fee (for overhead and profit) and the *Contract Time*, such agreement shall be effective immediately and shall be recorded in a *Change Order*. The value of the work performed as the result of a *Change Order* shall be included in the *Proper Invoice*.

### GC 6.3 CHANGE DIRECTIVE

- .1 Delete GC 6.3.6 and substitute with the following:
  - 6.3.6 The adjustment in the *Contract Price* for a change carried out by way of a *Change Directive* shall be determined in accordance with GC 6.1.4.
- .2 Delete subparagraph 6.3.7.1(2) and replace it with:
  - “(2) the *Contractor's* personnel when stationed at the field office, to the extent that such personnel are engaged in carrying out the change in the *Work* attributable to the *Change Directive*, including necessary supervisory services;”
- .3 Delete subparagraph 6.3.7.1(3) and replace it with
  - “(3) intentionally left blank.”
- .4 Amend subparagraph 6.3.7.1(4) so that, as amended, it reads:
  - “(4) the *Contractor's* office personnel engaged in a technical capacity, including clerical staff engaged in processing the change in the *Work* attributable to the *Change Directive* for the time spent in the performance of the change in the *Work* attributable to the *Change Directive*.”
- .5 Delete subparagraphs 6.3.7.13, 6.3.7.17, 6.3.7.18 and 6.3.7.19 and replace with ‘intentionally left blank’.

### GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

- .1 Add new paragraph 6.4.5:

- 6.4.5 If the *Contractor* was given access to the *Place of the Work* prior to the submission of the bid on which the *Contract* was awarded, then the *Contractor* confirms that it carefully investigated the *Place of the Work* and, in doing so, applied to that investigation the degree of care and skill required by paragraph 3.9.1. In those circumstances, notwithstanding the provisions of paragraph 6.4.1, the *Contractor* is not entitled to an adjustment to the *Contract Price* or to an extension of the *Contract Time* for conditions which could reasonably have been ascertained by the *Contractor* by such careful investigation, or which could have been reasonably inferred from the material provided with the *Contract Documents*. In those circumstances, should a claim arise, the *Contractor* will have the burden of establishing that it could not have discovered the materially different conditions from a careful investigation, because of restrictions placed on its access or because of conditions that could not reasonably have been inferred from the material provided with the *Contract Documents*.

## GC 6.5 DELAYS

- .1 Delete paragraph 6.5.1 and replace with the following:

- 6.5.1 If the *Contractor* is delayed in the performance of the *Work* by any breach by the *Owner* of its obligations under the *Contract*, or by any fault of *Other Contractors* of the *Owner* engaged by the *Owner* for the execution of the *Project*, or by any act or omission of the *Consultant* contrary to the provisions of the *Contract Documents*, or such is attributable to any person employed or engaged directly or indirectly by the *Owner*, any such *Other Contractor*, or the *Consultant*, as the case may be, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*, and the *Contractor* shall be reimbursed by the *Owner* for reasonable, actual direct costs necessarily incurred by the *Contractor* as a result of the delay, all subject to, and in accordance with, the provisions of GC 6.5.5. To the extent such actual direct costs incurred by the *Contractor* as result of such delay are comprised of the hourly rate of *Contractor Personnel*, such hourly rates shall be preapproved by the *Owner* in advance of such delay.

.2 Amend the last sentence of paragraph 6.5.2 to read:

“The *Contractor* shall be reimbursed by the *Owner* for the *Contractor*’s actual, direct costs necessarily incurred by the *Contractor* as a result of the delay subject to, and in accordance with, the provisions of GC 6.5.5.”

.3 At paragraph 6.5.3, renumber subparagraph 6.5.3.4 as 6.5.3.5, and insert a new subparagraph 6.5.3.4 as follows:

.4 disease, epidemics, pandemics, power shortages or outages, or

.4 Amend paragraph 6.5.3 by deleting the words “*Consultant* or anyone employed or engaged by them directly or indirectly” at the end of this paragraph.

.5 Delete paragraph 6.5.5 in its entirety and replace with the following:

6.5.5 The *Contractor* shall not be entitled to any extension of *Contract Time* or to any compensation in respect of any delay referred to in GC 6.5.1 or GC 6.5.2, or to any extension of *Contract Time* in respect of any delay referred to in GC 6.5.3, unless the *Contractor* is able to demonstrate that:

- (a) the *Contractor* has taken all reasonable steps required to mitigate the effect of the delay;
- (b) the delay has an adverse impact on the ability of the *Contractor* to complete any critical path activity in accordance with the construction schedule; and
- (c) in respect of a delay referred to in GC 6.5.1, the delay is predominantly attributable to a breach, fault or act or omission referred to in such paragraph.

In such case, the *Contract Time* will be extended for such reasonable period which reflects the time lost as a result of such impact and, where the provisions of GC 6.5.1 apply, the *Contractor* shall only be compensated for reasonable actual direct costs necessarily incurred by the *Contractor* as a result of such impact including those incurred to reasonably mitigate the effect of the delay.

.6 Add new paragraphs 6.5.6 – 6.5.9 as follows:

6.5.6 If the *Contractor* is delayed in the performance of the *Work* by an act or omission of the *Contractor* or anyone employed or engaged by the *Contractor* directly or indirectly, or by any cause within the *Contractor*’s

control, then, subject to GC 3.4.2 of GC 3.4 – CONSTRUCTION SCHEDULE, the *Contract* Time may be extended for such reasonable time as the *Consultant* may decide in consultation with the *Contractor*. The *Owner* shall be reimbursed by the *Contractor* for all reasonable costs incurred by the *Owner* as the result of such delay, including all services required by the *Owner* from the *Consultant* as a result of such delay by the *Contractor* and, in particular, the cost of the *Consultant's* services during the period between the *Ready-For-Takeover* date stated in paragraph 1.3 of Article A-1 – THE WORK herein as the same may be extended through the provisions of these General Conditions and any later, actual *Ready-For-Takeover* date achieved by the *Contractor*.

- 6.5.7 During any suspension of the *Work* or any construction or building operations, for whatever reason, the *Contractor* shall maintain adequate surveillance of the *Work* and undertake such maintenance and protection of the *Work* as may be necessary to maintain health and safety and, when possible, to protect *Products*, materials, plant and equipment already installed in the *Work* or delivered to the *Place of the Work*. The *Contractor* shall be responsible for the security, care, maintenance and protection of the *Work* in the event of any such shut down or interruption in the performance of the *Work*.
- 6.5.8 If the *Contractor* is delayed in the performance of the *Work* by an act or omission of the *Contractor* or anyone for whom the *Contractor* is responsible, then the *Contractor* shall be responsible to put in place any scheduled recovery plan to recover and prevent lost time in accordance with paragraph 3.4.2 of GC 3.4 – CONSTRUCTION SCHEDULE.
- 6.5.9 The *Owner* and the *Contractor* acknowledge and agree that any delay or failure of the *Contractor* to perform its obligations under this *Contract* to the extent such delay or failure was caused, directly or indirectly, by an outbreak of a disease or pandemic/epidemic, including but not limited to, the 2019 novel coronavirus disease and pandemic or any other future pandemics/epidemics (collectively, “**Pandemic/Epidemic**”), shall be determined in accordance with the following principles:
- .1 The term “**Pandemic/Epidemic Change in Law**” means any change in applicable laws that:
- (a) came into effect after the date of this *Agreement*;
  - (b) is directly the result of and is directly related to the occurrence, control, spread or ending of a Pandemic/Epidemic; and

- (c) directly affects (i) the performance of the *Work*, or (ii) the *Contract Price*.

For the purposes of this *Agreement*, this definition shall include any new applicable law or any amendment or other modification to or repeal or replacement of any applicable law that satisfies the foregoing requirements of subsections (a) to (c) (inclusive) and “applicable law” shall include all ordinances, rules, regulations, codes and guidelines of any public authority having jurisdiction (including but not limited to the Ontario Ministry of Labour, Training and Skills Development and Chief Medical Officer of Health) as well as any guidelines or policies promulgated by the World Health Organization and/or the Ontario Public Service (collectively, “**Pandemic/Epidemic Rules**”).

- .2 With respect to the impact of a Pandemic/Epidemic, the *Contractor* shall assume the known conditions of such Pandemic/Epidemic (including all Pandemic/Epidemic Rules in force) at the time of execution and delivery of this *Agreement* during the performance of the *Work*. The *Owner* and the *Contractor* agree that any delay or failure of either party to perform its obligations under this *Contract* to the extent such delay or failure was caused, directly or indirectly, by the known conditions of such Pandemic/Epidemic (including all Pandemic/Epidemic Rules in force at the time of execution and delivery of this *Agreement*), including, but not limited to, the financial inability to perform, will not excuse performance by such party under this *Contract* or constitute a cause of delay in the performance of the *Work* under this *Contract*.
- .3 Subject to a stop work order in accordance with GC 6.5.9.5, relief shall be provided to the *Contractor* for delays in the performance of the *Work* which arise as a result of a Pandemic/Epidemic Change in Law and that change and impose more onerous requirements than the Pandemic/Epidemic Rules in force at the time of execution and delivery of this *Agreement*. Such relief shall be provided in accordance with GC 6.5.3. There will be no unjust enrichment from a Pandemic/Epidemic Change in Law.
- .4 The *Contractor* shall prepare and submit a plan (the “**Pandemic/Epidemic Response and Mitigation Plan**”) prior to the execution and delivery of this *Agreement*, (which Pandemic/Epidemic Response and Mitigation Plan shall be incorporated by reference into and shall become a part of this

*Agreement*) outlining how it will prepare for and respond to any potential or actual pandemic or epidemic that may affect the *Work*, including a subsequent outbreak of such Pandemic/Epidemic. The Pandemic/Epidemic Response and Mitigation Plan (and all updates thereto) shall:

- (a) demonstrate how potential impacts will be reduced if risks of future pandemics materialize;
- (b) set out the activities and reporting to the *Owner* that the *Contractor* will implement as part of the *Work* to prepare for and respond to any potential or actual pandemic or epidemic that may affect the *Work* (including a subsequent outbreak of an existing Pandemic/Epidemic), including the detailed steps that the *Contractor* and its *Subcontractors* will undertake to prepare for and respond to any potential future pandemic or epidemic that could occur and affect the *Work*, including a subsequent outbreak of an existing Pandemic/Epidemic; and
- (c) be subject to review and comment by the *Owner*.

