

THE CORPORATION OF THE CITY OF MISSISSAUGA



**TRANSPORTATION AND WORKS DEPARTMENT
INFRASTRUCTURE PLANNING AND
ENGINEERING SERVICES DIVISION
CAPITAL WORKS DELIVERY SECTION**

SUPPLEMENTAL GENERAL CONDITIONS

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For the purposes of this Contract, the Ontario Provincial Standards OPSS. MUNI 100, General Conditions of Contract and General & Construction Specifications (November 2006 issue) shall be amended as set out herein.

SECTION GC 1.0 INTERPRETATION

GC 1.04 DEFINITIONS

The definitions of "Contract Documents", "Contract Time", "Controlling Operation", "Sub-Contractor", "Utility" and "Warranty Period" in GC 1.04 are deleted and replaced with following:

"Contract Documents" means the documents listed in paragraph .01 of GC 2.02 of the General Conditions as amended by the Supplemental General Conditions together with such other documents as may be listed in the Agreement and subsequent amendments to the Contract Documents made pursuant to the provisions of the Agreement.

"Contract Time" means the time stipulated in the Contract Documents for Final Acceptance of the Work, including any extension of Contract Time made pursuant to the Contract Documents.

"Controlling Operation" means any component of the Work, as determined by the Project Manager, which, if delayed, will delay the completion of the Work.

"Sub-Contractor" means a person, firm or corporation that undertakes the execution of a part of the Work by virtue of an agreement with the Contractor; and for the sole purpose of administering Section 33, Certificate re subcontract,, of the *Construction Lien Act*, as amended, means a person, firm or corporation that undertakes the execution of one or more complete tender items identified in the Contract Documents by virtue of an agreement with the Contractor.

"Utility" means an aboveground or underground facility maintained by a municipality, public utility, authority or regulated authority and includes services such as sanitary sewer, storm sewer, water, electric, gas, oil, steam, data transmission, telephone, and cable television and, without limiting the generality of the foregoing shall include the plant and pipe lines referred to in GC 7.13.10 of these Supplemental General Conditions.

"Warranty Period" means the period of twelve (12) months from the date of completion of the Work as described in GC 1.06 of the General Conditions as amended by the Supplemental General Conditions, as determined by the Project Manager, or such period longer than twelve (12) months as may be specified in the Contract Documents for certain Materials or some or all of the Work.

GC 1.04 is amended by the addition of the following definitions:

"Act" shall mean the Construction Act, R.S.O. 1990, Chapter C. 30, and any amendments thereto.

"Aggregate" means gravel, sand, clay, earth, shale, stone, limestone, dolostone, sandstone, marble, granite or rock other than metallic ores; slag and clinkers.

"Corporation" or "City" or "Owner" means The Corporation of the City of Mississauga in the Province of Ontario.

"Commercial Source", with or without initial capital letters, means a place where aggregate or a product containing aggregate, is made available for sale.

"Delineator" means a TC-52 construction marker as described in the Ontario Traffic Manual.

"Director of Infrastructure Planning and Engineering Services" means the Corporation's Director of Infrastructure Planning and Engineering Services.

"Final Acceptance" has the meaning assigned to it in GC 1.07 of the General Conditions.

"Form of Offer" or "Form of Tender" means the document entitled "Form of Offer" appearing in the City's Bidder Response Package which a Bidder is to complete and submit with its Tender, as may be amended by agreement between the Owner and the Bidder.

"Indemnified Persons" shall have the meaning assigned to it in Clause .01 of GC 6.02, Indemnification in the General Conditions as amended by these Supplemental General Conditions.

"Project Manager" means the person, partnership or corporation designated by the Owner to be the Owner's representative for the purpose of the Contract, and includes, with the same meaning and importance, "Contract Administrator".

"Quarried Rock" means material removed from an open excavation made in a solid mass of rock which, prior to removal, was integral to the parent mass.

"Quarry" means a place where aggregate has been or is being removed from an open excavation made in a solid mass of igneous, sedimentary or metamorphic rock or any combination of these which, prior to removal, was integral to the parent mass.

All references to the *Construction Lien Act* that appear the Ontario Provincial Standards OPSS. MUNI 100, General Conditions of Contract and General & Construction Specifications (November 2006 issue) shall be deleted in their entirety and replaced by "Act" as defined above.

GC 1.05 SUBSTANTIAL PERFORMANCE

Paragraph .01 of GC 1.05, is deleted and replaced by the following:

.01 The Work is substantially performed,

- a) when the Work or a substantial part thereof has passed inspection and is ready for use or is being used for the intended purposes; and
- b) when the Work is capable of completion or, where there is a known defect, the cost of completion or correction is not more than:
 - i. 3% of the first \$1,000,00 of the Contract price,
 - ii. 2% of the next \$1,000,000 of the Contract price, and
 - iii. 1% of the balance of the Contract price.

GC 1.05 is amended by adding the following as paragraph .03:

- .03 For the purposes of paragraph .02 of this Subsection GC 1.05, interruption of Work caused by the winter season shall not be interpreted to mean that the Work cannot be completed expeditiously.

GC 1.06 COMPLETION

Paragraph .01 of GC 1.06.01 is deleted and replaced by the following:

- .01 The Work shall be deemed to be completed when all services and Materials required have been supplied.

GC 1.07 FINAL ACCEPTANCE

GC 1.07 is amended by the addition of the following:

- .02 Final Acceptance will not occur until the Work has satisfactorily passed all the Owner's inspection and testing requirements.

SECTION GC 2.0 CONTRACT DOCUMENTS

GC 2.01 RELIANCE ON CONTRACT DOCUMENTS

Subparagraph (a) of GC 2.01.01 shall be deleted and replaced by the following:

- a) The location of all mainline underground Utilities that may affect the Work shall be shown to a tolerance of 1m horizontal.

GC 2.02 ORDER OF PRECEDENCE

The title of GC 2.02 shall be changed to:

GC 2.02 IDENTIFICATION OF CONTRACT DOCUMENTS AND ORDER OF PRECEDENCE

Paragraph .01 of GC 2.02 shall be deleted and replaced by the following:

.01 The documents listed below shall constitute the Contract Documents. In the event of any inconsistency or conflict in the contents of the any of the documents listed below, such documents shall take precedence and govern in the following order:

- a) Any Amendment to the Agreement
- b) Agreement
- c) Special Conditions
- d) Confirmatory Notice, if applicable
- e) Form of Offer and Schedule of Quantities & Unit Prices
- f) Special Provisions
- g) Contract Drawings
- h) Supplemental Specifications
- i) City of Mississauga Standard Drawings
- j) Supplemental General Conditions
- k) General Conditions
- l) Region of Peel Standards for Roads and Public Works as applicable to Region of Peel Sanitary and Water Services
- m) Applicable Ontario Provincial Standard Specifications for Roads and Public Works
- n) Applicable Ontario Provincial Standard Drawings for Roads and Public Works

Later dates will govern within each of the above categories of documents.

SECTION GC 3.0 ADMINISTRATION OF THE CONTRACT

GC 3.01 CONTRACT ADMINISTRATOR'S AUTHORITY

Paragraph .16 of GC 3.01 shall be amended as follows:

The reference to "Workplace Safety and Insurance Board Act" in the second and third lines shall be deleted and replaced by "*Workplace Safety and Insurance Act, 1997, S.O.1997, c.16, Schedule "A", as amended.*"

GC 3.05 LAYOUT

Paragraph .01 of GC 3.05.01 shall be deleted and replaced by the following:

01. Layout of the construction work shall be performed by the City, unless otherwise specified in the *Contract Documents*. It is essential that the Contractor give the City at least forty-eight hours' written notice for all required lines and grades to enable the City to establish the layout work.

GC 3.07 DELAYS

Paragraph .02 of GC 3.07 shall be deleted and replaced by the following:

- .02 If the Work is delayed by labour disputes, strikes or lock-outs, including lock-outs decreed or recommended to its members by a recognized contractors association of which the Contractor is a member or to which the Contractor is otherwise bound, which are beyond the Contractor's control, then the Contract Time shall be extended in accordance with subsection GC 3.06, Extension of Contract Time. In no case shall the extension of Contract Time be less than the time lost as the result of the event causing the delay, unless a shorter extension is agreed to by the Contractor. The Contractor shall not be entitled to payment for costs incurred as the result of such delays unless such delays are the result of actions by the Owner.

GC 3.07 is amended by adding the following as paragraphs .04, .05 and .06:

- .04 If the Contractor is delayed in the performance of the Work by Uncontrollable Circumstances, then the Contract Time shall be extended for such reasonable time as the Contract Administrator may recommend in consultation with the Contractor. The extension of time shall not be less than the time lost as a result of the event causing the delay, unless the Contractor agrees to a shorter extension. The Contractor shall not be entitled to payment for costs incurred by such delays.
- .05 In the event of Uncontrollable Circumstances lasting a minimum of thirty (30) days the Owner may, upon giving the Contractor notice in writing, terminate the Contract, provided however, the notice in writing must be provided prior to the end of the Uncontrollable Circumstances.

- .06 In GC 3.07, “Uncontrollable Circumstances” means any circumstance, occurrence, event, or cause that is beyond the reasonable control of the party seeking relief from its obligations under the Contract, other than bankruptcy or insolvency or economic hardship, which prevents the performance by a party of any of its obligations under the Contract. Uncontrollable Circumstances include fire; unusual delay by common carriers or unavoidable casualties; acts, orders (other than a stop work order referred to in subparagraph c) of GC .07.01), legislation, regulations or directives of any government or other public authority having jurisdiction; acts of a public enemy, terrorism, sabotage, earthquake, pandemic or epidemic.

Uncontrollable Circumstances shall not include:

a circumstance, occurrence, event or cause referred to in paragraphs .01 or .02 of this GC 3.07; a circumstance, occurrence, event or cause brought about by a party’s default or active commission or omission; a circumstance, occurrence, event or cause that could have been avoided or mitigated by the exercise of reasonable effort or foresight by a party.

GC 3.07 is further amended by adding the following as paragraph .07:

- .07 The Owner shall not be deemed to be in default of the Contract for any delay in payment which results from:
- a) war, blockades, or civil commotions;
 - b) a pandemic, epidemic or other serious illness affecting the Owner’s internal administrative work force.

GC 3.13 CLAIMS, NEGOTIATIONS, MEDIATION

GC 3.13.04 NEGOTIATIONS

Paragraph .02 of GC 3.13.04, Negotiations, shall be amended as follows:

- .02 The phrase “or subsection GC 3.14, Arbitration” shall be deleted from the end of Paragraph .02.

GC 3.13.05 MEDIATION

Paragraph .03 of GC 3.13.05, Mediation, shall be amended as follows:

- .03 The words “prior to proceeding to arbitration” shall be deleted from the 3rd line.

