

August 7, 2014

To Whom It May Concern

Further to the commitment made by Minister McGrath on June 12, 2014, to make public the materials referenced in the KPMG analysis, I herewith provide the following information:

- Page 1- 68 Tender Book submission by Humber Valley Paving for Project No. 55-13 THP
- Page 69-71 Agreement between Owner and Contractor for Project No. 55-13 THP
- Page 72 Humber Valley Paving Performance Bond
- Page 73-74 Humber Valley Paving Labour and Materials Bond
- Page 75-80 Department of Transportation and Works Decision Note dated June 1, 2014 regarding Assignment of Project 55-13
- Page 81-88 Department of Transportation and Works Contractor Evaluation Reports and related correspondence in relation to Marine Contractors Inc.
- Page 89-94 Assignment Agreement between Happy Valley Paving, Marine Contractors Inc. and the Province of Newfoundland and Labrador

Sincerely,



**BRENT MEADE**  
Deputy Minister

## ADDENDUM NO. 1

Project No. 55-13 THP: **Rehabilitation of the TCH from 0.9 kms west of South Brook Bridge to the Interchange at R490 for approx. 11.5 km, Realignment of the TCH at St. Georges Intersection, R461, and paving various locations on the Port aux Port Peninsula.**

Closing Date: Noon, August 8, 2013

CONTRACTORS ARE ADVISED OF THE FOLLOWING CHANGES TO THE TENDER PACKAGE:

1. **Revise the Closing Date for the Tender to: Noon, August 20, 2013**

Contractors are advised to acknowledge receipt of this Addendum on page 4, Item No. 10 of the Tender Form, when submitting a bid.

August 6, 2013

## **ADDENDUM NO. 2**

Project No. 55-13 THP: **Rehabilitation of the TCH from 0.9 kms west of South Brook Bridge to the Interchange at R490 for approx. 11.5 km, Realignment of the TCH at St. Georges Intersection, R461, and paving various locations on the Port aux Port Peninsula.**

Closing Date: Noon, August 20, 2013

CONTRACTORS ARE ADVISED OF THE FOLLOWING CHANGES TO THE TENDER PACKAGE:

1. Due to a delay in printing Contract Documents revise the Closing Date for the Tender to: **Noon, August 29, 2013**
2. Revise the Estimated Quantity for Tender Item 16(f) Asphaltic Patching (2 Lifts of 50 mm): **From: 3723 m<sup>2</sup> To: 4047m<sup>2</sup>**
3. Revise the Estimated Quantity for Tender Item 16(g) Asphaltic Patching (One 50 mm lift): **From: 724 m<sup>2</sup> To 400 m<sup>2</sup>**

Replace Page 3-3 of the Unit Price Table with the page attached to this addendum to make this correction.

4. Revise the Distribution of Quantities by moving the Asphaltic Patching Quantity of 324 m<sup>2</sup> from Part "B" Pave Patch at South Branch TCH from the One 50 mm Lift Item 16(g) to the Two Lifts of 50 mm Item 16(f).

Contractors are advised to acknowledge receipt of this Addendum on page 4, Item No. 10 of the Tender Form, when submitting a bid.

**August 14, 2013**

UNIT PRICE TABLE  
HIGHWAYS

NO.	TENDER ITEM	Unit	Estimated Quantity	Unit Price	Amount	
<b>CARRIED FORWARD \$</b>						
16(d)	Liquid Asphalt	t	2750			
16(e)	Blending Sand	t	6550			
16(f)	Asphaltic Patching (2 lifts of 50 mm)	m2	4047			
16(g)	Asphaltic Patching (One 50 mm lift)	m2	400			
<b>17 Supply and Installation of Guide Rail</b>						
17(a)	Standard Type Guide Rail	m	2426			
17(b)	Standard Type Buried Ends	each	24			
<b>18 Removal of Guide Rail</b>						
18		m	2435			
<b>19 Supply &amp; Install Wooden Guide Posts</b>						
19		each	8			
<b>20 Supply &amp; Installation of Sign Posts</b>						
20(a)	Type "A"	each	32			
20(b)	Type "B"	each	13			
20(c)	Type "C"	each	2			