In the event that, at any time prior to *Ready-For-Takeover*, a Pandemic/Epidemic (including a subsequent outbreak of an existing Pandemic/Epidemic) is reasonably foreseeable and likely to occur and affect the *Work* or otherwise occurs and affects the *Work*, the *Contractor* shall, at its cost, promptly (at the request of the *Owner* or on its own volition) update the Pandemic/Epidemic Response and Mitigation Plan on a monthly basis and submit each such update to the *Owner* until such time as the *Owner* agrees, acting reasonably, that either the Pandemic/Epidemic will not occur and affect the *Work* or such Pandemic/Epidemic has ended, no longer affects the *Work* and no further updates to such plan are required. Following the review by the *Owner* of each updated Pandemic/Epidemic Response and Mitigation Plan, the *Contractor* shall implement such plan in accordance with its terms.

- .5 If pursuant to GC 6.5.2, a stop work order is issued by a court or other public authority as a result of a Pandemic/Epidemic, the *Contractor* shall be entitled to relief pursuant to GC 6.5.2.
- .6 Notwithstanding anything to the contrary in this GC 6.5 - DELAYS or paragraph 10.2.7 of GC 10.2 – LAWS, NOTICES, PERMITS AND FEES, the *Owner* and the *Contractor* acknowledge and agree

that (other than supply chain impact) if a Pandemic/Epidemic Change in Law occurs that:

- (a) imposes more onerous requirements than the Pandemic/Epidemic Rules in force at the time of execution and delivery of this *Agreement*,
- (b) results in an incremental increase in the cost of the *Work*, and
- (c) does not have a material, adverse impact to any critical path activities,

then the *Contractor* may be permitted to submit a claim in accordance with the requirement of GC 6.6 – CLAIMS FOR A CHANGE IN CONTRACT PRICE.

#### **GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT**

- .1 Revise the heading, “**OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT**” to read, “**OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT**”
- .2 Delete paragraph 7.1.6 and add new paragraphs 7.1.6, 7.1.7, 7.1.8, 7.1.9, 7.1.10, 7.1.11 and 7.1.12:

7.1.6 In addition to its right to terminate the *Contract* set out herein, the *Owner* may terminate this *Contract* at any time for any other reason or no reason and without cause upon giving the *Contractor Notice in Writing* to that effect and in such event the *Owner* shall publish, in the form prescribed by the *Construction Act*, a notice of termination in accordance with the *Construction Act* which, in any event, shall include the date on which the *Contract* is terminated. In such event, the *Contractor* shall be entitled to be paid for all *Work* performed including reasonable profit, for loss sustained upon *Products* and *Construction Equipment*, and such other damages as the *Contractor* may have sustained as a result of the termination of the *Contract*, but in no event shall the *Contractor* be entitled to be compensated for any loss of profit on unperformed portions of the *Work*, or indirect, special, or consequential damages incurred.



- 7.1.7 The *Owner* may suspend *Work* under this *Contract* at any time for any reason or no reason and without cause upon giving the *Contractor Notice in Writing* to that effect. In such event, the *Contractor* shall be entitled to be paid for all *Work* performed to the date of suspension and be compensated for all actual costs incurred arising from the suspension, including reasonable profit, for loss sustained upon *Products* and *Construction Equipment*, and such other damages as the *Contractor* may have sustained as a result of the suspension of the *Work*, but in no event shall the *Contractor* be entitled to be compensated for any indirect, special, or consequential damages incurred. In the event that the suspension continues for more than 180 calendar days, the *Contract* shall be deemed to be terminated and the provisions of paragraph 7.1.6 shall apply.
- 7.1.8 In the case of either a termination of the *Contract*, or a suspension of the *Work* under General Condition 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT or General Condition 7.2 - CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* shall use its best commercial efforts to mitigate the financial consequences to the *Owner* arising out of the termination or suspension, as the case may be.
- 7.1.9 Upon the resumption of the *Work* following a suspension under General Condition 7.1 - OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK OR TERMINATE THE CONTRACT or General Condition 7.2 - CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT, the *Contractor* will endeavour to minimize the delay and financial consequences arising out of the suspension.
- 7.1.10 The *Contractor's* obligation under the *Contract* as to quality, correction, and warranty of the *Work* performed by the *Contractor* up to the time of termination or suspension shall continue after such termination of the *Contract* or suspension of the *Work*.
- 7.1.11 If any security check performed in accordance with GC14.6 discloses a security problem that is not resolved by the *Contractor* to the satisfaction of the *Owner* within ten (10) *Working Days* following receipt of written notice of such problem from the *Owner*, the *Owner* may terminate this *Contract* by giving the *Contractor* notice in writing to that effect.



7.1.12 Without limiting the foregoing in this section, a finding on a security check that is incompatible with ensuring any of the achievement of the following objectives is a security problem:

- (i) the *Contractor's* ability to provide the *Work* in accordance with the Agreement;
- (ii) the safety of the *Owner's* directors, officers, appointees, employees, agents or consultants, as well as the *Contractor's* directors, officers, employees, agents, consultants or *Subcontractors*, the *Owner's* clients and their directors, officers, appointees, employees, agents, consultants or subcontractors, as well as any *Subcontractor's* directors, officers, employees, agents, consultants or sub-subcontractors, and the public;
- (iii) the reputation of or public confidence in the *Owner*;
- (iv) the security of the *Owner's* financial assets and revenue;
- (v) the security of any real property owned, controlled or managed by the *Owner*;
- (vi) the security of any other property owned, controlled, managed or licensed by the *Owner*;
- (vii) the security, confidentiality or integrity of the *Owner's* confidential information and the integrity of any other materials held by the *Owner*.

## GC 7.2 CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

.1 Delete paragraph 7.2.2 in its entirety.

.2 Delete subparagraph 7.2.3.1 in its entirety.

.3 Delete subparagraph 7.2.3.3 in its entirety and substitute new subparagraph 7.2.3.3:

7.2.3.3 the *Owner* fails to pay the *Contractor* when due the undisputed portion of a *Proper Invoice* or

.4 Delete from subparagraph 7.2.3.4, the words:

7.2.3.4 “, except for General Condition 5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER,”

.5 Delete from the end of paragraph 7.2.4 the words “or terminate the *Contract*” and substitute the words:

7.2.4 “until the default is corrected, provided, however, that in the event of such suspension, the provisions of subparagraph 7.1.10 shall apply. If the *Contractor’s Notice in Writing* to the *Owner* was given pursuant to subparagraph 7.2.3.3, then, 180 days after the delivery of the *Notice in Writing*, the *Contractor* may terminate the *Contract*, provided, however, that in the event of such termination, the provisions of subparagraph 7.1.10 shall apply and in such event the *Contractor* shall publish, in the form prescribed by the *Construction Act*, a notice of termination in accordance with the *Construction Act* which, in any event, shall include the date on which the *Contract* is terminated.”

#### GC 8.1 AUTHORITY OF THE CONSULTANT

.1 Delete the last sentence of 8.1.3 and substitute the following sentence:

8.1.3 If it is subsequently determined that such instructions were at variance with the *Contract Documents*, the *Owner* shall pay the *Contractor* costs incurred by the *Contractor* in carrying out such instructions which the *Contractor* was required to incur beyond the requirements of the *Contract Documents*, including costs resulting from interruption of the *Work*.

#### GC 8.3 NEGOTIATION, MEDIATION AND ARBITRATION

.1 Delete paragraphs 8.3.6, 8.3.7, and 8.3.8 in their entirety and substitute new subparagraph 8.3.6:

8.3.6 Where neither party refers a dispute to *Adjudication* or where a dispute is referred to *Adjudication* and the parties are not satisfied with the outcome of *Adjudication*, either party may determine to give a *Notice in Writing* to the other party and to the *Consultant* inviting the other party to agree to submit the dispute to be finally resolved by arbitration, pursuant to provisions of the *Arbitration Act*, 1991, S.O. 1991, c. 17, as amended. If the other party wishes to accept the invitation to submit the dispute to arbitration, it shall so indicate by the delivery of a responding *Notice in Writing* within 10 *Working Days* of receipt of the invitation. If, within the required times, no invitation is made or, if made, is not accepted, either party

may refer the dispute to the courts or to any other form of dispute resolution, including arbitration, which the parties may agree to use.

## **GC 9.1 PROTECTION OF WORK AND PROPERTY**

- .1 Delete subparagraph 9.1.1.1 in its entirety and substitute new subparagraph 9.1.1.1:

9.1.1.1 errors in the *Contract Documents* which the *Contractor* could not have discovered applying the standard of care described in paragraph 3.9.1;

- .2 Delete paragraph 9.1.2 in its entirety and substitute the following new paragraph 9.1.2:

9.1.2 Before commencing any *Work*, the *Contractor* shall determine the locations of all underground utilities and structures indicated in or inferable from the *Contract Documents*, or that are inferable from an inspection of the *Place of the Work* exercising the degree of care and skill described in paragraph 3.9.1.