GC 3.13.06 PAYMENT

Paragraph .01 of GC 3.13.06, Payment, shall be deleted and replaced by the following:

- .01 Payment of the claim will be made on the next Payment Certificate (as described in GC 8.02, Payment) issued after the date of resolution of the claim or dispute. Such

payment will be made according to the terms of GC 8.0, Measurement and Payment.

GC 3.14 ARBITRATION

GC 3.14, Arbitration, is deleted in its entirety.

SECTION GC 4.0 OWNER'S RESPONSIBILITIES AND RIGHTS

GC 4.04 CONSTRUCTION AFFECTING RAILWAY PROPERTY

GC 4.04 is deleted in its entirety and replaced by the following:

- .01 When construction affects railway property, the Owner will pay the costs of all flagging and other traffic control measures required and provided by the railway company within the working area.

GC 4.05 DEFAULT BY THE CONTRACTOR

Paragraph .01 of Subsection GC 4.05.01 is deleted in its entirety and replaced by the following:

- .01 The Contractor shall be deemed to be in default of its contractual obligations if any of the following occurs:
- a) if the Contractor fails to commence the Work within 14 days of a formal order to commence work signed by the Contract Administrator; or
 - b) if, upon commencement of the Work, the Contractor neglects to prosecute the Work properly or in a timely manner, or
 - c) if the Contractor otherwise fails to comply with the requirements of the Contract; or
 - d) if the Contractor is otherwise in material breach of the Contract; or
 - e) if any of the statements contained in the Form of Offer are untrue or incorrect; or
 - f) if the Contractor fails to comply with all municipal laws and regulations as they pertain to the City of Mississauga in respect of the operation of the Contractor's business or is convicted of a statutory offence relating to the City of Mississauga and/or if the Contractor fails to ensure that each of its subcontractors and suppliers also remains in compliance with such municipal laws and regulations in respect of the performance of the Contract or if any of its subcontractors or suppliers is convicted of a statutory offence relating to the City of Mississauga; or
 - g) if the Contractor fails to comply with all federal and provincial laws in respect of the performance of the Contract; or
 - h) if the Contractor or any of its subcontractors or suppliers is a party in judicial or arbitral proceedings against or by the Corporation, other than in respect of this Contract; or
 - i) if the Contractor or any of its subcontractors or suppliers is party to a claim against or by the Corporation, other than in respect of the Contract; or
 - j) if the Contractor or any of its subcontractors or suppliers is related to or controlled by another person or entity to whom or to which, as applicable, statements f), g), h) or i) immediately above applies.

In the event of any such occurrence, the Owner may, without prejudice to any other right or remedy the Owner may have, notify the Contractor in writing that the Contractor is in default of the Contractor's contractual obligations and instruct the Contractor to correct the default in five (5) Working Days immediately following the receipt of such notice.

GC 4.10 TERMINATION OF THE CONTRACT

GC 4.10 is amended by adding the following as paragraph .03:

- .03 Effective on the date of termination, the Contractor shall no longer be authorized to access any electronic document retention system for the Work that may have been put in place by or on behalf of the Owner.

SECTION GC 5.0 MATERIAL

GC 5.02 QUALITY OF MATERIAL

Clause .01 of GC 5.02 shall be deleted and replaced by the following:

- .01 All Material supplied by the Contractor shall be new, unless otherwise specified in the Contract Documents, and shall conform to all current applicable specifications of the Canadian Standards Association, Canadian Standards Board or General Standards Board, ASTM, National Building Code, Ontario Building Code, National Fire Prevention Association, the Technical Standards and Safety Authority and all governmental authorities having jurisdiction at the Working Area, unless otherwise specified in the Contract Documents. Materials which are not specified shall be of a quality consistent with those specified and their use acceptable to the Project Manager. Materials brought on to the Working Area shall be deemed to be the property of the Owner, but the Owner shall be under no liability for loss thereof or damage thereto arising from any cause whatsoever. Such Materials shall be at the sole risk of the Contractor.

GC 5.04 SUBSTITUTIONS

Clause .03 of GC 5.04 shall be deleted and replaced by the following:

- .03 If the proposed substitution is approved by the Project Manager, the Project Manager and the Contractor shall negotiate an appropriate price adjustment.

GC 5.06 STORAGE

Add new GC 5.06 STORAGE, as follows:

GC 5.06.01 STORAGE REQUIREMENTS

- .01 The Owner shall have the right, upon prior notice to the Contractor, to store any part of the City's inventory of Materials in premises the Contractor owns or controls (the "Premises"). Any Materials stored in the Premises are referred to in this GC 5.06, STORAGE, as "Stored Materials".
- .02 The Contractor shall, at its sole expense and in accordance with this GC 5.06, STORAGE, store Stored Materials at its Premises until the Stored Materials are delivered to the Working Area.
- .03 In storing the Stored Materials, the Contractor shall exercise the degree of care and skill as would a prudent owner with respect to similar goods and materials and shall take reasonable steps to protect and maintain the Stored Materials.
- .04 The Contractor shall maintain a control system with respect to the inventories of Stored Materials on hand at the Premises from time to time. The control system

shall consist of a written, auditable record of all Stored Materials received into inventory of Stored Materials at the Premises, their quantities, the dates of receipt, their condition at the time of receipt, the dates of transfer of title to the Owner and the dates of shipment to the Working Area.

.05 Without limiting the generality of paragraphs .03 and .04 of GC 5.06.01, the Contractor shall comply with the following requirements:

- .1 store the Stored Materials in accordance with the Owner's reasonable requirements so that they are protected from damage;
- .2 report the location of the Premises to the Owner;
- .3 if the Premises are leased or licensed, maintain the lease or license, as applicable, for the Premises in good standing.
- .4 If the Premises are owned by the Contractor but subject to a mortgage, maintain the mortgage in good standing;
- .5 ensure that the Premises are: secure; protected by fire suppression systems; protected against flooding and other disasters; climate-controlled for the storage of the Stored Materials; clean; free from pests and vermin and otherwise suitable for the storage of the Stored Materials;
- .6 clearly identify the Stored Materials as property of the Owner by visible marking or tagging or by such other identification as may be required by the Owner and the Contractor shall, without limiting the generality of the foregoing:
 - a) mark or tag all Stored Materials with the following notation:
"PROPERTY OF THE CITY OF MISSISSAUGA";
 - b) in appropriate locations for each area in the Premises where Stored Materials are stored, post visible signs reading:
"THE GOODS IN THIS AREA ARE THE PROPERTY OF THE CITY OF MISSISSAUGA";
 - c) make all such markings and signs using paint or other methods that are waterproof and that will withstand exposure for up to six (6) months so that all markings remain legible;
 - d) provide notice to the Owner of each receipt at the Premises into inventory of Stored Materials and each delivery of Stored Materials from the Premises to the Working Area or elsewhere;

- .7 carry out all reasonable additional instructions from the Owner with respect to the manner of storage of Stored Materials;
 - .8 transport Stored Materials to the Working Area at its cost as and when instructed to do so by the Owner or the Project Manager; and
 - .9 with respect to Stored Materials for which the Owner has paid, permit the Owner, at its sole discretion, to remove from the Premises such Stored Materials at any time and, from time to time, at no cost to the Owner, cooperate and otherwise assist the Owner in that regard. Without limiting the generality of the foregoing, the Contractor shall make available to the Owner any of its loading and handling equipment for the above purposes, including, without limitation, hoists, cranes, forklifts and pallets.
- .06 The Contractor shall not use or deal with Stored Materials or remove Stored Materials from the Premises except as the Owner's trustee for the sole purpose of delivering the Stored Materials to the Working Area or such other locations as the Owner may reasonably direct. Any removal of Stored Materials from the Premises, other than as permitted under this GC 5.06, STORAGE, shall be a default under the Contract and, without limiting any other remedies of the Owner, the Contractor shall be liable for any resulting loss or damage to Stored Materials.
- .07 The Contractor shall not change its storage, maintenance or security methods as required above without the prior written approval of the Owner.

GC 5.06.02 INSPECTION OF STORED MATERIALS

- .01 The Contractor hereby grants access to the Premises to the Owner and the Project Manager for the purpose of inspecting the Stored Materials and for the purpose of determining that the Contractor is complying with the storage, maintenance and security requirements stipulated in GC 5.06.01. The Contractor shall permit the Owner and the Project Manager, immediate access to the Premises without the Owner giving the Contractor notice of when such inspection will occur. However, neither the authority of the Owner or the Project Manager to inspect, nor any decision made by the Owner either to exercise or not to exercise such authority relieves the Contractor from any of its obligations set out in GC 5.06, STORAGE.

GC 5.06.03 OWNERSHIP OF STORED MATERIALS

- .01 The Contractor hereby covenants and agrees that, notwithstanding any contrary provisions of the Contract, upon the earlier of: (i) delivery of Stored Materials to the Working Area; and (ii) the Owner paying for Stored Materials, all right, interest, property, claim, title and ownership in and to the Stored Materials shall vest in the Owner, Stored Materials shall be and become the property of the Owner, and the Contractor's possession of Stored Materials shall be solely as trustee and bailee of the Owner.

- .02 The Owner shall not be required to make any payment with respect to Stored Materials until:
- a) the Owner is satisfied that the Stored Materials have been identified and stored in accordance with the terms and conditions described in GC 5.06, STORAGE;
 - b) the Owner is satisfied that no person's rights or interests in the Premises or in the Contractor's assets, property or attach or extend to the Stored Materials, including, without limitation, any rights or interests of landlords or mortgagees;
 - c) the Contractor has executed and delivered to the Owner a Bill of Sale in favour of the Owner with respect to the Stored Materials for which payment is being made, which Bill of Sale shall be in form and content satisfactory to the Owner;
 - d) the Contractor has provided proof of applicable insurance for the Stored Materials to the Owner.
- .03 The Owner will pay the holdback provided for in the Contract to the Contractor in the manner and at the time set out in the Contract. Payment of such holdback subsequent to the execution and delivery of the applicable Bill of Sale will not affect the absolute nature of the Contractor's transfer of ownership of Stored Materials to the Owner pursuant to the applicable Bill of Sale.

GC 5.06.04 SECURITY INTEREST IN STORED MATERIALS

- .01 As additional security for the timely performance of the Contractor's obligations under GC 5.06, STORAGE, the Contractor hereby grants to the Owner a security interest under the *Personal Property Security Act* of Ontario, as amended, in and to all Stored Materials whose title has yet to be transferred to the Owner, including, without limitation, all material or other personal property intended to become accessions to or be commingled with the Stored Materials and all proceeds and replacement property of all Stored Materials and such other materials and other personal property.