3-3 CARRIED FORWARD \$ \_\_\_\_\_



## TABLE OF CONTENTS

Part	Description
1	Project Title and Contents
2	Tender Amendment Form
3	Notice to Bidders
4	Tender Form
5	Distribution of Quantities Form
6	Declaration of Equipment Form
7	Declaration of Sub-Contractors Form
8	Construction Schedule Form
9	Supplementary General Conditions
10	Instructions to Bidders
11	General Conditions
12	Form of Agreement

### LIST OF PROJECT PLANS

Part "A" Location plan

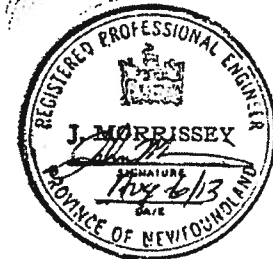
Part "F"

Cover Sheet

TCH Plan & Profile 0+000 to 0+700

TCH Plan & Profile 0+000 to 0+700

Route 461 Plan & Profile 0+000 to 0+700





Transportation and Works

**TENDER AMENDMENT FORM**  
**CLOSING DATE NOON August 8, 2013**

Rehabilitation of the TCH from 0.9 kms west of South Brook Bridge to the Interchange at R490 for approx. 11.5 km, Realignment of the TCH at St. Georges Intersection, R461, and paving various locations on the Port aux Port Peninsula.

We the undersigned, modify the unit price table for our request for tenders as indicated below, and also acknowledge that:

- a. This change supersedes all previous changes;
- b. We accept full responsibility for any lack of confidentiality arising from the use of this process;
- c. Failure of the complete revision to arrive on time, accurately, or completely, for any reason, will render these revisions null and void.

UNIT PRICE CHANGES							
ITEM No	TENDER ITEM DESCRIPTION	PART	ESTIMATED QUANTITY	+ / -	* UNIT PRICE CHANGE	*TENDER AMOUNT CHANGE LESS H.S.T.	
FOR DEPARTMENT USE			Total Change \$				
			+ 13% H.S.T.				
			This will increase / decrease my total tender price (including H.S.T.) by \$				
Revised total tender price as per addendum(s)							

We acknowledge receipt of the following addenda: \_\_\_\_\_

Contractor		
Address		
Signature	Title	Date

\* SHOW UNIT PRICE DIFFERENCES AND EXTENDED AMOUNT CHANGES. DO NOT SHOW REVISED UNIT PRICES OR REVISED EXTENDED AMOUNT. THE CHANGES SHOWN WILL BE MADE TO THE ORIGINAL SUBMITTED TENDER DURING THE TENDER EVALUATION PROCESS.



## NOTICE TO BIDDERS

1. THE CLOSING TIME AND DATE OF THIS REQUEST FOR TENDERS IS **NOON** of the day indicated on the cover of this document or as amended by the Deputy Minister.
2. Bidders are advised the Department's FAX NUMBER at Tendering and Contracts is 709-729-6729.
3. **Bidders who are requested to submit the following forms must do so within 72 hours of the time of their notification.**
  - (a) The Declaration of Equipment Form
  - (b) The Declaration of Sub-Contractor Form
  - (c) The Construction Schedule Form
4. Schedule of Minimum Wage Rates applying to this Tender shall be the latest version approved by the Government of Newfoundland and Labrador.
5. (a) Bidders are advised the latest version of the Specifications Book dated January 2008 shall apply to this Tender. The latest version of the Specifications Book is available on the Department of Transportation & Works website at [www.tw.gov.nl.ca/publications](http://www.tw.gov.nl.ca/publications).  
  
(b) The Specifications Book may be inspected at Tendering and Contracts, Dept. of Transportation & Works, Ground Floor-West Wing, Confederation Building, East Block, St. John's, NL.  
  
(c) Any amendments and additions to the Specifications Book can be viewed at [www.tw.gov.nl.ca/publications](http://www.tw.gov.nl.ca/publications).  
  
(d) Bidders are advised any reference to specifications in these documents includes the Department's "Specifications Book".
6. Bidders are advised the "Use of Bid Depository" Item 9 of the Instructions to Bidders does not apply to this contract. "Bidding Security" Item 3(a) of Instructions to Bidders does apply.
7. **Bidders are advised when making a bid the COMPLETE REQUEST FOR TENDER FORM for the project being tendered MUST BE RETURNED INTACT. An altered Request for Tender Form originally issued for another project will not be accepted as a bid.**

# Facsimile Transmittal

**Name:** To Whom It May Concern  
**Organization:** Tendering and Contracts  
**Fax Number:** x (709) 729-6729  
**Telephone Number:** (709) 729-3786  
**From the Desk of:** Darrin O'Quinn, Controller '13 AUG 29 11:46 AM  
**Date:** August 29, 2013  
**Subject:** Tender Addendum - Project No. 55--13 THP  
**Pages:** 2, including this cover sheet

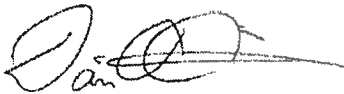
**Comments:**

Could you please include the attached Tender Addendum with the Tender Documents for Humber Valley Paving Ltd. for Project No. 55-13 THP closing today, August 29, 2013 at 12:00 noon.