- .3 Add new paragraph 9.1.5:

9.1.5 With respect to any damage to which paragraph 9.1.4 applies, the *Contractor* shall neither undertake to repair or replace any damage whatsoever to the work of *Other Contractors*, or to adjoining property, nor acknowledge that the same was caused or occasioned by the *Contractor*, without first consulting the *Owner* and receiving written instructions as to the course of action to be followed from either the *Owner* or the *Consultant*. Where, however, there is danger to life, the environment, or public safety, the *Contractor* shall take such emergency action as it deems necessary to remove the danger.

- .4 Add new paragraph 9.1.6:

9.1.6 The *Contractor* shall be responsible for securing the *Place of Work* at all times and shall take all reasonable precautions necessary to protect the *Place of the Work*, its contents, materials (including *Owner*-supplied materials) and the public from loss or damage during and after working hours. Where the *Consultant* or the *Owner* deems the provision of security guard services to be necessary, the *Contractor* shall provide those services at the *Owner's* expense.

## **GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES**

- .1 Add new subparagraph 9.2.5.5

9.2.5.5 take all reasonable steps to mitigate the impact on *Contract Time* and *Contract Price*.

.2 Delete subparagraph 9.2.7.4 in its entirety.

.3 Add to subparagraph 9.2.8.3 immediately before the semi-colon, the following new words:

“and as a result of the delay;”

#### GC 9.4 CONSTRUCTION SAFETY

.1 Delete paragraphs 9.4.1, 9.4.2, 9.4.3, 9.4.4 and 9.4.5 in their entirety and substitute the following:

9.4.1 The *Contractor* shall be solely responsible for construction safety at the *Place of the Work* and for compliance with the rules, regulations, and practices required by the applicable construction health and safety legislation and shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the *Work*.

9.4.2 Prior to the commencement of the *Work*, the *Contractor* shall submit to the *Owner*:

- .1 a current Workplace Safety & Insurance Board Clearance Certificate;
- .2 copies of the *Contractor's* insurance policies having application to the *Project* or certificates of insurance, at the option of the *Owner*;
- .3 documentation setting out the *Contractor's* in-house safety programs;
- .4 a copy of the Notice of Project filed with the Ministry of Labour naming itself as “constructor” under the *Occupational Health and Safety Act*, R.S.O 1990, c. O.1, as amended.

9.4.3 The *Contractor* shall be responsible for ensuring compliance with the recommended rules, regulations, guidelines, policies and practices provided by the World Health Organization and/or the Ontario Public Service as such may apply to a *Pandemic/Epidemic*.

9.4.4 The *Contractor* shall indemnify and save harmless the *Owner*, its agents, officers, directors, employees, consultants, successors, appointees, and

assigns from and against the consequences of any and all safety infractions committed by the *Contractor* under the *Occupational Health and Safety Act*, R.S.O 1990, c. O.1, as amended, including the payment of legal fees and disbursements on a substantial indemnity basis. Such indemnity shall apply to the extent to which the *Owner* is not covered by insurance, provided that the indemnity contained in this paragraph shall be limited to costs and damages resulting directly from such infractions and shall not extend to any consequential, indirect or special damages.

- 9.4.5 The *Owner* undertakes to include in its contracts with *Other Contractors* and in its instructions to its own forces the requirement that the *Other Contractors* or its own forces, as the case may be, comply with the policies and procedures of and the directions and instructions from the *Contractor* with respect to occupational health and safety and related matters. Prior to admission to the *Place of the Work*, the *Contractor* may, as a condition of admission, require any *Other Contractors* or the *Owner's* own forces to sign a written acknowledgement in the following form:

#### Acknowledgement

The undersigned acknowledges that the *Work* it will perform on behalf of the *Owner* requires it to enter a *Place of the Work* which is under the total control of a *Contractor* that has a *Contract* with the *Owner*, pursuant to which the *Contractor* has assumed overall responsibility for compliance with all aspects of the applicable health and safety legislation, including all the responsibilities of the “constructor” under the *Occupational Health and Safety Act*, R.S.O 1990, c. O.1, as amended, as well as responsibility to co-ordinate and schedule the activities of our work with the *Work* of the *Contractor* under its *Contract*. The undersigned agrees to comply with the *Contractor's* directions and instructions with respect to health, safety, co-ordination, and scheduling and acknowledges that its failure to do so will be cause for termination of employment or of the undersigned's *Contract* with the *Owner*, as the case may be. The undersigned also agrees to have the *Contractor* named as an additional insured on any comprehensive liability insurance policy, where such insurance is required.

\_\_\_\_\_  
Name:

Title:

Date:

#### GC 9.5 MOULD

- .1 Add to subparagraph 9.5.2.3 immediately before the comma, the following new words:

“and as a result of the delay,”

- .2 Delete subparagraph 9.5.3.4 in its entirety.

## GC 9.6 MANAGEMENT OF EXCESS SOILS

- .1 Add new GC 9.6 – MANAGEMENT OF EXCESS SOILS as follows:

- 9.6.1 Notwithstanding GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES, the *Contractor* shall be responsible to determine whether the *Excess Soil Legislation* applies to the *Work* or the *Project* and shall provide the *Owner* with immediate written notice of such determination. For clarity, the *Contractor* acknowledges and agrees that this is an ongoing obligation of the *Contractor* during the performance of the *Work*. If the *Excess Soil Legislation* applies to the *Work* or the *Project*, the *Contractor*, at the *Contractor's* cost and expense, shall:
- .1 be solely responsible for compliance with the requirements of the *Excess Soil Legislation* during the performance of the *Work*;
  - .2 assume and take on the responsibilities of the *Project Leader* for the *Work*; and
  - .3 perform the *Work* in accordance with, and subject to, the *Excess Soil Legislation*.
- 9.6.2 The *Contractor* shall be solely responsible for the management of any *Excess Soil* generated or encountered during the performance of the *Work*.
- 9.6.3 The *Contractor* shall be solely responsible for compliance with the *Excess Soil Regulation* made under the Ontario *Environmental Protection Act* including the “Rules for Soil Management and Excess Soil Quality Standards” adopted by reference in the *Excess Soil Regulation*.
- 9.6.4 Without limiting the generality of paragraph 9.6.3, the *Contractor* shall comply with all applicable requirements prior to removal of any *Excess Soil* from the *Place of Work* including preparation of an assessment of past uses; preparation and implementation of a sampling and analysis plan; preparation of a soil characterization report; preparation of an excess soil destination assessment report; and development and implementation of a tracking system, all of which shall be undertaken by a “qualified person”, as defined in O. Reg. 153/04 – Records of Site Condition made under the Ontario *Environmental Protection Act*.

9.6.5 The *Contractor's* responsibilities include, without limitation, procuring, and, as a part of the *Contract Price*, paying for, all permits, approvals and disposal fees, costs and expenses required by the *Excess Soil Legislation*.

9.6.6 The *Contractor* shall provide the *Owner* and the *Consultant* with copies of the assessments, plans and reports referred to in paragraph 9.6.4.

9.6.7 Without limiting the generality of paragraph 9.6.3, the *Contractor* shall comply with all applicable storage, processing, reuse and disposal requirements for any *Excess Soil* generated or encountered during the performance of the *Work*.

## GC 10.1 TAXES AND DUTIES

.1 Add new paragraph 10.1.3:

10.1.3 Where the *Owner* is entitled to an exemption or a recovery of sales taxes, customs duties, excise taxes or *Value Added Taxes* applicable to the *Contract*, the *Contractor* shall, at the request of the *Owner*, assist with application for any exemption, recovery or refund of all such taxes and duties and all amounts recovered or exemptions obtained shall be for the sole benefit of the *Owner*. The *Contractor* agrees to endorse over to the *Owner* any cheques received from the federal or provincial governments, or any other taxing authority, as may be required to give effect to this paragraph.

.2 Add new paragraph 10.1.4:

10.1.4 In the event that new or additional taxes in respect of the *Work* are required by federal, provincial, territorial, regional or municipal legislation after the *Contract* is executed, the amount payable under this *Contract* shall be adjusted to include such taxes.

## GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

.1 Add to the end of paragraph 10.2.4 the following words:

10.2.4 “The *Contractor* shall notify the Chief Building Official or the registered code agency, where applicable, of the readiness, substantial completion, and completion of the stages of construction set out in the *Ontario Building Code*. The *Contractor* shall be present at each site inspection by an inspector or registered code agency. If any laws, ordinances, rules, regulations, or codes conflict, the more stringent shall govern.”



- .2 Delete from the first line of paragraph 10.2.5 the word, “The” and substitute the words:

“Subject to paragraph 1.1.3 and 1.1.4, the”.

### GC 10.3 PATENT FEES

- .1 Delete paragraph 10.3.2 in its entirety.

### GC 10.4 WORKERS’ COMPENSATION

- .1 Add to the end of subparagraph 10.4.1 the following new words:

“The *Contractor* shall ensure that each *Subcontractor* complies with the workers' compensation legislation at the *Place of the Work*.”

- .2 Add new paragraph 10.4.2:

10.4.2 Where a *Subcontractor* is not required to participate in the insurance plan provided for under the workers’ compensation legislation, the *Contractor* shall require the *Subcontractor* to provide a sworn declaration of its exemption as a condition of the *Subcontractor’s* admission to the *Place of the Work*. When requested by the *Owner*, the *Contractor* shall require the *Subcontractor* to provide a letter of exemption under the workers’ compensation legislation.

### GC 11.1 INSURANCE

- .1 Add to the end of paragraph 11.1.1.1 the following new words:

11.1.1.1 “In addition, this policy shall include coverage for non-owned automobiles.”