SECTION GC 6.0 INSURANCE, PROTECTION AND DAMAGE

GC 6.0 is deleted in its entirety and replaced by the following:

GC 6.01 PROTECTION OF WORK, PERSONS AND PROPERTY

- .01 The Contractor, the Contractor's agents, and all workers employed by or under the control of the Contractor, including Subcontractors, shall protect the Work, Persons, and property from damage or injury. The Contractor shall be responsible for all losses and damage that may arise as the result of the Contractor's operations under the Contract, unless indicated to the contrary below.
- .02 The Contractor is responsible for the full cost of any necessary temporary protective work or works and the restoration of all damage where the Contractor damages the Work or property in the performance of the Contract. If the Contractor is not responsible for the damage that occurs to the Work or property, the Contractor shall restore such damage, and such work and payment shall be administered according to these General Conditions.
- .03 The Contractor shall immediately inform the Contract Administrator of all damage and injuries that occur during the term of the Contract. The Contractor shall then investigate and report back to the Contract Administrator within 15 days of occurrence of incident, or as soon as possible.
- .04 The Contractor shall not be responsible for loss and damage that occurs as a result of:
 - a) war;
 - b) blockades and civil commotions;
- .05 The Contractor and the Contractor's Surety shall not be released from any term or provision of any responsibility, obligation, or liability under the Contract or waive or impair any of the rights of the Owner, except by a release duly executed by the Owner.

GC 6.02 INDEMNIFICATION

- .01 The Contractor shall indemnify and hold harmless the Owner and the Contract Administrator and, as applicable, their elected officials, officers, employees, agents, contractors, successors and assigns (the "Indemnified Persons") from and against all claims, demands, damages, losses, expenses, costs (including legal fees), actions, suits or proceedings by whomsoever made, brought or prosecuted in any manner, arising out of, resulting from or attributable to the Contractor's or any Subcontractor's or supplier's performance or non-performance of the Contract, or arising out of, resulting from or attributable to any negligent act or omission of the Contractor, any Subcontractor or supplier or any of its or their employees, invitees,

contractors, subcontractors, consultants, sub-consultants, and agents in relation to the Work or Working Area.

- .02 The Contractor shall indemnify and hold harmless the Owner from all and every claim for damages, royalties or fees for the infringement of any patented invention or copyright occasioned by the Contractor in connection with the Work performed or Material furnished by the Contractor under the Contract.

GC 6.03 PROJECT INSURANCE

- .01 Without restricting the generality of subsection GC 6.02, Indemnification, the Contractor shall obtain and maintain at its own expense, including the cost of any applicable deductible, the following policies of insurance.
- .02 The Contractor shall provide the Contract Administrator with an original Certificate of Insurance for each type of insurance coverage that is required by the Contract Documents. The Contractor shall ensure that the Contract Administrator is, at all times in receipt of a valid Certificate of Insurance for each type of insurance coverage, in such amounts as specified in the Contract Documents. The Contractor will not be permitted to commence work until the Contract Administrator is in receipt of such proof of insurance. The Contract Administrator may withhold payments of monies due to the Contractor until the Contractor has provided the Contract Administrator with original valid Certificates of Insurance as required by the provisions of the Contract Documents.

GC 6.03.01 GENERAL LIABILITY AND AUTOMOBILE LIABILITY INSURANCE

- .01 The insurance shall include but not be limited to:
- a) **Commercial General Liability Insurance** in the amount not less than **Ten Million Dollars (\$10,000,000)** per occurrence that protects the Contractor from all claims, demands actions, causes of action that may be taken or made against the Contractor, its employees or agents, for any loss of or damage to property, and personal injury, including bodily injury or death, that may arise with respect to the Contractor's performance of the Work or any acts or omissions relating to its obligations as set out in the Contract. To achieve the desired limit, Umbrella or Excess liability insurance may be used. This policy must include:
 - i. non-owned automobile liability, contractual liability, owners' and contractors' protective liability, broad form property damage, broad form products, a 24 month completed operations liability extension, premises liability, employee as additional insured's, contingent employers liability, cross liability and severability of interest clauses;
 - ii. the Owner, the Contract Administrator, the Regional Municipality of Peel and any other parties deemed relevant by the Project Manager, together

- with their respective elected officials, officers, employees, agents, contractors, successors and assigns, as applicable, must be added as additional insured's, but only with respect to liability arising out of the operations of the Contractor and its performance of the Work as outlined in the Contract;
- iii. a waiver of subrogation rights which the insurers may have against the City and against those for whom the City is in law responsible;
 - iv. where the Work involves one or more of the following activities:
 - (a) the use of explosives for blasting;
 - (b) vibration from pile driving or caisson work;
 - (c) the removal or weakening of support of any property, building or land whether such support be natural or otherwise, explosion, collapse and underground ("XCU") coverage's shall be added by endorsement to the policy and noted on the certificate of insurance;
 - v. unless otherwise approved by the Owner, the Contractor's deductible on the Commercial General Liability policy and, if applicable, Contractors Pollution Liability Insurance shall be not more than \$25,000; and
 - vi. the insurance coverage shall remain in effect throughout the time that the Contract is in effect, and for 24 months following completion.
- b) **Motor Vehicle Liability Insurance** that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than **Five Million Dollars (\$5,000,000)** per occurrence in respect of bodily injury or property damage arising out of the ownership, use or operation of all owned and or leased automobiles.
- c) **Environmental Impairment Liability** having an inclusive limit of not less than **Two Million Dollars (\$2,000,000)** per occurrence to insure the *Contractor's* liability for third-party claims caused by pollution events arising out of operations performed by or on behalf of the insured in the performance of the *Work* under the *Contract*. The applicable deductible shall not be more than \$100,000. Contractor's Pollution Liability coverage and shall remain in effect for 24 months following the completion of the work.

GC 6.03.02 AIRCRAFT AND WATERCRAFT LIABILITY INSURANCE

GC 6.03.02.01 AIRCRAFT LIABILITY INSURANCE

- .01 Aircraft liability insurance, as may be applicable, with respect to owned or non-owned aircraft used directly or indirectly in the performance of the Work, including use of additional premises, shall be subject to limits of not less than five million dollars inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof, and limits of not less than five million dollars for

aircraft passenger hazard. Such insurance shall be in a form acceptable to the Owner. The policies shall be endorsed to provide the Owner with not less than 30 Days written notice in advance of cancellation, change, or amendment restricting coverage.

GC 6.03.02.02 WATERCRAFT LIABILITY INSURANCE

- .01 Watercraft liability insurance, as may be applicable, with respect to owned or non-owned watercraft used directly or indirectly in the performance of the Work, including use of additional premises, shall be subject to limits of not less than five million dollars inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof. Such insurance shall be in a form acceptable to the Owner. The policies shall be endorsed to provide the Owner with not less than 30 Days written notice in advance of cancellation, change, or amendment restricting coverage.

GC 6.03.03 PROPERTY AND BOILER INSURANCE

GC 6.03.03.01 PROPERTY INSURANCE

- .01 Builder's Risk Insurance which covers the *Place of Work* for the full amount of the *Contract Price inclusive of all change orders that increase the project price* plus the full value of any optional features or other options that the *Owner* elects to order (but the *Owner* may require insurance up to the amount of the replacement cost of any building or structure in, on, or upon which any *Work* is to be done under the *Contract*, where in the reasonable opinion of the *Owner* there is a sufficient risk of damage to the same). Such policy shall:
- a) apply to all risks of direct loss or damage (including vandalism, theft and sinkhole) subject to the actual policy form;
 - b) unless otherwise directed in writing by the Owner, or stipulated elsewhere herein, be in force and be maintained from the commencement date of the Contract until the day of issue of the certificate of Substantial Performance of the Work;
 - c) apply to all Products, labour, equipment and supplies of every nature, the property of the Owner or Contractor or for which the Owner or Contractor may have assumed responsibility (whether on site or in transit), that is to be used in or pertaining to site preparation, and the erection, fabrication, construction, reconstruction, re-modeling or repair of any building, structure, other fixture or thing;
 - d) include the installation, testing and any subsequent use of machinery and equipment, including boilers, pressure vessels or vessels under vacuum if such exposure exists with a coverage period of at least 4 weeks;
 - e) include damage to the Work caused by an accident to or the explosion of any boiler or other pressure vessel or equipment forming part of the Work if such exposure exists;

- f) include off-site storage, transit and installation risks with a limit of at least \$1,000,000;
- g) include flood and earthquake insurance;
- h) include coverage for loss of income, extra expense and/or expediting expense if such exposures exist;
- i) be subject to a waiver of coinsurance;
- j) include By-Laws and Professional Service Fees Coverage
- k) include Sewer Back-up Coverage
- l) include Off Premises Service Interruption coverage (24 hour waiting period)
- m) permit use and occupancy of the Project, or any part thereof, where such use and occupancy is for the purposes for which the Project is intended upon completion;
- n) be endorsed to cover the interest of the Owner ;
- o) unless otherwise approved by the Owner, provide for a deductible of not more than \$25,000; and
- p) provide that in the case of a loss or damage, payment shall be made to the Owner as their interest may appear. The Contractor shall act on behalf of the Owner for the purpose of adjusting the amount of such loss or damage payment with the insurer. When the extent of the loss or damage is determined, the Contractor shall proceed to restore the Work. Loss or damage shall not affect the rights and obligations of either party under the Contract except that the Contractor shall be entitled to a reasonable extension of Contract Time.

GC 6.03.03.02 BOILER & MACHINERY INSURANCE

- .01 **Boiler & Machinery Insurance** insuring, as may be applicable, the interests of the Contractor, the Owner and the Contract Administrator for not less than the replacement value of boilers and pressure vessels forming part of the Work, shall be in a form acceptable to the Owner. This insurance shall be maintained continuously from commencement of use or operation of the property insured until 10 Days after the date of Final Acceptance of the Work, as set out in the Final Acceptance Certificate.

GC 6.03.03.03 USE AND OCCUPANCY OF THE WORK PRIOR TO COMPLETION

- .01 Should the Owner wish to use or occupy part or all of the Work prior to Substantial Performance, the Owner shall give 30 Days written notice to the Contractor of the intended purpose and extent of such use or occupancy. Prior to such use or occupancy, the Contractor shall notify the Owner in writing of the additional premium cost, if any, to maintain property and boiler insurance, which shall be at the Owner's expense. If because of such use or occupancy the Contractor is unable to provide coverage, the Owner upon written notice form the Contractor and prior to such use or occupancy shall provide, maintain, and pay for property and boiler insurance insuring the full value of the Work, including coverage for such use or occupancy, and shall provide the

Contractor with proof of such insurance. The Contractor shall refund to the Owner the unearned premiums applicable to the Contractor's policies upon termination of coverage.

- .02 The policies shall provide that, in the event of a loss or damage, payment shall be made to the Owner and the Contractor as their respective interests may appear. The Contractor shall act on behalf of both the Owner and the Contractor for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the Contractor shall proceed to restore the Work. Loss or damage shall not affect the rights and obligations of either party under the Contract, except that the Contractor shall be entitled to such reasonable extension of Contract Time relative to the extent of the loss or damage as the Contract Administrator may decide in consultation with the Contractor.