Thank you for your consideration in this matter.

Yours truly,

Humber Valley Paving Ltd.



Darrin O'Quinn  
Controller





Transportation and Works

**TENDER AMENDMENT FORM  
UNIT PRICE CHANGES**

**CLOSING DATE: 12:00 NOON AUGUST 29, 2013**

Rehabilitation of the TCH from 0.9 kms west of South Brook Bridge to the Interchange at R490 for approx 11.5 km, Realignment of the TCH at St. George's Intersection, R461, and paving various locations on the Port aux Port Peninsula

**Section 27(1)(b), Section 27(1)(c)(i), Section 27(1)(c)(iii)**

We the undersigned, modify the unit price table for our request for tenders as indicated below, and also acknowledge that:

- a. This change supercedes all previous changes;
- b. We accept full responsibility for any lack of confidentiality arising from this use of this process;
- c. Failure of the complete revision to arrive on time, accurately, or completely for any reason will render these revisions null and void

UNIT PRICE CHANGES						
ITEM NO.	TENDER ITEM DESCRIPTION	PART	ESTIMATED QUANTITY	+/-	Unit Price Change	*TENDER AMOUNT CHANGE LESS H.S.T.
23	Mobilization & Demobilization	lump sum	bid this item	-		\$
FOR DEPARTMENT USE			Total Change			
s 8,819,535.35			+ 13% H. S. T			
Revised total tender price as per addendum(s)			This will decrease my total tender price (including H.S.T.) by			

We acknowledge receipt of the following addenda: 1,2, \_\_\_\_\_

<b>Contractor:</b> HUMBER VALLEY PAVING LTD.		
<b>Address:</b> P. O. BOX 1162, CORNER BROOK, NL A2H 6T2		
<b>Signature:</b>	<b>Title:</b> CORPORATE CONTROLLER	<b>Date:</b> August 29/13

\*SHOW UNIT PRICE DIFFERENCES AND EXTENDED AMOUNT CHANGES. DO NOT SHOW REVISED UNIT PRICES OR REVISED EXTENDED AMOUNT. THE CHANGES SHOWN WILL BE MADE TO THE ORIGINAL SUBMITTED TENDER DURING THE PROPOSAL EVALUATION PROCESS.

  
 Newfoundland  
 Labrador  
 Transportation and Works  
**TENDER FORM**  
**UNIT PRICE TABLE**  
**HIGHWAY**

Tender for:

Rehabilitation of the TCH from 0.9 kms west of South Brook Bridge to the Interchange at R490 for approx. 11.5 km, Realignment of the TCH at St. Georges Intersection, R461, and paving various locations on the Port aux Port Peninsula.

To: Deputy Minister  
 c/o Tendering and Contracts  
 Dept. of Transportation & Works  
 Ground Floor-West Wing, Confederation Building, East Block  
 P.O. Box 8700, St. John's, NL A1B 4J6

FROM:

Gentlemen:

1. Having carefully examined the site of the proposed work and all conditions affecting such, as well as the Contract Documents including the Specifications, all drawings list in the Specifications, all Addenda, and the Instructions to Bidders for this project.

WE, THE UNDERSIGNED, hereby offer to furnish all necessary labour materials, superintendence, plant, tools, and equipment, and everything else required to perform expeditiously and complete in a satisfactory manner the work for unit prices totalling the sum of *Eight Million Eight Hundred Nineteen*

*Thousand Five Hundred Ninety Five Dollars Thirty Five Cents* (\$ ~~8,817,845.35~~ *8,819,595.35*)

*Jpm* in lawful money of Canada which includes all prime costs, allowances, and Government sales or excise taxes, including HST, in force at this date, except as otherwise provided in the tender documents.