- .2 Add new subparagraph 11.1.1.6(4):

11.1.1.6(4) If any loss occurs involving damage to property in an amount greater than \$25,000, bodily injury to any person, or damage to any existing structure, the *Contractor* shall, in addition to the other requirements set out herein, immediately provide a detailed written report to the *Owner* and to *Infrastructure Ontario*, 1 Dundas Street West, Suite 2000, Toronto, Ontario M5G 2L5, Att’n: Divisional Lead, Real Estate Management & Lending.

- .3 Add new subparagraph 11.1.1.8:



11.1.1.8 Pollution Liability Insurance, naming the Owner as insured, with limits of not less than \$5 million per occurrence, an aggregate limit of not less than \$5 million within any policy year, and a deductible not exceeding \$5,000, such insurance to be maintained from the date of commencement of the *Work* until one year from the date of *Ready-for-Takeover*.

.4 Delete paragraph 11.1.2 in its entirety and substitute new paragraph 11.1.2:

11.1.2 In all instances in paragraph 11.1.1 where the *Contractor* is required to obtain insurance coverages naming or jointly naming the *Owner* or the *Consultant*, such policies shall instead include the *Consultant* (where applicable), the *Owner*, Ontario Infrastructure and Lands Corporation and His Majesty the King in Right of Ontario as additional insureds. Each of the policies of insurance shall also contain a provision requiring not less than 30 days' written notice to each named insured prior to cancellation or any change that would reduce coverage. At least 10 calendar days prior to commencement of the *Work* and upon any renewal, amendment, or extension of all or any part of the insurance, the *Contractor* shall promptly provide the *Owner* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the *Work*.

.5 Add new subparagraph 11.1.9 as follows:

11.1.9 The parenthetical reference in CCDC 41 - INSURANCE REQUIREMENTS, paragraph 4 which reads: "(excluding flood and earthquake)" is deleted and replaced with the following: "(including flood, earthquake, testing, and commissioning)".

## GC 11.2 CONTRACT SECURITY

.1 Add new GC 11.2 – CONTRACT SECURITY as follows:

### GC 11.2 – CONTRACT SECURITY

11.2.1 The *Contractor* shall, prior to commencement of the *Work*, provide to the *Owner*:

- .1 a performance bond, in the form set out in the *Contract Documents*, in an amount equal to 50% of the *Contract Price*, covering the performance of the *Contract*, including the *Contractor's* requirements with respect to the correction of deficiencies and the fulfillment of all warranties; and

- .2 a labour and material payment bond, in the form set out in the *Contract Documents*, in an amount equal to 50% of the *Contract Price* covering payment for labour, *Products*, or both.
- 11.2.2 The bonds referred to in paragraph 11.2.1 shall be issued by a duly licensed surety company authorized to transact the business of suretyship in the province or territory of the *Place of the Work* and shall be maintained in good standing until two years following the *Ready-for-Takeover* date.
- 11.2.3 If approved changes pursuant to the Contract result in approved increase or cumulative increases to the *Contract Price*, the *Contractor* shall promptly acquire additional bonding at the *Owner's* expense. Where additional bonding premiums are paid by the *Owner*, the *Contractor* shall promptly submit written confirmation that the premiums were paid to the surety and promptly provide the *Owner* with the original revised performance bond(s).

#### GC 12.1 – READY-FOR-TAKEOVER

- .1 Add new subparagraph 12.1.1.9 as follows:
  - 12.1.1.9 To the extent not duplicated in this 12.1.1, the documents and materials described in subparagraph 5.4.4.
- .2 Delete paragraph 12.1.6 in its entirety.

#### GC 12.2 EARLY OCCUPANCY BY OWNER

- .1 Delete GC 12.2 – EARLY OCCUPANCY BY OWNER in its entirety and substitute:
  - 12.2.1 The *Owner* may take occupancy of a part or the entirety of the *Work* before *Ready-for-Takeover* provided that:
    - .1 the *Owner* shall not occupy a part or the entirety of the *Work* without prior approval by authorities having jurisdiction; and
    - .2 if the *Owner* takes occupancy of the entirety of the *Work* before all the prerequisites are met as described in paragraph 12.1.1 of GC 12.1 – READY-FOR-TAKEOVER, the *Work* shall, subject to the requirements of the *Construction Act*, be deemed to achieve *Ready-for-Takeover*. This shall not relieve the *Contractor's* responsibility to complete the *Work* in a timely manner.

### GC 12.3 WARRANTY

- .1 Delete from the first line of paragraph 12.3.2 the word, “The” and substitute the words:

“Subject to paragraphs 1.1.3 and 1.1.4, the...”.

### GC 13.1 INDEMNIFICATION

- .1 Delete General Condition 13.1 – INDEMNIFICATION in its entirety and substitute:

13.1 The *Contractor* shall indemnify and hold harmless *IO*, His Majesty the King in right of Ontario, the *Owner*, the *Consultant*, and their respective agents, appointees, directors, officers and employees from and against claims, demands, losses, expenses, costs, damages, actions, suits or proceedings that arise out of or are attributable to the *Contractor's* performance of the *Contract*. Nothing in this paragraph 13.1, shall limit any claim that *IO*, His Majesty the King in right of Ontario, or the *Owner* may have under the insurance coverage to be provided under General Condition 11.1 - INSURANCE.

### GC 13.2 WAIVER OF CLAIMS

- .1 Delete the reference to “395 calendar days” in the last line of paragraph 13.2.2 and substitute “120 calendar days”.

- .2 Delete the last sentence of subparagraph 13.2.3.4 and substitute:

13.2.3.4 “Substantial defects or deficiencies” mean those defects or deficiencies in the *Work* where the reasonable cost of repair of such defects or deficiencies exceeds:

- .1 if the *Contract Price* is \$2 million or less, the sum of \$50,000, before *Value Added Taxes*;
- .2 if the *Contract Price* exceeds \$2 million, the sum of \$100,000, before *Value Added Taxes*;

but, in any event, a defect or deficiency in the *Work* which affects the *Work* to such an extent or in such a manner that a significant part or the whole of the *Work* is unfit for the purpose intended by the *Contract Documents* shall be deemed to be a “substantial defects or deficiencies” regardless of the cost of repair.

**Add** new PART 14 as follows:

## **PART 14 OTHER PROVISIONS**

### **GC 14.1 OWNERSHIP OF MATERIALS**

- 14.1.1 All *Work* and *Products* delivered to the *Place of the Work* by the *Contractor* shall be the property of the *Owner*. The *Contractor* shall remove all surplus or rejected materials when notified in writing to do so by the *Consultant*.

### **GC 14.2 CONSTRUCTION LIENS**

- 14.2.1 In the event that a claim for lien is registered against the Project by a *Subcontractor* or *Supplier*, and provided the *Owner* has paid all amounts properly owing under the *Contract*, then the *Contractor* shall, at its own expense:
- .1 within 10 calendar days, ensure that any and all claims for lien and certificates of action are discharged, released, or vacated by the posting of security or otherwise; and
  - .2 in the case of written notices of lien, ensure that such notices are withdrawn, in writing.
- 14.2.2 In the event that the *Contractor* fails to conform with the requirements of paragraph 14.2.1, the *Owner* may fulfil those requirements without *Notice in Writing* to the *Contractor* and set off and deduct from any amount owing to the *Contractor*, all costs and associated expenses, including the costs of posting security and all legal fees and disbursements associated with discharging or vacating the claim for lien or certificate of action and defending the action. If there is no amount owing by the *Owner* to the *Contractor*, then the *Contractor* shall reimburse the *Owner* for all of the said costs and associated expenses.

### **GC 14.3 CONTRACTOR DISCHARGE OF LIABILITIES**

- 14.3.1 In addition to the obligations assumed by the *Contractor* pursuant to General Condition 3.6 – SUBCONTRACTORS AND SUPPLIERS, the *Contractor* agrees to discharge all liabilities incurred by it for labour, materials, services, *Subcontractors* and *Products*, used or reasonably required for use in the performance of the *Work*, except for amounts withheld by reason of legitimate dispute which have been identified to the party or parties, from whom payment has been withheld.

#### GC 14.4 RECORDS/DAILY REPORTS/DAILY LOGS

- 14.4.1 The *Contractor* shall maintain and keep accurate *Project* records (which means all tangible records, documents, computer printouts, electronic information, books, plans, *Drawings*, *Specifications*, accounts or other information relating to the *Work*) in its office in Ontario in accordance with requirements of law, but in any event for not less than 6 years from *Ready-For-Takeover* or until all claims have been settled. During this time, the *Contractor* shall allow the *Owner* and *IO* access to the *Project* records during normal business hours upon the giving of reasonable notice. The *Contractor* shall ensure that equivalent provisions to those provided herein are made in each subcontract and shall require the *Subcontractors* and *Suppliers* to incorporate them into every level of contract thereunder for any part of the *Work*.

#### GC 14.5 CONTRACTOR EVALUATION

- 14.5.1 The *Owner* will evaluate the performance of the *Contractor* with respect to the *Work* in accordance with the *Owner's* procurement policy or alternate vendor performance framework, as each may be amended and modified from time to time.

#### GC 14.6 SECURITY SCREENING

- 14.6.1 *Contractor* acknowledges that the Ontario government has implemented a policy that requires the *Contractor* and all individuals who will be performing work on behalf of the *Contractor* doing business with the Ontario government to undergo *Security Clearance Checks*. The *Security Clearance Checks* are administered by the *PPEB*.
- 14.6.2 *Contractor* shall comply with the above-noted policy. Should there be any discrepancy between the above-noted policy and the security screening steps outlined herein, the former shall govern. *Contractor* shall ensure that *Contractor's* staff and all *Subcontractors* are in full compliance with the above-noted policy.
- 14.6.3 *Contractor* shall ensure that the screening provisions outlined herein are included in each subcontract *Contractor* enters into with its *Subcontractors* for any part of the *Work*. In addition, *Contractor* shall require its *Subcontractors* to include the screening provisions outlined herein into every level of contract thereunder with each of their respective subcontractors for any part of the *Work*.