GC 6.03.03.04 PAYMENT FOR LOSS OR DAMAGE

- .01 The Contractor shall be entitled to receive from the Owner, in addition to the amount due under the Contract, the amount at which the Owner's interest in restoration of the Work has been appraised, such amount to be paid as the restoration of the Work proceeds, and in accordance with the requirements of Section GC 8.0, Measurement and Payment. In addition, the Contractor's interest in the restoration of the Work.
- .02 The Contractor shall be responsible for deductible amounts under the policies, except where such amounts may be excluded from the Contractor's responsibility by the terms of this Contract.
- .03 In the event of a loss or damage to the Work arising from the action or omission of the Owner or others, the Owner shall pay the Contractor the cost of restoring the Work as the restoration of the Work proceeds and in accordance with the requirements of Section GC 8.0, Measurement and Payment.

GC 6.03.05 CONTRACTOR'S EQUIPMENT INSURANCE

- .01 **All Risks Contractor's Equipment Insurance** covering construction machinery and equipment used by the Contractor for the performance of the Work, including boiler insurance on temporary boilers and pressure vessels, shall be in a form acceptable to the Owner and shall not allow subrogation claims by the insurer against the Owner. The policies shall be endorsed to provide the Owner with not less than Sixty (60) Days written notice in advance of cancellation, change, or amendment restricting coverage. Subject to satisfactory proof of financial capability by the Contractor for self-insurance of the Contractor's Equipment, the Owner agrees to waive the equipment insurance requirement, and for the purpose of this Contract, the Contractor shall be deemed to be insured. This policy shall be amended to

provide permission for the Contractor to grant prior releases with respect to damage to the Contractor's Equipment.

GC 6.03.06 INSURANCE REQUIREMENTS AND DURATION

- .01 Unless specified otherwise, the duration of each insurance policy shall be from the date of commencement of Work until, Twenty-four (24) months after Final Acceptance of the Work.
- .02 All Policies of insurance provided by the Contractor, other than WSIB and Automobile, shall add as additional insured's the City of Mississauga, the Owner's Engineer/Contract Administrator, the Regional Municipality of Peel, the City of Brampton and their respective consultants and Subcontractors engaged in any part of the performance of the Agreement and their respective directors, officers, employees, servants, agents, partners, parents, subsidiaries, affiliated or related firms.
- .03 The Contractor shall provide the Owner, on a City of Mississauga Construction Certificate form or other form acceptable to the Owner, proof of insurance Ten (10) days prior to commencement of the Work and signed by the underwriter of the insurer or an authorized representative of the insuring company. The City form can be found as a fillable PDF form at www.mississauga.ca/certificateofinsurance
- .04 The Contractor shall, on request, promptly provide the Owner with a certified true copy of each insurance policy exclusive of information pertaining to the premium or premium bases used by the insurer to determine the cost of the insurance. The certified true copy shall include a signature by an authorized representative of the insurer.
- .05 Where a policy is renewed, the Contractor shall provide the Owner, on a form acceptable to the Owner, renewed proof of insurance immediately following completion of renewal.
- .06 The Contractor shall be responsible for the Payment of the deductible or SIR amounts under all policies.
- .07 If the Contractor fails to provide or maintain insurance as required in subsection GC 6.03, Project Insurance, or elsewhere in the Contract Documents, then the Owner shall have the right to provide and maintain such insurance and give evidence thereof to the Contractor. The Owner's cost thereof shall be payable by the Contractor to the Owner on demand.
- .08 If the Contractor fails to pay the cost of the insurance placed by the Owner within 30 Days of the date on which the Owner made a formal demand for reimbursement of such costs, the Owner may deduct the costs thereof from monies which are due or may become due to the Contractor.

- .09 The Contractor shall be responsible for payment of all amounts within the deductible or self-insured retention under each policy. All insurance policies required under GC 6.03 shall be maintained with financially sound and reputable insurance companies licensed to underwrite insurance in the Province of Ontario. All policies shall be primary and shall not call into contribution any insurance available to the City. Failure to procure and maintain such insurance shall constitute a default under the Contract under GC 4.05.01. The City reserves the right to request such higher limits of insurance or other types of policies appropriate to the Work as the City may reasonably require.
- .010 The Contractor shall maintain continuously in force such policies of insurance specified by the Contract Documents at all times from the commencement of the work until 24 months following the date of the Completion Certificate.
- .011 The Contractor shall not do or omit to do, or authorize or permit a Subcontractor to do or omit to do, anything that would prejudice, or result in loss of coverage under any policy of insurance required to be placed or maintained by the Contractor or any Subcontractor
- .012 Without notice or request by the City, the Contractor shall deliver to the City original signed Certificates evidencing renewals or replacements prior to the expiration date of the original policies. The Contractor shall deliver to the Owner such evidence of the insurance required under this Contract addressed as follows:

**Attention: Manager, Capital Works Delivery
Transportation and Works Department
City of Mississauga
201 City Centre Drive, Suite 800
Mississauga, ON L5B 2T4**
- .013 The policies shall be endorsed to provide the Owner with not less than 60 days written notice in advance of cancellation, change or amendment restricting coverage.
- .014 "Claims Made" insurance policies shall not be permitted, with the exception of the Environmental Impairment Liability policy.

GC 6.04 BONDING

- .01 The Contractor shall provide the Owner with the surety bonds in the amount required by the tender documents.
- .02 Such bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in the Province of Ontario and shall be to the satisfaction of the Owner. The bonds shall be maintained in good standing until the fulfilment of the Contract.

GC 6.05 WORKPLACE SAFETY AND INSURANCE BOARD

- .01 The Contractor shall provide the Contract Administrator with a copy of a Certificate of Clearance indicating the Contractor's good standing with the Workplace Safety and Insurance Board, as follows:
 - a) Immediately prior to the Contract Administrator authorizing the Contractor to commence Work.
 - b) Prior to issue of the Certificate of Substantial Performance.
 - c) Prior to expiration of the Warranty Period.
 - d) On the expiry of each Certificate of Clearance, deliver to the Project Manager a current Certificate of Clearance at all times throughout the Contract.

GC 6.06 CLAIMS HANDLING

- .01 For the purposes of this GC 6.06, "claim" or "claims" shall mean those claims for damages or loss resulting from the performance of Work under the Contract and made against the City and/or the Contractor by persons not involved in the performance of the Work, such as property owners, pedestrians, motorists.
- .02 The Contractor shall, upon receiving notice of a claim, respond promptly in a respectful manner to the claimant and notify the Project Manager and the Owner's Risk Manager of particulars of the claim at the following address:

By email: risk.management@mississauga.ca
By Fax: 905-615-3011
By Mail: Attention: Manager, Risk & Insurance
City of Mississauga
300 City Centre Drive, 3rd Floor
Mississauga, ON L5B 3C1

Unless requested by the claimant, a claimant is not to be directed to the Owner.

- .03 Within thirty (30) days after receiving notice of a claim, the Contractor will conduct an investigation and resolve the claim but, if unsuccessful, the Owner may then appoint an independent adjuster to investigate the claim.
- .04 The City will make reasonable efforts to settle any claims not settled within thirty (30) days by the Contractor, based on the independent adjuster's report. All costs of the settlement and the adjuster are to be paid by the Contractor and may be taken by the owner from monies due to the Contractor.
- .05 If the City and/or the Contractor are served with a Statement of Claim, the Contractor and/or the Contractor's insurer shall assume the defence of any such action, including the City's defence. The Contractor shall be responsible for all costs

of the City relating to the defence of the claim, including the costs of an independent investigator, and ensure that the Owner's Manager, Risk and Insurance, is kept apprised of the status of the legal proceedings in any such action.

SECTION GC 7.0 CONTRACTOR'S RESPONSIBILITIES AND CONTROL OF THE WORK

GC 7.01 GENERAL

GC 7.01 is amended by the addition of the following to the end of paragraph .02:

Prior to commencing operations, the Contractor shall apply to the City for a "Road Occupancy Permit" for the project. The Contractor will comply with all terms relating to the Permit as issued, including notification, traffic requirements and restoration.

GC 7.01 is amended by the addition of the following as paragraph .02A:

.02A The Contractor must commence work on the date specified in the City's written notice to commence work from the Director. All Work must be completed within the time given (or date indicated) in the Form of Offer.

GC 7.01 is amended by the addition of the following to the end of paragraph .03:

The Contractor shall coordinate the work of all Sub-contractors and suppliers.

GC 7.01 is amended by the addition of the following to the end of paragraph .04:

The Contractor is responsible for the maintenance and fitness of all vehicles and equipment employed in the Working Area or delivering materials to the Working Area and shall comply with all Ministry of Transportation Ontario requirements relating to vehicle and equipment maintenance.

The following is added to GC 7.01 as paragraphs .08A, .08B, .08C, .08D, .08E, .08F, .08G, .08H and .08I:

.08A It is the policy of the Owner that each Contractor must establish, on all construction and maintenance projects, a safe and healthy work environment which will promote the elimination of personal injury, occupational disease and damage to corporate and private property.

All applicable safety laws, codes and policies must be followed.

.08B The Contractor acknowledges its duties as "employer", "supervisor" and "constructor" under the provisions of the *Occupational Health and Safety Act*, as amended, and under applicable regulations and, in particular, that the Contractor shall take every precaution reasonable under the circumstances for the protection of a worker.

.08C The Contractor acknowledges possession of a copy of the *Occupational Health and Safety Act* and applicable regulations and is aware of the requirements and obligations under that Act. The Contractor undertakes to ensure that any and all

such requirements and obligations are complied with and, without limiting the generality of the foregoing, undertake to co-ordinate the activities of all workers operating within the contract limits to ensure that all of the requirements of the *Occupational Health and Safety Act* are satisfied.

- .08D In addition to the responsibilities and obligations outlined in the *Occupational Health and Safety Act*, any safety requirements of the Canadian Construction Safety Code, the Criminal Code of Canada, the Workplace Safety and Insurance Board and the *Highway Traffic Act*, as amended and the requirements of the *Employment Standards Act*, as amended, and other provincial statutes and municipal by-laws and policies must be observed and enforced.
- .08E Without limiting the generality of Paragraph .08D above, the Contractor shall conform to, and be familiar with, the *Occupational Health and Safety Act*, as amended and applicable regulations with respect to:
- a) Competent Persons
 - b) Inspections
 - c) Fall Protection
 - d) Trenching, Excavating and Shoring
 - e) Tunnels, Shafts, Caissons or Cofferdams
 - f) Formwork, Falsework and Reshoring
 - g) Scaffolding
 - h) Personal Protective Equipment
 - i) Toilet and Cleanup Facilities
 - j) Elevating Work Platforms, Hoists, Rigging and Cranes
 - k) Electrical Work
 - l) Confined Spaces
 - m) Traffic Control
 - n) Designated Substances
 - o) Floors, roofs, walls, pillars, supports being capable of supporting all loads to which they are subjected
 - p) Medical emergencies
 - q) Hazardous materials
- .08F Contractors are required to undertake the following basic preventative measures which are required to meet the Owner's health and safety responsibilities with respect to construction and maintenance projects:
- a) Submit for review to the Transportation and Works Department's Health and Safety Specialist, a lost time accident frequency and severity record according to WSIB standards.