- 14.6.4 *Contractor* acknowledges that *PPEB* will perform *Security Clearance Checks* on *Contractor*, including its directors, officers, *owner's*, partners, if applicable, and shareholders (if a privately held corporation and as requested by *PPEB*), *Contractor's* staff and *Contractor's Subcontractors* (including each *Subcontractor's* directors, officers, owners, partners, shareholders and employees who will perform any part of the *Work*) (collectively referred to in this section as "*Affected Parties*" and individually as an "*Affected Party*"). Accordingly, *Contractor* shall require each *Affected Party* to undergo a *Security Clearance Check*.
- 14.6.5 *Contractor* further acknowledges that unless stated otherwise by the *Owner* in writing, *Security Clearance Checks* must be completed for each *Affected Party* and each *Affected Party* must receive clearance in accordance with the timelines set out in 14.6.5(i) and 14.6.5(ii) in order for *Contractor* its staff and *Subcontractors* to perform any part of the *Work* required for the *Project*. Accordingly:
- (i) *Contractor*, its directors, officers, owners, partners, if applicable, shareholders (if a privately held corporation and as requested by *PPEB*) and *Contractor's* staff then assigned to the *Project* must receive clearance prior to award of the *Contract*; and
  - (ii) *Subcontractors* (including each of the *Subcontractor's* directors, officers, owners, partners, shareholders and staff who will be required to perform any part of the *Work*), must receive clearance prior to performing any part of the *Work*.
- 14.6.6 The *Owner* will provide *CSO* with all forms and information necessary to coordinate and facilitate the required *Security Clearance Checks*.
- 14.6.7 *Contractor's CSO* shall obtain:
- (i) written consent to perform a *Security Clearance Check*, in the form provided by the *Owner*, from each *Affected Party*; and
  - (ii) any other information that the *Owner*, in its sole and absolute discretion acting on the direction of *PPEB*, may deem necessary in order to conduct a *Security Clearance Check* on the *Affected Parties*;
- and shall submit this information to the *Owner* in the prescribed form, where required.
- 14.6.8 As a consequence of any *Security Clearance Check*, the *Owner*, acting promptly on the determination by *PPEB*, may notify *Contractor's CSO* that

an *Affected Party* did not receive clearance. Upon request by the *Owner*, *Contractor* will remove and replace any such *Affected Party* in accordance with GC 14.6.11 and GC 14.6.12 so that such *Affected Party* is no longer performing the *Work* or any part thereof. *Contractor* further acknowledges and agrees that the *Owner* shall be acting reasonably and consistent with applicable laws if the *Owner* requests the replacement of an *Affected Party* who did not receive clearance following a *Security Clearance Check*.

14.6.9 During the term or any extension term of this agreement, *Contractor* shall ensure that, within five (5) *Working Days* of becoming aware of any change, *Contractor* shall inform the *Owner* in writing of any:

- (i) change to any information related to *Security Clearance Checks* for any existing *Affected Party* to enable *PPEB* to update the individual's *Security Clearance Check*; and
- (ii) addition to the *Affected Parties* for the purpose of enabling *PPEB* to perform *Security Clearance Checks* on any such new *Affected Party*. *Contractor* shall provide any such information in accordance with GC 14.6.4, 14.6.5 and GC 14.6.7.

14.6.10 All administrative costs incurred by *Contractor* in complying with the requirements of this GC 14.6 shall be borne solely by *Contractor*.

14.6.11 If any *Affected Party* refuses to consent to a security check performed in accordance with this GC 14.6 or if any security check performed in accordance with this GC 14.6 relating to any *Affected Party* assigned to fulfil *Contractor's* obligations under this agreement discloses any security issue relating to the *Affected Party*, the *Owner* may determine that any such *Affected Party* is a security threat and provide written notice to *Contractor* of the *Owner's* determination. Upon receipt of such written notice, *Contractor* shall promptly replace any such *Affected Party*.

14.6.12 Unless otherwise agreed to by the *Owner* in writing, any individual proposed by *Contractor* to replace an *Affected Party* further to GC 14.6.11 must possess the equivalent or greater qualifications and experience than that of the *Affected Party* being replaced and such individual must be provided at no incremental cost to the *Owner*.

## GC 14.7 COUNTERPART EXECUTION

14.7.1 The *Contract* may be signed in counterparts and each such counterpart shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. The *Contract* may be executed and delivered by facsimile or electronic (including pdf) transmission and each

of the parties hereto may rely on such facsimile or electronic signature as though such facsimile or electronic signature were an original signature.

**END OF DOCUMENT**



## **1 DESCRIPTION OF WORK**

- 1.1 Work of this Contract includes furnishing labour, materials, equipment, services, and other related expenses to execute complete construction of facility specified under Contract Documents.

## **2 CONTRACT DOCUMENTS**

- 2.1 The Work shall be performed under one Contract utilizing the Canadian Construction Document CCDC 2, 2020– Stipulated Price Contract, as amended by Section 00 73 00 – Supplementary Conditions. The Contract and the Supplementary Conditions shall govern the performance of each Section of the Specifications.
- 2.2 Project specific supplementary conditions specify part of the work and co-ordination that are the responsibility of the Contractor but are not intended to define the responsibilities between the Contractor and Subcontractors. Ensure that Subcontractors fully understand the total Contract, including the Supplementary Conditions and these project specific supplementary conditions.
- 2.3 Sections of the Specifications are not for the purpose of identifying limits of work between the General Contractor and Subcontractors or between Subcontractors.

## **3 CONSTRUCTION FACILITIES**

- 3.1 Provide and maintain all fences, barricades, lights, and other protective structures or devices necessary for the safety of workers, equipment, the public, and property as required by Provincial or Municipal laws and regulations, and local ordinances, laws, and other requirements of the county, Province, and other authorities having jurisdiction with regard to safety precautions, operation, and fire hazards.

## **4 PERMITS, CERTIFICATES AND FEES**

- 4.1 The Contractor shall ensure that copies of all Inspection or Review Reports issued to the Contractor or Subcontractors are forwarded immediately to the Consultant and the Owner.
- 4.2 The Contractor is responsible for the payment and pickup of all building permits and the permit fees shall be incorporated in the Contract price, all as indicated in Supplementary Condition GC 10.2 – LAWS, NOTICES, PERMITS, AND FEES.
- 4.3 The Contractor shall obtain and pay for an electrical permit as required by the Electrical Safety Authority and shall submit the Final Inspection Certificate with the As-Built documents.

## **5 CONSTRUCTION SCHEDULE**

- 5.1 The Contractor shall comply with Construction schedule requirements as set out in Supplementary Condition GC 3.5. The Construction schedule shall be produced in

Microsoft Project 2003 format. The first submission of the Construction schedule shall be accompanied by a Critical Materials Delivery Schedule.

- 5.2 The Construction schedule must include, but not be limited to, the following milestones:
- 5.2.1 Kick-off meeting date;
- 5.2.2 Long lead delivery item dates;
- 5.2.3 Shop Drawings submission start and finish dates;
- 5.2.4 Major work packages' start and finish dates;
- 5.2.5 Substantial Completion date; and
- 5.2.6 Completion of the Work date.

## **6 CONSTRUCTION MEETINGS**

- 6.1 All parties concerned must be informed of meetings, the time and location of such must be approved by the Owner.
- 6.2 A Project Notification meeting must be held at the site no less than 48 hours prior to the commencement of the Work to finalize all working constraints.
- 6.3 The Contractor shall arrange for and attend bi-weekly meetings with the Owner and/or Consultants. Additional meetings will be scheduled by the Owner as required. The Contractor shall produce minutes of these meetings and distribute them to invited parties no later than 72 hours after the meeting.
- 6.4 The Contractor shall hold biweekly project meetings during construction in order to co-ordinate the work of Subcontractors. The meeting schedule shall be acceptable to the Owner, and shall be established at commencement of the Work.
- 6.5 The Contractor shall ensure that representatives of the Contractor and Subcontractors attend the weekly Subcontractor co-ordination meetings and those representatives of the Owner, the Consultant and sub-consultants are invited to attend all meetings. The Contractor shall produce minutes of these meetings and distribute them to invited parties.
- 6.6 For the duration of the Work, the Contractor shall provide and pay for a suitable room (if required) and associated facilities in which to hold all site meetings.

## **7 SITE RECORDS**

In addition to the Documents at the Site requirements as set out in General Condition GC 3.9, the following requirements shall apply:

- 7.1.1 The Contractor shall maintain on site, one complete set of Contemplated Change Orders, Change Orders and Site Instructions;
- 7.1.2 The Contractor shall, as the Work progresses, record deviations from the Contract Documents in red on a separate set of As-Built Drawings; and
- 7.1.3 Prior to issuance of a Certificate of Substantial Performance of the Work, the Contractor shall transfer all recorded deviations to 4 clean sets of white prints, neatly printed to match original drawings, and with both sets annotated as "AS-BUILT RECORD" and all which shall be promptly submitted by the Contractor to the Consultant for review and conversion to Record Drawings in accordance to IO CAD Standards.

## **8 MAINTENANCE AND WARRANTY DATA**

In addition to the requirements set out in Supplementary Condition 5.4.5, the Contractor shall comply with the following requirements:

- 8.1 During the course of the Work, the Contractor shall develop an Operations and Maintenance Manual in accordance with the requirements indicated in the specifications. The draft manual shall be submitted to the commissioning authority and the Owner for review and approval prior to Substantial Performance of the Work.
- 8.2 If the Project is registered for LEED certification, the Operations and Maintenance Manual shall include a re-commissioning manual that prescribes ongoing testing for the maintenance of the performance levels established for LEED certification and as indicated in the specifications.
- 8.3 Prior to submitting its written application for Substantial Performance of the Work, the Contractor shall submit to the Consultant four (4) copies of both electronic (CD) and hardcopies of Operations and Maintenance Manual, Shop Drawing, Warranty and Subcontractor List assembled in vinyl covered 3-ring loose leaf D-ring binders labeled "Operations, Maintenance and Warranty Manual" with a list of contents, broken down by construction divisions. The Manuals shall include maintenance data for finishes, equipment and systems, with parts list and Suppliers' addresses and phone numbers, all as previously agreed-to in draft form as indicated in 8.1 and 8.2 above.

## **9 SHOP DRAWINGS AND SAMPLES**

In addition to the requirements set out in General Condition GC 3.10, the Contractor shall:

- 9.1 Arrange for the preparation of all Shop Drawings and samples by the Subcontractors and Suppliers immediately upon notification of award of Contract;
- 9.2 Check and certify as correct all Shop Drawings and Product data sheets prior to issuing to the Consultant. In the case of nonconforming or incomplete submittals the contractor shall be solely responsible for additional project costs and/or schedule delays at no additional costs to the owner;

- 9.3 Within Five (5) working days following the contract execution, submit the shop drawings for consultant's review;
- 9.4 Submit Shop Drawings in six copies to the Consultant along with electronic version, clearly identify the Contractor, the Project, the Consultant, and the Specifications section pertaining to the Shop Drawing (Faxed and generic documents are not acceptable);
- 9.5 Submit 2 samples as requested in Specifications sections, identifying the manufacturer, Product, colour and Specification section, and insuring Installed work matches the reviewed sample.

## **10 BY-LAWS**

The following shall apply in addition to the requirements set out in General Condition 10.2 and as modified by Supplementary Conditions 10.2.4 and 10.2.5.

- 10.1 Where applicable, all plans and specifications shall be deemed to be supplemented by the Ontario Building Code and/or the National Building Code of Canada, whichever may apply. At all times, the Work must be in accordance with all existing municipal regulations.

## **11 SAFETY REGULATIONS**

The following shall apply in addition to the requirements set out in General Condition 9.4 and as modified by Supplementary Conditions 9.4.1, 9.4.2, 9.4.3 and 9.4.4.

- 11.1 Conform with and strictly enforce compliance with the Construction Safety Act and other similar regulations in force at the place of work.
- 11.2 Observe and enforce construction safety measures required by the latest edition of the NBCC, provincial government, WCB, and municipal statutes.
- 11.3 Provide current MSDS sheets for applicable materials at the Project Notification Meeting.
- 11.4 No "hot work" shall executed without obtaining the appropriate permit. The contractor shall coordinate with the Facility Manager for the required Permit and will be subject to the Facility Manager's review and approval timelines.

## **12 MAINTENANCE OF ONGOING OPERATION OF EXISTING FACILITY**

- 12.1 The Contractor shall be aware and shall be responsible for making all Subcontractors and Suppliers aware of the necessity of maintaining the ongoing operation of the tenant in the adjoining occupancy within the building. All work shall be coordinated and scheduled to prevent any disruption to those operations. The Contractor shall provide all necessary hoarding and dust barriers.

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**13 COST BREAKDOWN AND SUBCONTRACTOR INFORMATION**

- 13.1 For the Work, the Contractor shall use the Subcontractors and Subcontractor prices as documented on the Bid submission. The Subcontractor and pricing information shall be broken, as defined by the Construction Specifications Institute (CSI)'s Master Format, with HST shown separately. The total of individual prices plus separate HST shall amount to total Contract Price.
- 13.2 Neither the list of Subcontractors nor their Bid prices shall be changed without the Owner's written approval.

**14 EXISTING SERVICES**

- 14.1 In accordance with General Condition GC 9.1.2 as modified by Supplementary Condition 9.1.2, establish locations and protect all existing utilities and services.
- 14.2 Cap off and remove unused utility services within the building as approved by the Consultant and the utility company involved.

**15 TEMPORARY FACILITIES AND SERVICES**

- 15.1 Temporary power, water and heating for construction purposes are provided on site for the Contractor.
- 15.2 The existing building space shall be maintained with heat such that the inside temperature is held above freezing at all times. The Contractor shall carry the cost of any supplemental heating.
- 15.3 Washroom facilities are available for the Contractor's use. Maintain, make good and clean appliances on completion of the Contract.
- 15.4 The Contractor shall provide and pay for temporary telephone and fax facilities.
- 15.5 The Landlord is responsible for general snow clearing of the site. The Contractor shall be responsible for any additional snow or ice clearing required for safety or work reasons.

**16 CLEANING**

- In addition of the requirements set out in General Condition GC 3.13, the Contractor shall:
- 16.1 Keep the Place of the Work free from accumulated waste and swept daily;
- 16.2 Maintain cleaning of all areas of the Place of the Work until the Owner has taken full possession or until final completion of the Work;
- 16.3 Prior to any inspection for Substantial Performance of the Work, provide full clean up by approved cleaning company, replace any damaged or broken materials, remove temporary protections and remove dust, stains, sealant and adhesives and any accumulations of construction materials, debris or rubbish both in the interior and

exterior of the Place of the Work; and

- 16.4 Prior to final completion of the Work and application for final payment, provide a final cleanup of the Place of the Work to the satisfaction of the Consultant.

## **17 PROTECTION**

In addition to General Condition GC 9.1 as modified by Supplementary Conditions 9.1.1.1, 9.1.2, 9.1.5, and 9.1.6, the Contractor shall:

- 17.1 Provide and maintain all necessary fences, barricades, lights and other protective structures or devices for the safety of the public, workers, existing property and equipment as required by the Provincial or Municipal laws and regulations, local ordinances, laws and other requirements of the Region, County, Province or any other authorities having jurisdiction with regard to safety precautions, operation and fire hazards; and
- 17.2 Keep all access openings and surfaces clear and clean at all times.
- 17.3 The successful bidder will be responsible to conduct a pre-construction site condition survey to document existing conditions in the project work area and other areas to be used by the contractor during construction.

## **18 CHANGE ORDERS – DIRECTIVES**

- 18.1 The Contractor, when notified by the Owner of proposed changes in the Work pursuant to General Condition GC 6.2, shall within five (5) days, submit for the Owner's approval, a fully itemized estimate of the costs of the proposed changes. Such estimate shall be in a form approved by the Owner.
- 18.2 Where the Owner requires the Contractor to proceed with a change in the Work prior to the Owner and the Contractor agreeing upon the corresponding adjustment in Contract Cost and contract Time, or where the costs of the proposed change cannot reasonably be determined by estimate, the Owner shall direct the Contractor in writing to proceed with the work for the proposed change and submit for the Owner's approval, a correct and fully documented account of the actual cost of labour, materials and equipment in respect thereof, as set out in General Conditions GC 6.3.6 and 6.3.7 as modified by Supplementary Conditions 6.3.7.1 (1), (2), (3), and (4).
- 18.3 The value of an additional change in the Work shall be determined by adding to the cost, whether determined by estimate or actual cost, a percentage markup for the Contractor's overhead and profit as described in Supplementary Condition 6.2.3.
- 18.4 The Contractor's overhead and profit is understood to include, without limitation, the following:
- 18.4.1 the Contractor's head office and administration expenses, associated travelling /accommodation/meal costs, financing costs including holdback and bonding costs;
- 18.4.2 all supervision, coordination, administration, margin and risk of undertaking within

- 
- stipulated amount;
- 18.4.3 the salaries of superintendents, engineers, timekeepers, accountants, clerks, watch persons and all other Site supervision staff above foreperson level employed directly on the Work;
- 18.4.4 use of temporary offices, sheds and other general temporary Site support facilities and all utilities used therein;
- 18.4.5 all premiums (and any deductibles that become payable) for all insurance for which the Contractor is required to purchase and maintain in relation to the Work (including, without limitation, general liability insurance, automobile liability insurance, boiler and machinery insurance and "all risks" property insurance); and
- 18.4.6 miscellaneous additional costs related to:
- consumable materials - i.e. any item that is expendable such as rags, rope, fasteners, etc. or replacement parts (such as abrasive wheels, dies, welding tips, etc.);
  - tools and equipment, including rented tools and equipment, with original cost of less than one thousand five hundred (\$1,500.00) dollars;
  - premiums for overtime/shift time, unless approved by the Owner in writing prior to the work being performed;
  - travel and subsistence costs incurred while travelling in discharge of duties, including vehicles on site unless specifically required to carry out the work;
  - licenses and permits, except when these are special for a particular item of work;
  - other miscellaneous employee benefits;
  - other miscellaneous training;
  - safety and protection measures, including training; and
  - engineering, As-Built Drawings, maintenance manuals and all other documents required to be provided prior to certification of Substantial Performance of the Work, as well as commissioning.
- 18.5 Where the cost of a proposed Change Order or Change Directive is a credit to the Contract Price, such credit shall be exclusive of the Contractor's overhead and profit, the Owner shall certify such increase or decrease in the Contract Price accordingly.
- 18.6 Pending final determination of the value of a change in the Work, payment will not exceed fifty percent (50%) on account of the changes and such payment shall be made upon receipt of the Consultant's certificate.
- 18.7 If any Change Order or Change Directive that creates a deviation in, or omission from,



the Work causes the amount of Work to be decreased, or causes the whole or any portion of the Work to be dispensed with, the Owner shall not be liable to the Contractor and its Subcontractors for any costs or damages whatsoever including, without limitation, any indirect, consequential or special damages, such as loss of profits, loss of opportunity or loss of productivity.