- b) Submit to the Transportation and Works Department's Health and Safety Specialist, written health and safety policy and procedures, which shall apply equally to all employees and to Sub-contractors and suppliers and their respective employees and sub-trades, and the name of a person designated to be the contact person responsible for compliance with all Occupational Health and Safety Act requirements. Safety procedures must include an on-site safety meeting for all principle trades and their on-site personnel before work on the project commences. The date and location of this meeting is to be provided to the Project Manager and the Transportation and Works Department's Health and Safety Specialist.
- c) Submit for review to the Transportation and Works Department's Health and Safety Specialist and the Project Manager, a safety plan for the project based on an inspection of the particular Working Area and a list of all equipment, materials and personal protective devices to be used on the project prior to commencing the Work.
- d) Be responsible for the safe performance of all sub-trades and include all safety requirements of the Contract in the Contractor's agreements with sub-trades.
- e) Adequately train and instruct workers in accordance with the Workplace Hazardous Materials Information System (WHMIS) requirements and, if requested, provide the City with detailed information with respect to the training provided to workers, the languages in which instruction is given and a copy of training manuals used.
- f) Consult initially with the Project Manager and, if required, further consult with the Transportation and Works Department's Health and Safety Specialist or designate, regarding the physical set up of the Working Area and comply with any orders of the Project Manager in that regard.
- g) Supply the Project Manager with a list of hazardous materials to be used and Material Safety Data Sheets (MSDS) for them, to be kept in a readily accessible location for the duration of the project.
- h) Not bring on to City property any controlled products that are not labelled in accordance with WHMIS requirements.
- i) Permit the Transportation and Works Department's Health and Safety Specialist, or designate, to inspect the Working Area at any time and to speak to workers to determine the adequacy of their safety knowledge relating to the handling, application and storage of controlled products.
- j) Indemnify the Owner for all costs the City may incur in relation to any violation of the Occupational Health and Safety Act by the Contractor or any person for whom the Contractor is responsible at law.

- k) Ensure that for Working Areas of greater than forty (40) workers, at least one supervisory staff member is trained in current first aid techniques (including CPR) and is readily available at the Working Area at all times, and comply with the Workplace Safety and Insurance Act provisions regarding first aid requirements.
 - l) When applicable, give a notice of project as prescribed in the Occupational Health and Safety Act to the Director, Construction Health and Safety Branch of the Ministry of Labour before any work commences. (The Project Manager may request a copy of the notice for the Owner's file.)
 - m) Put "Site Safety" on the regular site meeting agenda and send meeting minutes to the Project Manager.
 - n) Make copies of all applicable Ministry of Labour safety publications available to all workers on site.
 - o) Have in place a joint health and safety committee, or a health and safety representative, or representatives, as required by the Occupational Health and Safety Act and hold regular minuted safety meetings. Provide a copy of the minutes to the Project Manager and the Transportation and Works Department's Health and Safety Specialist as requested.
 - p) Establish a chain of command at the Working Area so that every employee, especially a new employee, knows who to ask about safety, safety equipment and safety procedures.
 - q) Post emergency telephone numbers and provide first aid facilities in the field office.
 - r) Allow the Project Manager and Transportation and Works Department's Health and Safety Specialist to make such inspection or inquiry as they see fit to ensure that the Contractor is in compliance with all terms of the Contract relating to health and safety and with all health and safety legislation.
 - s) Be aware that any violation of requirements under the Occupational Health and Safety Act may result in the work being stopped until it is rectified. Repeated or serious violations may result in cancellation of the Contract and refusal to consider the Contractor's bid on future projects.
- .08G If the Contractor is found to be in violation of the Contractor's own safety policies, the safety policies of the Owner or in violation of the Occupational Health and Safety Act, as amended, the Owner reserves the right to issue a Stop Work Order on the project until such violations are rectified. The Contractor will be responsible for any

time lost due to safety violations and no claims by the Contractor for additional costs arising from safety violations will be considered or paid by the Owner.

.08H The Contractor shall be responsible for all delays in the progress of work due to a violation of health and safety requirements and shall take all steps necessary to avoid delays in the completion of the Work.

.08I Important Notice to Contractor - In order to assist the Ministry of Labour Inspector in identifying the “constructor”, as defined by the Occupational Health and Safety Act, as amended, for the project, the Contractor is to vacate the area where a utility is doing relocation work, i.e. Water, Hydro, Bell, Cable, Gas, etc. Any inconvenience or cost associated with accommodating this request by the Owner is to be borne by the Contractor.

GC 7.01 is amended by the addition of the following to the end of Paragraph .10:

The Superintendent shall represent the Contractor as the Contractor’s authorized representative and written directions given to the Superintendent by the City shall be deemed to have been given to the Contractor and the Contractor hereby authorizes the Superintendent to act upon these directions.

GC 7.01 is amended by the addition of the following to the end of Paragraph .13:

The Project Manager shall review the schedule. When the Project Manager has approved the schedule, it will be used as a guide for the Work. The Project Manager reserves the right to order specific work to be completed at times other than those shown in the schedule, if, in the Project Manager’s opinion, such action is necessary.

GC 7.01 is amended by the addition of the following to the end of Paragraph .16:

The Contractor shall attend such meetings with the Project Manager and the Utility authorities as may be required by the Project Manager to ensure coordination of activities among the Contractor and the Utility authorities for each Utility affected by the Contract.

GC 7.01 is amended by the addition of Paragraph .17 as follows:

.17 The Contractor shall comply with the Owner’s policies on respectful workplace and violence in the workplace, the full text of which is available from Materiel Management, The Façade, Ground Floor, 300 City Centre Drive, Mississauga and is accessible on the City’s website at:

www.mississauga.ca/portal/business/tendersandbids

GC 7.02 LAYOUT

Clauses .01, .03, .04, .05 and .06 of GC 7.02 are deleted in their entirety.

GC 7.05 EXCESS LOADING OF MOTOR VEHICLES AND TRANSPORTATION OF DANGEROUS GOODS

Add the following as Paragraph .02 of GC 7.05:

02. The Contractor covenants and agrees to comply with and to ensure compliance with the *Dangerous Goods Transportation Act*, RSO 1990, c.D-1, as amended, and with all legislative and regulatory provisions in respect of liquid, industrial and hazardous waste under the *Environmental Protection Act*, RSO 1990, c.E.19, as amended, and to indemnify the Project Manager and the Owner together with the Indemnified Persons and save them harmless with respect to any breach thereof.

GC 7.07 MAINTAINING ROADWAYS AND DETOURS

GC 7.07 is amended as follows:

The reference to "OTM" in Clauses .02, .03 and .10 of GC 7.07 is deleted and replaced by the following reference: "Book 7 of the Ontario Traffic Manual - Temporary Condition".

GC 7.07 is amended by the addition of the following as paragraphs .12, .13, .14 and .15:

- .12 During material and equipment delivery, the Contractor shall abide by the *Highway Traffic Act*, as amended.
- .13 The work described in paragraphs .13, .14, and .15 of GC 7.07 shall be included in the overall general contract with no separate pay item unless otherwise specified in the *Contract Documents*. The Contractor shall include into the general overall contract price the cost of all labour and material involved in the supply, installation, maintenance, removal and disposal of signs and all other devices for traffic control as directed by the Project Manager. The Contractor shall at its own expense and prior to Final Acceptance by the Project Manager, rectify any defacement of or damage to the adjacent properties and/or rights-of-way.
- .14 On local residential roads (less than 10m pavement width), the Contractor will maintain at least one lane open to traffic during its hours of operation with the necessary Traffic Control Person. During non-working hours, the Contractor will maintain two lanes open to traffic (one in each direction). On all other roads, (10m pavement width or greater) the Contractor will maintain a minimum of one lane open to traffic in each direction at all times.

On major arterial roads, the Contractor will have all lanes open to traffic from 4:00 p.m. to 9:00 a.m.

Any variation to these lane restrictions will require the written permission of the Project Manager.

Failure to comply with these lane restrictions will result in a charge of \$1,000.00 per hour in liquidated damages being imposed on and payable by the Contractor to the City for each hour or part hour that the Contractor is not in compliance. The liquidated damages are a genuine attempt by the City to assess the actual damage that will be sustained by the City due to restriction of traffic flow. These liquidated damages shall not limit the ability of the City to claim damages resulting from specific liability arising from the Contractor's failure to meet the requirements of traffic flow and traffic maintenance.

- .15 The Contractor shall be responsible for the following:
- a) The supply and maintenance of all construction markers, detour signs, road closure signs, flashers, snow fencing, etc. within the construction limits and including all temporary pavement markings and grinding out of redundant pavement markings. Maintenance to include reinstatement of traffic delineation markers as required during snow removal operations or any other work associated with road maintenance. All signing and traffic control devices shall be in accordance with "Traffic Control Manual for Roadway Work Operation" by the Ministry of Transportation of Ontario, Book 7.
 - b) Prior to commencement of Work on the Contract, the Contractor shall submit drawings showing details of its proposed methods for traffic maintenance for the Contract, including details for the installation of temporary signs, barricades, concrete barriers, proposed traffic lanes and temporary line painting, staging of roadway construction, detours, etc. The proposals shall be in accordance with "Traffic Control Manual for Roadway Work Operation" by the Ministry of Transportation of Ontario, Book 7.
 - c) Provisions for the passage of pedestrians in the construction area including wooden walkways, etc. and all maintenance at all times throughout the contract.
 - d) The City will supply and erect advance notice of construction signs. The Contractor shall supply and erect all additional signs and controlling devices for the protection and safety of the public and shall comply immediately with directions given by the Project Manager.
 - e) Temporary ramping of all manholes and catchbasins, chambers, etc. during the interim period between base course asphalt and top course asphalt will be a requirement for all projects scheduled to be completed before winter shut down. There will be no additional payment for this item.
 - f) All projects scheduled to be left at base asphalt over the winter months will have all manholes and catchbasins, chambers, etc., set at base asphalt grade and will be raised just prior to placement of top course asphalt. There will be no additional payment for this item.

- g) Access to properties abutting the construction limits, by pedestrians and vehicular traffic, shall be maintained at all times.
- h) Provision of temporary roads for the maintenance of vehicular traffic including temporary curbing and guide railing as required.
- i) Access for the public to existing or relocated transit stops shall be maintained by the Contractor at all times in order to minimize inconvenience to the public.
- j) Roads used for through traffic shall have a dust-free, smooth, rut and pothole free surface on which traffic can operate with safety and comfort. Particular attention shall be given to the maintenance of roads over weekends and holidays. Junction of road surfaces shall be such as to provide for a smooth transition.

If any of the above standards is not maintained or complied with, the Project Manager shall have the situation corrected at the expense of the Contractor.

GC 7.11 CONTRACTOR'S RIGHT TO STOP THE WORK OR TERMINATE THE CONTRACT

Paragraph .02 of GC 7.11 is deleted in its entirety.

GC 7.12 NOTICES BY THE CONTRACTOR

GC 7.12 is amended by the addition of the following as Paragraph .03:

.03 The Contractor shall forthwith report to the Project Manager spills or discharges of pollutants or contaminants under the control of the Contractor, and spills or discharges of pollutants or contaminants that are a result of the operations of the Contractor that cause or are likely to cause adverse effects. When referred to in this paragraph .03 of GC 7.12, spills or discharges and their adverse effects shall have the meanings as defined in the *Environmental Protection Act*, R.S.O. 1990, Chapter E.19, as amended. All spills or discharges of liquid, other than accumulated rain water from luminaries, internally illuminated signs, lamps, and liquid type transformers under the control of the Contractor, and all spills or discharges from such equipment that are a result of the operations of the Contractor shall, unless otherwise indicated in the Contract, be assumed to contain PCB's and the Contractor shall forthwith report them to the Project Manager. Such reporting will not relieve the Contractor of the Contractor's legislated responsibilities regarding such spills or discharges.

GC 7.13 OBSTRUCTIONS AND UTILITIES

Section GC 7.13 is amended by the addition of the following as paragraphs .04, .05, 06, 07, 08, 09, .10, and .11:

- .04 The onus shall rest with the Contractor to ascertain directly from all applicable Utility companies the extent and period of any construction or relocation work in which they are involved.
- .05 The Contractor shall be responsible for notifying all applicable Utility companies and other interested parties of the Contractor's schedule of work and the dates by which the work to be done by the various Utility companies and other interested parties has to be completed for the Contractor to proceed with its own work.

The Contractor shall give such notices at least forty-eight (48) hours ahead of the time the Contractor intends to proceed with its own work.

- .06 The City has attempted to show all utility main services on the Contract Drawings. However, if any have been omitted for whatever reason and the Contractor is required to crossover, go under, work parallel or directly over them, such work will be done at no additional cost to the City.
- .07 Where the Contractor, as part of the Project, is working within and / or in close proximity to signalized intersections, the Contractor:
 - a) Shall be responsible for notifying the City's Traffic Section signal contractor for stakeouts of the signal plant;
 - b) Acknowledges that the Contract Drawings do not show signal plant (i.e. handwells, underground cable and conduit etc.) and;
 - c) Given items a) and b) above, agrees that there will be no additional cost to the City when working within and / or in close proximity of signalized intersections.
- .08 If the Contractor encounters Utilities which conflict directly with the proposed work, and is requested to perform work outside the scope of the Contract, the Contractor may claim for extra payment in accordance with the General Conditions GC 3.11 "Changes in the Work, Extra Work and Additional Work".
- .09 Where the Contractor encounters plant of any Utility, whether buried or above ground, that conflicts with any of the Work in the Contract such that the plant must be removed, adjusted or relocated by others, the Contractor shall not be entitled to costs incurred as result of delays caused by the conflict and the time taken by others to remove, adjust or relocate the plant. During the Utility relocation, the Contractor is to physically remove its forces and construction operations from the immediate vicinity of the Utility company's forces and operations. The City will not authorize any claim for extra payment for costs incurred in the Contractor's relocation.
- .10 All plant within the Area of the Work that is owned by the Enbridge Gas Distribution Inc., Union Gas, any cable or telecommunication companies or other entities including but not limited to Bell Canada, Enersource Hydro Mississauga, Ontario

Hydro, Region of Peel, and the City shall be included in the definition of Utility. Also, pipe lines that are regulated by the National Energy Board shall be included in the definition of Utility.

- .11 The Contractor shall maintain current utility stakeouts throughout the duration of the project.

GC 7.14 LIMITATIONS OF OPERATIONS AND HOURS OF WORK

GC 7.14 is amended by the addition of the following as paragraphs .03, .04, .05, .06, .07 and .08:

- .03 Whenever, in the judgment of the Project Manager, it may be necessary or expedient, in order to preserve and maintain traffic over or on any street or road, to do work at night or after or before the regular hours of 7:00 a.m. to 7:00 p.m. local time, except Sunday or statutory holidays, such night or overtime work shall be performed by the Contractor without additional or extra cost to the Owner beyond the price bid for the work. No work, however, shall be undertaken at night without the consent in writing of the Project Manager.
- .04 When any work is carried on at night, the Contractor must supply at its own expense, a sufficient number of electrical or other approved and efficient lights, to enable such work to be done in an efficient and satisfactory manner, and the Project Manager shall be authorized to order additional lights to be put on at the Contractor's expense if, in the opinion of the Project Manager, they are or may be required.
- .05 No work on a Sunday shall be permitted except in the case of an emergency, and then only with the written permission of the Project Manager and to such extent as the Project Manager may judge to be necessary.
- .06 The Contractor shall as far as possible refrain from work on days which are statutory holidays in the City of Mississauga. In case the Contractor desires to work on any such holiday, the Contractor shall notify the Project Manager in writing at least two business days in advance of such holiday, stating those places where such work will be conducted. If the Contractor fails to give such notice in advance of any holiday, the Owner shall be entitled to consider such failure as an indication that no work requiring the presence of the Project Manager is to be done by the Contractor on that holiday.
- .07 Without limiting the provisions of GC 7.14.02 and GC 7.14.03 and notwithstanding any consent or order which the Project Manager may give to the Contractor to carry out the Work under the Contract for a longer period than eight hours a day, or forty-eight hours a week, the Contractor may, by order of the Project Manager, be prohibited from carrying on operations during any hour or hours of the day in which the Project Manager in the Project Manager's sole judgment deems such operations

to be a disturbance or nuisance to the residents of the area in which the work is being carried out.

- .08 Should the Contractor proceed on its own volition without written authorization from the Project Manager as required by GC 7.14.02 or GC 7.14.03, the Owner shall be entitled to impose on the Contractor liquidated damages of \$500.00 per day for this violation and the Contractor shall pay such damages to the City. The liquidated damages are a genuine attempt by the City to assess the actual damage that will be sustained by the City due to the violation. These liquidated damages shall not limit the ability of the City to claim damages resulting from specific liability arising from the Contractor's violation. In addition, the Owner may require the Contractor to expose any work so carried out in order that such work can be fully inspected after the fact.

GC 7.16 WARRANTY, is deleted in its entirety and new GC 7.16 WARRANTY PERIOD AND WARRANTY RESERVE is added in its place as follows:

GC 7.16 WARRANTY PERIOD AND WARRANTY RESERVE

- .01 The Owner will establish a warranty reserve that shall be a minimum of one and one-half Percent (1.5%) of the total contract amount but in any event shall be no less than Ten Thousand Dollars (\$10,000.00), or such greater amount specified by the Owner in the Contract Documents ("**Warranty Reserve**"). The Owner will establish and retain the Warranty Reserve by deducting one and one-half percent (1.5%), or such greater amount specified by the Owner in the Contract Documents, from all payments properly owing to the Contractor. The Contractor shall also be entitled to receive payments on progress certificates, additional to the foregoing, in accordance with and subject to the provisions of the Act. The balance of the Contract monies due to the Contractor shall be paid on certificate of the Project Manager at the expiration of the Warranty Period. No interest shall be paid on the Warranty Reserve held by the City during the Warranty Period.
- .02 The Warranty Period shall, subject to extension as provided below, commence on the date of completion as defined in the Act and continue for a period of one (1) year. During the Warranty Period, the Contractor shall maintain the Work and every part thereof in perfect order and in complete repair and make good in a permanent manner satisfactory to the Project Manager any and all damage or injury to the Work both during construction and during the Warranty Period. The Owner may, at its discretion, extend the Warranty Period for such period as the Owner deems necessary.
- .03 Should the Contractor for any reason fail to address outstanding deficiencies when ordered to do so, then the Project Manager, at the Project Manager's option, after giving the Contractor at least twenty-four (24) hours' notice, may have the deficiencies and/or repairs corrected and/or completed and the Contractor shall reimburse the Owner for the whole costs, charges and expenses so incurred

(including, without limiting the generality of the foregoing, the City's overhead costs such as employee costs) by the City deducting such amounts from moneys payable to the Contractor or by billing the Contractor for such amounts, which the Contractor shall promptly pay.

- .04 If, in the opinion of the Project Manager, the nature of the deficiency or repair is deemed to be an emergency, then the correction of the deficiency or the repair may be undertaken without notice to the Contractor, and the Contractor shall reimburse the City for the whole costs, charges and expenses so incurred (including, without limiting the generality of the foregoing, the City's overhead costs such as employee costs), by the City deducting such amounts from moneys payable to the Contractor or by billing the Contractor for such amounts, which the Contractor shall promptly pay.
- .05 The decision of the Project Manager is to be final as to the necessity for and nature of a repair or correction of a deficiency to any Work done or required to be done under the provisions of this or any other clauses in the Contract, and for the amounts expended thereunder.

GC 7.17 WORKERS' RIGHTS AND WAGES

GC 7.17 is amended by the addition of the following as paragraphs .02, .03 and .04:

- .02 The Contractor shall pay wages or cause wages to be paid on a weekly basis, to every worker employed in the performance of the Contract and shall ensure that every owner of a truck or other vehicle employed by the Contractor or any worker employed by a sub-contractor under the Contractor in the performance of the Contract is also paid wages on a weekly basis.
- .03 The Contractor shall keep at all times a list of the names of all workers employed on the Work and a record of the rate of wages and of the amounts paid to each, and shall from time to time, if demanded by the Owner's Project Manager, furnish a certified copy of all pay sheets, lists, records and books relating to the Work, and the originals thereof shall be open at all times for examination by the Owner's Project Manager. The Contractor shall also at all times furnish and disclose to the Project Manager any other information respecting wages or workers that the Project Manager may request in connection with the Work.
- .04 When carrying out work under the Contract, the Contractor shall comply with the provisions of the Owner's Policy and Procedure No. 01-03-10, "Workplace Violence", as amended. If the Owner's staff observe or is made aware of any incidents involving the Contractor or the Contractor's workers that are not in compliance with the Workplace Violence Policy, the Owner shall be entitled to take appropriate action.

GC 7.0 is amended by the addition of the following as GC 7.19 and GC 7.20

GC 7.19 AUTHORITY OF THE SUPERINTENDENT

- .01 The Superintendent shall represent the Contractor and written directions given to the Superintendent by the City shall be deemed to have been given to the Contractor and the Contractor hereby authorizes the Superintendent to act upon these directions.