- 18.8 Notwithstanding General Condition GC 6.3.6.2; for work deleted from the Contract, the credit to the Owner for Contractors percentage fee shall be based on the net estimated cost of the Work.

## **19 TOXIC AND HAZARDOUS SUBSTANCES**

- 19.1 Notwithstanding General Condition GC 9.2; if instructed to do so by the Owner, the Contractor shall take all necessary steps in accordance with applicable legislation in force at the Place of the Work to safely remove and dispose the toxic or hazardous substances, while ensuring minimal impact on Contract Time. Assignment of all costs associated with such Contractor action shall be settled as provided for in General Condition GC 9.2.

## **20 CONSTRUCTION SAFETY**

In addition to General Condition GC 9.4 as modified by Supplementary Conditions 9.4.1, 9.4.2, 9.4.3, and 9.4.4, the following conditions shall apply:

- 20.1 Prior to commencement of the Work, the Contractor shall submit to the Owner:
- 20.1.1 Copies of all necessary health and safety permits, notifications and related health and safety documents as called for in the Contract Specifications and/or by any authority having jurisdiction at the Place of the Work;
  - 20.1.2 A Site Specific Hazard Assessment;
  - 20.1.3 A Site Specific Safety Plan;
  - 20.1.4 Copies of all Workplace Hazardous Materials Information System, Material Safety Data Sheet for controlled products to be brought onto or into the Place of the work, or if unknown as at the commencement of the Work, prior to receiving such controlled products at the Place of the Work.
- 20.2 The Contractor shall participate in the Construction Kick-off meeting prior to commencing the Work and fill out, sign and comply with all related and relevant documents required by the Owner.
- 20.3 The Contractor shall ensure that all prescribed posting requirements are posted on the Place of the Work for all workers to view.
- 20.4 The Contractor represents and warrants to the Owner that the Contractor's employees and Subcontractors have been properly trained are familiar with the applicable health and safety legislation and if required by the Owner, shall provide proof of such familiarization and training.



- 20.5 The Contractor shall ensure that its employees and Subcontractors comply with the foregoing conditions and any site specific health and safety protocols and that all Subcontractors attend the Contractor's safety meetings and site inspections as required.
- 20.6 During the construction, the Contractor shall submit the following to the Owner, without delay:
- 20.6.1 Copies of all reports or directions issued by provincial or municipal health and safety inspectors pertaining to the Work;
- 20.6.2 Copies of all site incident/accident reports issued pertaining to the Work;
- 20.6.3 Copies of all monthly health and safety inspections and meeting.

## **21 INDEPENDENT TESTING & INSPECTION**

- 21.1 The cost of Independent Testing & Inspection shall be paid for by the Contractor, as authorized by the Owner, from the Cash Allowance, provided such allowance is identified in the contract documents.
- 21.2 The Independent Testing and Inspection Company shall have the authority to stop work should the perceived deficiencies in the quality of material or workmanship warrant. The Contractor shall be responsible for conveying all Reports and Test Results from the Independent Testing and Inspection Company to the Owner and Consultant.

## **22 PROJECT CORRESPONDENCE**

- 22.1 The Contractor's representative shall communicate daily with the Owner's designated contact.

## **23 INVOICE PROCEDURES**

In addition to General Conditions GC 5.2 and GC 5.3 as modified by Supplementary Conditions 5.2.8, 5.2.9, 5.2.10, and 5.3.1.3, the following Invoice submittal procedures shall apply.

- All consultant approved invoices complete with the required backup are to be submitted electronically to [joinvoice@colliersprojectleaders.com](mailto:joinvoice@colliersprojectleaders.com), with a copy to the project manager.
- The invoice must be accompanied with the following supporting documentation:
  - Valid WSIB Certificate
  - Breakdown of Application of Payment
  - Certificate of Payment
  - Statutory Declaration
  - Publication of Daily Commercial News (holdback draw only)

- The subject line of the email must include the Colliers Project Leaders Inc. project manager's name, full project number (1100110- 273857) and the Colliers Project Leaders Inc. P.O. number
- The invoice must reference the full project number and the Colliers Project Leaders Inc. P.O number

Failure to Comply with the above process will lead to rejection and return of the invoice submission

## **24 FINAL REVIEW**

- 24.1 The **OAA/OGCA Take-Over Procedures** document shall be followed with regard to Substantial Performance and Project Completion take-over procedures.
- 24.2 At the completion of the Work, the Contractor shall attend a Project Handover meeting with the Owner to provide a demonstration of the mechanical components of the Work and to answer any questions regarding the Work.
- 24.3 Final review for completion will not take place until authorities having jurisdiction have inspected the Work and provided certificates of approval, and all Warranty information, guarantees, maintenance manuals and As-Built Drawings have been received, reviewed and approved.
- 24.4 Deficiencies shall be corrected on an on-going basis through the life of the Work. The Contractor shall notify the Owner and Consultant when, in its opinion, the Work is complete. The Consultant and Owner shall then undertake a final inspection accompanied by the Contractor's representative. The Contractor shall be given an itemized deficiency list at this time. These deficiencies shall be corrected within a time designated in a notice to the Contractor.
- 24.5 The Contractor shall notify the Owner and Consultant prior to the scheduled completion of the deficiency corrections, so that a re-inspection can be scheduled. Should further inspections be found necessary due to uncorrected deficiencies, all costs incurred by the Consultant and Owner for additional inspections shall be back-charged to the Contractor.
- 24.6 In addition to General Conditions GC 12.3 as modified by Supplementary Condition 12.3.2 the following shall apply:
- 24.6.1 Within one month of the one-year warranty period, the Contractor, Consultant, and Owner shall visit the Place of the Work in order to document all outstanding deficiency or Warranty items. The Contractor shall promptly rectify all outstanding Warranty and deficiency items.

## **25 WORK RESTRICTIONS**

- 25.1.1 Take precautions during inclement weather and provide adequate protection to Work

and construction materials from damage.

- 25.1.2 Continue Work including winter months, if applicable, until Work is completed and accepted.
- 25.1.3 Inclement weather or extra work caused thereby shall not be considered valid reason for additional payment or delay in satisfactory conclusion of Work.
- 25.1.4 Work shall be confined to Work Site limits indicated on Drawings and/or within area defined by property lines. Work on Municipal property shall be carried out under regulations of respective Municipality and authorities having jurisdiction including without any limitations any associated fees, permits, insurance or bonding required.
- 25.1.5 Assume responsibility for care, custody and control of Site and perform work to extent covered in Contract Documents. Make good damage to existing Site and existing buildings (if any) due to Work of this Contract.
- 25.1.6 Provide roads, walks, ramps, stairs and such other means of access as required. Maintain temporary entrances to building(s) including enclosed hoardings as required. Maintain access to existing service entrance(s) at all times, including ready access for fuel oil trucks and delivery vehicles. Bridge excavations to safely support any load that could be imposed or provide personnel to assist in deliveries to building(s) as required.
- 25.1.7 Before entering existing premises to carry out Work or to obstruct or take out of use any area of existing premises, or to cause any other interference, request meeting with Colliers Project Leaders Inc. Project Manager in order to reach agreement as to time and length of time you may interfere, possess, obstruct or remove from use any such area or services.

## **26.0 Relics and antiquities**

- 26.1 Relics and antiquities and items of historical or scientific interest such as cornerstones and contents, commemorative plaques, inscribed tablets, and similar objects found on Site or in building(s) to be demolished, shall remain property of the Owner. Protect such articles and request direction from Owner.
- 26.2 Give immediate notice to Owner if evidence of archaeological finds is encountered during construction, and await written instructions before proceeding with work in this area.

## **27.0 Working Hours**

- 27.1 Working hours as combination of regular and after-hours in coordination with CBRE staff at site Security escorts required for any after hours work. A commissioner will be scheduled to escort workers after facility working hours.
- 27.2 High odor work should be completed on Friday & Saturday after hours allowing Sunday to airout prior to facility regular operating hours.

27.3 Vendors must sign in and fill the 'Access Form' at building B, 125 Sir William Hearst Avenue, North York.

27.4 An envelope will then be provided to the escort with keys and security pass.

## **28.0 Utilities Shutdown Process**

28.1 If a service disruption will have an impact, or potential impact, to the operation of IT services, twenty (20) working days' notice must be provided by submitting a form provided by the Facility Manager or the Owner. This period does not include Government of Ontario statutory holidays. The following information will need to be provided to the client. The following information will need to be provided to the client in order to submit a request:

- Planned outage start date and time;
- Planned outage end date and time;
- Estimated duration of outage (length of time an outage will occur within the implementation window);
  - Reason for outage;
  - Impact to environment (what would be the state of the environment during the implementation of the change);
  - Description of the implementation;
  - What steps will be executed to revert the environment or service to its pre-change state;
  - What steps will be taken after the change is executed to verify that the change was successful.

28.2 The contractor shall be responsible to confirm the utility shutdown requirements during the bidding process and shall allow for cost and schedule adjustments.

## **29.0 Additional Security Clearance**

29.1 In addition to security requirements noted in GC 14.6 the following security clearance must be obtained:

- MGS/OPS clearance

29.2 The contractor shall be responsible to obtain the required clearance for the entire workforce including all sub-contractors

## **30.0 Permit to Work**

30.1 This project is taking place at a Critical Environment and subject to a Permit to Work (PTW) process. The PTW will ensure that the contractor acknowledges the site-specific requirements, take appropriate actions to minimize any disruption to Tenant's day-to-day operations. It is important that the Tenant is fully briefed on type of work that is taking place and made aware of the associated risks.