GC 7.20 USE OF HYDRANTS AND WATER

- .01 The Contractor shall obtain a permit from the Region of Peel for water services or use of hydrants. The Contractor shall not operate any hydrants until the Region of Peel installs a proper reducer, valve and backflow preventer.
- .02 If the temperature is or is expected to be below zero (0) degrees Celsius, the Contractor shall notify the Water and Waste Division of the Region of Peel and the Project Manager, not later than 4:00 p.m., of the location of all hydrants the Contractor used during that day. The Contractor shall satisfy the Project Manager that the Contractor has paid all accounts for water before the City will make the final Contract payment.

SECTION GC 8.0 MEASUREMENT AND PAYMENT

GC 8.01 MEASUREMENT

GC 8.01.01 QUANTITIES

GC 8.01.01 is amended by the addition of the following as paragraphs .04, .05, .06, .07 and .08:

- .04 For the purpose of measuring items to be paid by weight, the Contractor, at its own expense, shall supply and maintain a truck scale, or alternatively, arrange for access to a truck scale of the type approved by the City. The scale shall be of sufficient capacity and dimensions to fully contain the loaded vehicle in one setting and to permit weighing of the entire load in one operation.
- .05 Two (2) originals of weight tickets, filled in by the weighman, shall be delivered by the truck driver to the City's agent on site. The City's agent on site will then sign both originals, keep one and return the other to the driver. Tickets not signed by the City's agent by the day's end will not be accepted for payment.
- .06 The Contractor acknowledges that damages will be imposed by the City if it is found that any load weight is inaccurate. The City will randomly spot check vehicles which deliver Material in which the Contractor is paid by the tonne or other unit of weight. These checks will be conducted at a frequency determined by and at the sole discretion of the City. The vehicles will be checked at a conveniently located weigh scale of the City's choosing. If the 'Gross Weight' on the check is found to be less than that indicated on the weigh ticket by more than one-half of one percent (0.5%), the truck will be required to deliver and dump the load at the site and return to the weigh scale to determine the 'Tare Weight' of the truck. The difference in 'Net Weight' between that of the check and that of the ticket, as determined in percentage, will be applied to every load of that day regardless of when the check was conducted, or until the next weight check, if another check is conducted that day.
- .07 Failure of any truck to comply with any request of the City representative conducting the weigh check will result in the City refusing and/or not compensating the Contractor for that load. If a truck fails to return directly to the scale in order to check the Tare Weight, as instructed by the City representative, it will be deemed an acknowledgement on behalf of the Contractor or supplier that the check of the Gross Weight was correct and penalties can be imposed. The Contractor also agrees not to appeal any imposed penalty.
- .08 The City shall pay the Contractor no compensation for lost time or for any other inconvenience as a result of conducting the weigh checks.

GC 8.01.02 VARIATIONS IN QUANTITIES

GC 8.01.02 is amended by the addition of the following to the end of paragraph .01 b):

Written requests for unit price revisions must be received by the City no later than One Hundred and Eighty (180) days after Final Acceptance of the Work.

GC 8.01.02 is amended by the addition of the following as paragraph .02:

- .02 Where it appears that the amount of Work to be done and/or Material to be supplied by the Contractor under a lump sum concrete item will exceed or be less than the amount shown in the Contract Documents, the Contractor shall proceed to do the Work and/or supply the Material required to complete the tender item and payment will be made on the basis of the lump sum price shown in the Form of Offer except as provided below:
- a) Where the theoretical quantity as determined from the design dimensions of the structure components exceeds the estimated quantity of concrete stated in the Contract Documents by more than 3% and where such increase does not result from a change in design made in accordance with paragraph .01 of GC 3.10.01 then the Contractor may make a written request to the Project Manager to negotiate the compensation payable for that portion of the concrete which exceeds 103% of the estimated quantity. The negotiation shall be carried out as soon as reasonably possible. Any increase in the compensation shall be based on the actual cost of supplying and placing that portion of the concrete which exceeds 103% of the estimated quantity plus a reasonable allowance for profit and overhead.
 - b) Where the theoretical quantity as determined from the design dimensions of the structure components is less than 97% of the estimated quantity of concrete stated in the Contract Documents and where such difference does not result from a change in design made in accordance with paragraph .01 of GC 3.10.01, then the Project Manager may make a written request to the Contractor to negotiate the compensation payable for the item to reflect the change in quantity. The negotiation shall be carried out as soon as reasonably possible. Any decrease in compensation shall be based on the estimated value of the amount of the underrun in excess of 3% of the estimated quantity and shall include a reasonable allowance for profit and overhead.
 - c) The Contractor or the Project Manager may dispute the quantity which is specified for payment on a Plan Quantity basis. The dispute shall be supported by calculations, drawings, and any other evidence indicating why the Plan Quantity is believed to be in error. If the Plan Quantity is found to be in error, payment will be made in accordance with the Adjusted Plan Quantity. If the Plan Quantity is found not to be in error, then the cost for the quantity check will be deducted from the next Progress Payment Certificate.

GC 8.02.02 ADVANCE PAYMENTS FOR MATERIAL

Paragraph .01 b) i. (2) of Clause GC 8.02.02 is deleted and replaced with the following:

- (2) Coarse and fine aggregates for hot mix asphaltic concrete and surface treatment shall be assessed at the rate of 25% of the tendered unit price multiplied by the tonnage of each aggregate in the stockpile.

GC 8.02.03.01 PROGRESS PAYMENT CERTIFICATE

Subparagraph e) of GC 8.02.03.01 is deleted and replaced by the following:

- e) the amount of Harmonized Sales Tax (HST), as applicable, and

The following is added as Paragraph .05 to GC 8.02.03.01:

- .05 Should the Contractor fail to perform a portion of the Work for which a Progress Payment Certificate has been issued, the City will deduct from the subsequent Progress Payment Certificate, an amount equal to the estimated amount of the uncompleted Work. This amount will be released once the uncompleted Work is completed and this shall signify final acceptance of the previously uncompleted Work.

GC 8.02.03.03 SUBCONTRACT STATUTORY HOLDBACK RELEASE CERTIFICATE AND PAYMENT

Clause .01 of GC 8.02.03.03 is deleted and replaced with the following, and subparagraphs a), b), c) and d) of clause 01 remain unchanged:

- 0.1 Following receipt of the Certificate of Subcontract Completion, the Owner shall release and pay to the Contractor the statutory holdback retained in respect of the subcontract. Such release shall be made 65 (sixty-five) Days after the date the subcontract was certified complete and providing the Contractor submits the following to the Contract Administrator:

GC 8.02.03.04 CERTIFICATE OF SUBSTANTIAL PERFORMANCE

Clause .03 of GC 8.02.03.04 is deleted and replaced by the following:

- .03 Within ten (10) days after the Contract Administrator has signed the Certificate of Substantial Performance the Contractor shall publish a copy of it in the Daily Commercial News

Clause .04 and .05 of GC 8.02.03.04 are deleted in their entirety

GC 8.02.03.05 SUBSTANTIAL PERFORMANCE PAYMENT AND SUBSTANTIAL PERFORMANCE STATUTORY HOLDBACK RELEASE PAYMENT CERTIFICATES

Clause .02 of GC 8.02.03.05 is amended by deleting in its entirety and replaced by the following:

02. The Substantial Performance of Payment Certificate shall be in Form 9.

Clause .04 of GC 8.02.03.05 is deleted and replaced with the following, and subparagraphs a), b), c) and d) of clause .04 remain unchanged:

0.4 The Substantial Performance Statutory Holdback Release Payment Certificate shall be a payment certificate releasing to the Contractor the statutory holdback due in respect of Work performed up to the date of Substantial Performance. Payment of such statutory holdback shall be due 65 (sixty-five) Days after the date of publication of the Certificate of Substantial Performance but subject to the provisions of the *Construction Act* and the submission by the Contractor of the following documents:

GC 8.02.03.07 COMPLETION PAYMENT AND COMPLETION STATUTORY HOLDBACK RELEASE PAYMENT CERTIFICATES

Clause .03 of GC 8.02.03.07 is deleted and replaced with the following, and subparagraphs a), b) and c) of clause .03 remain unchanged:

0.3 The Completion Statutory Holdback Release Payment Certificate shall be a payment certificate releasing to the Contractor the further statutory holdback. Payment of such statutory holdback shall be due 65 (sixty-five) Days after the date of Completion of the Work as established by the Completion Certificate but subject to the provisions of the *Construction Act* and the submission by the Contractor of the following documents:

GC 8.02.03.08 INTEREST

Clause .01 of GC 8.02.03.08 is deleted and replaced by the following:

.01 The Contractor shall not be entitled to any interest upon any amount payable under the Contract, including but not limited to any progress payment or completion payment or upon any bill for extra work, on account of delay in its approval by the Project Manager.

GC 8.02.03.09 INTEREST FOR LATE PAYMENT

GC 8.02.03.09 is deleted in its entirety and replaced by the following:

.01 The Contractor shall not be entitled to any interest under any circumstances of delay by the Owner.

GC 8.02.03.10 INTEREST FOR NEGOTIATIONS AND CLAIMS

GC 8.02.03.10 is deleted in its entirety and replaced by the following paragraph .01:

.01 The Contractor shall not be entitled to any interest in respect of any negotiations and claims.

GC 8.02.03.11 OWNER'S SET-OFF

Clause .01 of GC 8.02.03.11 is deleted and replaced with the following:

0.1 Pursuant to Section 12 of the *Construction Act*, the Owner may retain from monies owing to the Contractor under this Contract an amount sufficient to cover any outstanding or disputed liabilities, including the cost to remedy deficiencies, the reduction in value of substandard portions of the Work, claims for damages by third parties that have not been determined in writing by the Contractor's insurer, undetermined claims by the Owner under paragraph GC 8.01.02.01 a), any assessment due the Workplace Safety and Insurance Board, and any monies to be paid to the workers in accordance with clause GC 8.02.06, Payment of Workers:

GC 8.02.04 PAYMENT ON A TIME AND MATERIAL BASIS

GC 8.02.04.01 DEFINITIONS

In paragraph .01 of GC 8.02.04.01, the definition for "Cost of Labour" is deleted and replaced by the following:

Cost of Labour means the amount of wages, salary, travel, travel time, food, lodging or similar items and Payroll Burden paid or incurred directly by the Contractor to or in respect of labour and supervision actively and necessarily engaged on the Work based on the recorded time and hourly rates for pay for such labour and supervision, but shall not include any payment or costs incurred for general supervision, administration or management time spent on the entire Work or on any wages, salary or Payroll Burden for which the Contractor is compensated by any payment made by the Owner for equipment.

GC 8.02.04.03 PAYMENT FOR WORK

Clause GC 8.02.04.03 is amended by the addition of the following as paragraph .02:

.02 All claims for Work on a Time and Material Basis must be submitted on the City of Mississauga Form – "Time and Material Summary for Payment".

GC 8.02.04.04 PAYMENT FOR LABOUR

Paragraphs .01, .02 and .03 of GC 8.02.04.04 are deleted and replaced with the following:

- .01 The owner shall make payment in respect of the Payroll Burden of Work on a Time and Material Basis at sixty percent (60%) of the cost of labour, plus fifteen (15%) for overhead and profit.

GC 8.02.04.08 PAYMENT FOR WORK BY SUBCONTRACTORS

In paragraph .01 of GC 8.02.04.08, sub-paragraphs a), b) and c) are deleted and replaced with the following:

- a) 5% for the first \$3,000; plus
- b) 5% of the amount from \$3,000 to \$10,000; plus
- c) 5% of the amount in excess of \$10,000.00.

GC 8.02.04.09 SUBMISSION OF INVOICES

GC 8.02.04.09 is amended by the addition of the following as paragraph .05:

- .05 The Contractor shall submit original invoices for all Work and Materials.

GC 8.02.09 LIQUIDATED DAMAGES

The following is added to GC 8.02.09 as Paragraphs .02, .03, and .04:

- .02 The Contractor and the Owner agree that if the Work called for under the Contract is not finished or completed within the number of working days or by the completion date(s) identified in the Form of Offer, damages will be sustained by the Owner and that it is and will be impracticable and extremely difficult to ascertain and determine the actual amount of the damages that the Owner will sustain in the event of and by reason of such delay.
- .03 The Contractor and the Owner agree that the Contractor will pay to the Owner the sum of \$500.00 per day on contracts up to \$250,000.00 and \$1,000.00 per day on contracts over \$250,000.00 for liquidated damages for each and every calendar day's delay in finishing the Work in excess of the number of working days or completion date identified in the Form of Offer and the Contractor and the Owner further agree that this amount is a good faith estimate of the actual amount of damages to the Owner which will accrue during the period in excess of the prescribed number of working days or beyond the prescribed completion date.
- .04 The Owner may deduct any amount due under this GC 8.02.09 from any monies that may be due or payable to the Contractor on any account whatsoever. If no monies are due or payable to the Contractor, the Owner shall invoice the Contractor for any

such amount and the Contractor shall pay the invoice within thirty (30) days following receipt. The liquidated damages payable under this GC 8.02.09 are in addition to and without prejudice to any other remedy, action or other alternative that may be available to the City.

Add new GC 8.02.10 CONTINGENCY ALLOWANCE as follows:

GC 8.02.10 CONTINGENCY ALLOWANCE

- .01 The Form of Offer includes a provisional sum in the total bid for the performance of the Contract, to provide for payment for any extra or additional work of a contingent nature that the Project Manager considers necessary to be performed by the Contractor during the course of the Work.

- .02 No Work or Materials shall be regarded as an extra to the Contract unless approved in writing by the Project Manager as an extra to the Contract. Payment will be made at the Contract Unit Prices stated in the Form of Offer or where unit price is not stated in the Form of Offer, payment will be made in accordance with the General Conditions.

The existence of a contingency allowance shall not be construed by the Contractor as constituting a protection for the Contractor against any defects occurring in the Work as a result of the Contractor's negligence or employment of inferior Materials and workmanship in the Work. Nor shall the contingency allowance be looked upon by the Contractor as an available reserve to protect the Contractor against the usual hazards that may be expected to attend the execution of the Work.

Add new GC 8.02.11 CONSTRUCTION LIENS as follows:

GC 8.02.11 CONSTRUCTION LIENS

- .01 In the event that a claim for lien or a written notice of lien is given to the City, the Contractor shall at its own expense:
 - a) within ten (10) calendar days of a request by the City, or by the Contract Administrator, 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

 - b) in the case of written notices of lien, ensure that such notices are withdrawn, in writing.

- .02 In the event that the Contractor fails to comply with .01 above, the City may fulfil the Contractor's obligations and set off and deduct from any amount owing to the Contractor for 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, or to have written notices of lien withdrawn

and defending any related action. The Contractor shall be fully responsible for indemnifying the City for the aforesaid costs and expenses and if there is no amount, or insufficient amounts owing by the City to the Contractor then the Contractor shall reimburse the City for all of the said costs and associated expenses.

Add new Section GC 9.0 OTHER TERMS AND CONDITIONS OF CONTRACT, as follows:

SECTION GC 9.0 OTHER TERMS AND CONDITIONS OF CONTRACT

GC 9.01 ACCESSIBILITY STANDARDS FOR CUSTOMER SERVICE

- .01 The Owner is required by Ontario Regulation 429/07 under the Accessibility for Ontarians with Disabilities Act, 2005 to ensure that vendors contracting with the Owner comply with the following provisions of this GC 9.01, if the vendors deal with the public in the course of performing work or services for the Owner.
- .02 In this GC 9.01, "City's Manual" means the Owner's Accessibility Standards for Customer Service guide known as "May I help you?", as provided by the Owner to the Contractor and as may be amended from time to time.
- .03 The Contractor shall provide training on the Owner's accessible customer service standards to all persons (including agents, contractors, sub-contractors and consultants) engaged by the Contractor to perform the Work where they deal with the public in the course of carrying out their duties. Such training shall consist, at a minimum, of providing a copy of the City's Manual to all such persons and requiring them to review the City's Manual before, or as soon as practicable after they start performing work under the Contract that requires them to deal with the public. The Contractor shall provide additional or new training from time to time if the City's Manual is amended and, in such circumstances, the Contractor shall deliver the additional or new training in accordance with the standard of training as provided in this paragraph .03.
- .04 The Contractor shall maintain a record of all training stipulated in paragraph .03 of this GC 9.01 that the Contractor provides to the persons referred to in paragraph .03 of this GC 9.01. The record shall include, at a minimum the dates on which the training was provided and the number of individuals to whom the training was provided. The Contractor shall retain such training records during the term of the Contract and for at least seven (7) years following its termination or expiry.
- .05 The Owner may, at any time and from time to time during the term of the Contract and seven (7) years following its termination or expiry, audit and inspect the Contractor's records of accessible customer service training.
- .06 The Contractor shall make available to the Owner the records referred to in paragraphs .04 and .05 of this GC 9.01 in order that the Owner may carry out audits and inspections referred to in paragraph .05 and shall provide the Owner and its authorized representatives with all such information as they may from time to time reasonably require with reference to such records. The Contractor shall provide any required records of accessible customer service training to the Owner within ten (10) business days of the City's request, unless otherwise agreed upon by the City.

The Contractor shall provide the Owner with any other materials referred to in this paragraph .06 within such time frame as the Owner may reasonably request

GC 9.02 CHANGE PROPOSALS AFTER CONTRACT AWARD

OPS Volume 5, 0100 MTO General Conditions of Contract, OPSS, PROV100, April 2, 2010 – Section – GC 3.11 now applies.

GC 9.03 CONFLICT OF INTEREST

.01 Should the Contractor or any of the Contractor’s directors, officers, employees or agents attempt to corrupt any member of the Owner’s City Council, or officer or employee of the Owner, the Owner shall be at liberty to cancel the Contract forthwith, or to take the whole or any part of the Work out of the hands of the Contractor. Without limiting the generality of the foregoing sentence, an attempt to corrupt a member of the Owner’s City Council or an officer or employee of the Owner shall include an attempt to cause a member of the Owner’s City Council, officer or employee to infringe Section 6, Conflicts of Interest, of the Owner’s Purchasing By-Law No. 374-06, the *Municipal Conflict of Interest Act*, the Owner’s Code of Conduct for Member of City Council or the Owner’s Corporate Policy and Procedure 01-03-02, Conflict of Interest.

GC 9.04 SUPPLIER CODE OF CONDUCT

The City of Mississauga requires suppliers to comply with this Supplier Code of Conduct which defines minimum standards for suppliers and their subcontractors and is based on the International Labour Organization (ILO) core labour conventions:

Forced Labour

No forced labour, whether in the form of prison labour, indentured labour, bonded labour or otherwise shall be used.

Child Labour

No person shall be employed at any age younger than 15 (or 14 where the law of the country of manufacture allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.

Harassment or Abuse

Every employee shall be treated with respect and dignity. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse.

Non-Discrimination

No person shall be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age disability, sexual orientation, nationality, political opinion, or social or ethnic origin or any other ground of discrimination prohibited by law.

Health and Safety

Employers shall provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employer facilities.

Employment Issues

Employers shall work directly with employees and/or their bargaining agents as appropriate to find solutions to any outstanding legal and employment issues.

Wages and Benefits

Employers recognize that wages are essential to meeting employees' basic needs. Employers shall pay employees at least the minimum wage required by local law and shall provide legally mandated benefits.

Hours of Work

Workweeks are not to exceed the maximum set by local law. Further, a workweek should not be more than 60 hours per week, including overtime, except in emergency or unusual situations.

Overtime Compensation

In addition to their compensation for regular hours of work, employees shall be compensated for overtime hours at such rate as is legally required in the country of manufacture or service delivery.

Environmental Responsibility

We seek out suppliers committed to environmental responsibility. Each supplier shall consider their own 'in-house' environmental practices (e.g. waste reduction), environmental certifications and information on the specific kind of materials they use in manufacturing their products or delivering their services, to minimize the negative impacts on the environment. Suppliers must not be in violation of any environmental laws in the country where the supplier operates.

Product Safety

Suppliers shall comply with all applicable laws and regulations regarding safety of products.

Subcontractors and Their Sources

We require all businesses that support our business as subcontractors, manufacturers or sources of goods to comply with all of the same policies stated in the City of Mississauga's Supplier Code of Conduct. All subcontractors and their suppliers are required to comply with all applicable and national laws. Direct suppliers to the City are expected to monitor their subcontractors, manufactures or sources of goods for meeting or exceeding the City of Mississauga's Suppliers Code of Conduct and supply chains are expected to be transparent and traceable.

GC 9.05 ETHICAL CONDUCT

- .01 In addition to being in compliance with all applicable federal, provincial and municipal laws and regulations, the Contractor is required to behave in an ethical manner demonstrating regard for the well-being and fair treatment of all persons, places and things.
- .02 Bids received from bidders found to be behaving unethically and causing or contributing to economic, environmental or social harm may be rejected at the discretion of the City's Purchasing Agent, either before or after the award of a contract.
- .03 Further, the City may require the bidder or contractor to provide details of any environmental or labour related abuses or infractions which may come to light and may consider such details in determining the ethical behaviour of a bidder or contractor.

GC 9.06 CONTRACTOR PERFORMANCE MANAGEMENT AND EVALUATION

- .01 The Contractor's performance under the Contract shall be subject to the City's Purchasing By-Law, 374-06 and the City's Policy and Procedure No. 03-08-04, as amended, Vendor Performance Management and Vendor Disqualification. Contractors are advised that, in accordance with Vendor Performance Management and Vendor Disqualification Policy, the Contractor's performance will be subject to ongoing performance review.

For full details, the Contractor is encouraged to read the full text of the Policy which is available from Materiel Management, Ground Floor (next to the parking elevators), 300 City Centre Drive, Mississauga and is accessible on the City's website at:

www.mississauga.ca/portal/business/tendersandbids