30.2 The following activities are subject to PTW approval:

- Utility feeds including electrical, water, fuel or gas;
- Emergency Power Systems (ATS, UPS and Generator);
- Fire Life Safety Systems;
- HVAC and Computer Room Air Conditioning(CRAC) systems;
- Any systems or equipment supporting the critical program (BAS, Controllers, Fume Hoods, Pumps)
- Any major repairs that potentially cause risk to the site operations.

30.3 The contractor is responsible for the following activities/tasks:

- Follow the contract documents pertaining to PTW/MOP process.
- Prepare, complete and submit PTW, MOP and pre-job checklist in accordance with reference documents attached with the Request for Tender (RFT);
- Revise documents(PTW and MOP) if requested (up to 5 times);
- Do not start any work requiring a PTW, until it has been approved;
- Follow the instructions specified in the approved PTW and MOP;
- If there is a reasonable doubt to the site conditions provided by the CBRE/Tenant or if circumstances change, stop work and consult with PTW approver through the Project Manager (PM);
- Ensure people working on the project understand the process and are qualified to do the work safely;
- Understand limitations, constraints and PPE requirements for the facility where their crew is to work;
- Responsible for monitoring (health and safety, quality, compliance) and the training of their workforce;
- If there is a work stoppage or program disruption due to any reason, notify all stakeholders;
- Follow agreed upon timelines for review and approval of PTW and MOP documents;
- Provide input into the Go/No-Go date.

30.4 The Contractor will complete the relevant sections from the PTW, MOP and pre-job checklist and submit to the Project Manager for review and approval by all relevant stakeholders. The contractor must follow the specified timelines required for the Permit to Work process. Below is the timeline for the PTW process:

- Day 1: The Contractor to initiate PTW by sending to Project Manager and CBRE;
- Allow 5 Business days for initial review by CBRE;
- Day 6: PTW Returned to the Contractor with Comments (1st draft with revisions);
- 3 business days for comments to be incorporated by the Contractor;
- Day 9: CBRE Receives comments;
- Allow 3 business days for second review;
- Day 12: PTW Returned to the Contractor with comments (2nd draft with revisions, if required);
- 3 business days for comments to be incorporated by the Contractor;

- Day 15: CBRE receives 2nd comments;
- 3 business days for third review;
- Day 18: PTW Returned to the Contractor with Comments (3rd draft with revision, if required);
- 3 Business days for Accepted PTW to be sent to Tenant by CBRE;
- Day 21: Tenant accepts PTW;
- 5 business days tenant review;
- Day 26: Tenant Provides comments (draft with revisions, if required. This could happen in the 1st, 2nd, 3rd, 4th or 5th drafts);
- 3 Business days for Comments incorporation;
- Day 29: PTW Returned to the Contractor with comments;
- 3 Business days tenant and/or whole team review meeting;
- Day 32: Accepted PTW.

30.5 The PTW process is activity based and not for the entire project. A project may require multiple PTW form approvals. All PTW forms must follow the Method of Procedure(MOP) and pre-job checklist. The MOP to include a title, description of the procedure, author, approval authority/signature, date, unique identifier, and version control. MOPs must also include information relating to prerequisites, safety requirements, special tools and parts, procedure sequencing, and a back-out plan.

30.6 Refer to the attached Permit to Work guidelines for details.

## **End of Section**

To be completed only by the Insurer or by its representative.

<b>Name of Insured:</b> <div style="border: 1px solid black; height: 30px; width: 100%;"></div>	<b>Colliers Project Leaders Contact Name, Address and Telephone Number:</b> <div style="border: 1px solid black; height: 80px; width: 100%;"></div>
<b>Address and Telephone Number of Insured:</b> <div style="border: 1px solid black; height: 30px; width: 100%;"></div>	
<b>Operations of Named Insured for which certificate is issued:</b> <div style="border: 1px solid black; height: 30px; width: 100%;"></div>	
<small>(Note: Provide specific project information including the Colliers Project Leaders Contract number)</small>	

<b>1. Commercial General Liability:</b> Liability limits not less than \$10,000,000 per occurrence, deductible not exceeding \$10,000. Deductible \$ <span style="border: 1px solid black; padding: 0 20px;"></span>				
Insuring Company	Policy number	Policy Limit(s) \$ per occurrence	Effective Date (yyyy-mm-dd)	Expiry Date (yyyy-mm-dd)
Primary Insurer:				
Umbrella/Excess Insurer:				
<input type="checkbox"/> Applicable to Auto Insurance <input type="checkbox"/> Applicable to Pollution Liability <input type="checkbox"/> Applicable to Manned Air & Watercraft Liability <input type="checkbox"/> Applicable to Unmanned Aerial Vehicle Liability				
Manned Aircraft & Watercraft Liability Insurer, if applicable:				
Liability limits not less than \$5,000,000 per occurrence, deductible not exceeding \$5,000. Deductible \$ <span style="border: 1px solid black; padding: 0 20px;"></span>				
Contractor's Pollution Liability Insurer, Sudden and Gradual:				
Unmanned Aerial Vehicle Liability Insurer, if applicable:				

Commercial General Liability provisions:

- a) Colliers Project Leaders Inc., Ontario Infrastructure and Lands Corporation and His Majesty the King in Right of Ontario are added as Additional Insureds, with respect to liability arising out of the operations of the 'Named Insured' in which the additional Insured(s) have an interest.
- b) The policy includes Cross-Liability and Severability of Interest provisions, Blanket Form Contractual Liability, Owner's and Contractor's Protective Liability, Broad Form Property Damage, Contingent and/or Employer's Liability, Non- Owned Automobile Liability, Products/Completed Operations and any other provision relevant to the contract work. If applicable to the insured operations, coverage for Blasting, Pile Driving and/or Collapse is included.
- c) The Commercial General Liability Policy(ies) identified above shall apply as primary insurance and not excess to any other insurance available to Colliers Project Leaders.

<b>2. Automobile Liability (if applicable):</b> Liability limits not less than \$10,000,000 per occurrence. Deductible \$ <span style="border: 1px solid black; padding: 0 20px;"></span>				
Insuring Company	Policy number	Policy Limit(s) \$ per occurrence	Effective Date (yyyy-mm-dd)	Expiry Date (yyyy-mm-dd)



Primary Insurer:				
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<b>3. Contractor's Equipment Broad Form Insurance (if applicable):</b> Contractor's tools & equipment, materials and supplies in an amount to reflect the replacement cost. Policy includes a Waiver of Subrogation Clause in favour of Colliers Project Leaders Inc. Deductible \$				
<b>Insuring Company</b>	<b>Policy number</b>	<b>Policy Limit(s) \$ per occurrence</b>	<b>Effective Date (yyyy-mm-dd)</b>	<b>Expiry Date (yyyy-mm-dd)</b>
Primary Insurer:				

<b>4. Broad Form Property Insurance:</b> Liability limit of 1.1 times the Contract Price for products, supplies and equipment and or systems including boiler and machinery, that forms part of the Work plus the full value of Owner-supplied products and design services. Deductible not exceeding \$10,000.				
<b>Identify Policy Type:</b>		<b>Policy Includes: Yes</b>		
<b>Builders Risk</b> <input type="checkbox"/>		Warranties * <input type="checkbox"/>		
Deductible: <input type="text"/>		Flood <input type="checkbox"/>		
		Earthquake <input type="checkbox"/>		
<b>Insuring Company</b>	<b>Policy number</b>	<b>Policy Limit(s) \$ per occurrence</b>	<b>Effective Date (yyyy-mm-dd)</b>	<b>Expiry Date (yyyy-mm-dd)</b>
Primary Insurer:				
<b>Boiler &amp; Machinery</b> <input type="checkbox"/>	<b>Testing &amp; Commissioning</b> <input type="checkbox"/>			
Deductible: <input type="text"/>				
<b>Insuring Company</b>	<b>Policy number</b>	<b>Policy Limit(s) \$ per occurrence</b>	<b>Effective Date (yyyy-mm-dd)</b>	<b>Expiry Date (yyyy-mm-dd)</b>
Primary Insurer:				

\* If 'Yes' is indicated for Warranties, provide specifics here:


All of the above policies (with the exception of the Automobile Insurance, Section 2 above) must include a clause that states that if the policy is cancelled during the period of coverage, as stated herein, thirty (30) days, (fifteen (15) days if cancellation is due to non-payment of premium), prior written notice by registered mail will be given by the Insurer(s) to Colliers Project Leaders.

#### INDEMNIFICATION

The Contractor shall indemnify and hold harmless IO, His Majesty the King in right of Ontario, the Owner, the Consultant, and their respective agents, appointees, directors, officers and employees from and against claims, demands, losses, expenses, costs, damages, actions, suits or proceedings that arise out of or are attributable to the Contractor's performance of the Contract. Nothing in this paragraph, shall limit any claim that IO, His Majesty the King in right of Ontario, or the Owner may have under the insurance coverage to be provided under General Condition 11.1 - INSURANCE.

#### CERTIFICATION

I certify that the insurance is in effect as stated in this Certificate and that I have authorization to issue this Certificate for and on behalf of the Insurer(s). This Certificate is valid until the expiration date(s) stated in the 'Expiry Date' provision, unless notice is given in writing in accordance with the provision of this Certificate.

<b>Date</b>	<b>Broker's or Insurer's Name and Address</b>	<b>Signature and Stamp of Certifying Official</b>
<input type="text"/>	<input type="text"/>	<input type="text"/>