2. The Work shall be substantially performed within 3 months from the date of notification of award of Contract and not later than the 31st of October 2013.
3. WE ENCLOSE HEREWITH if required by the Instructions to Bidders
  - (a) a Bid Bond in an acceptable form and correct amount issued by a company licensed to carry on such a business in the Province of Newfoundland and Labrador or



Transportation and Works

- (b) a certified cheque in the correct amount.

In the event of this tender being accepted within the time stated in Section 4 below and our failure to enter into a contract in the form hereinafter mentioned for the unit prices in our tender the said security may at the option of the Owner be forfeited. The forfeiting of the security does not limit the right of action to the Owner against us for our failure or refusal to enter into a contract.

4. IF NOTIFIED IN WRITING BY THE OWNER OF THE ACCEPTANCE OF THIS TENDER WITHIN 30 DAYS OF THE REQUEST FOR TENDER CLOSING DATE SUBJECT TO SUCH OTHER PERIOD AS MAY BE SPECIFIED IN THE TENDER DOCUMENTS, WE WILL :
- (a) execute the Standard Form of Construction Contract.
  - (b) if specified, furnish the security for the proper completion of the work, the said security, if in the form of bonds, to be issued on an acceptable form.
  - (c) complete substantially all the work included in the Contract within the time and under the conditions specified.
5. WE understand that Performance Bond, Labour and Materials Bond and Insurance as required by the Contract Documents must be provided and in force prior to the commencement of any work and satisfactory proof of such be provided to the Owner.
6. WE declare that the rates and prices variously set forth in the Schedule of Quantities and Prices (Appendix A) have been correctly computed for the purposes of this Tender and that they include and cover all contingencies and provisional sums and all duties, taxes, and handling charges and all transportation and all other charges.
7. WE confirm that the sums herein tendered include all sales taxes, royalties, custom duties, foreign exchange charges, transportation, travelling costs, all overhead and profit, all co-ordination fees, insurance premiums, and all other charges.
8. WE understand and agree to list the names of sub-contractors and suppliers whose bids have been used in the preparation of this tender price in Appendix "B". The list will be subject to the approval of the Owner. "By own forces" will be considered valid and satisfactory only if the bidder is recognized by the Newfoundland and Labrador Construction Association or by the Road Builders Association as being a "bona fide" contractor or supplier of that particular trade or item.
- WE agree to authorize the Owner to release the names of any sub-contractor used in our tender where such information is requested from the Owner.
- WE reserve to us the right to substitute other sub-contractors for any trades in the event of any sub-contractor becoming bankrupt after the date hereof. Any such substitution shall be subject to the approval of the Owner and contingent upon satisfactory evidence of bankruptcy.
9. WE understand and agree that the Owner may order changes to the work in the form of additions or deletions in accordance with the General Conditions, Supplementary General Conditions and the intent of the Contract Documents.

UNIT PRICE TABLE  
HIGHWAYS

NO.	TENDER ITEM	Unit	Estimated Quantity	Unit Price	Amount
<b>CARRIED FORWARD \$</b>					
2	Clearing	ha	1		
3	Grubbing	ha	2.5		
<b>4 Excavation Hauled 1km or under</b>					
4(e)	Other Material	m3	6680		
4(j)	Muskeg or Bog	m3	200		
<b>6 Excavation for Foundation</b>					
6(b)	Other Material	m3	23767		
<b>7 Supply and Installation of Pipe Culverts Aluminized Type 2 (See SGC #15)</b>					
7(b)	600 mm Diameter	m	491		
7(d)	1000 mm Diameter	m	369		
7(e)	1200 mm Diameter	m	12		
7(f)	1600 mm Diameter	m	170		

UNIT PRICE TABLE  
HIGHWAYS

NO.	TENDER ITEM	Unit	Estimated Quantity	Unit Price	Amount
<b>CARRIED FORWARD \$</b>					627,050.40
<b>9 Rip Rap Treatment</b>					
9(a)	Hand Laid with Sod	m3	12		
<b>11 Scarifying and Reshaping</b>					
		m2	19474		
<b>12 Selected Granular Base Course</b>					
12(a)	Granular "A"	t	12112		
12(b)	Granular "B"	t	18392		
<b>13 Cutting Asphaltic Pavement</b>					
		m	973		
<b>14 Disposal of Old Asphaltic Pavement</b>					
		m3	718		
<b>15 Tack Coat</b>					
		m2	231502		
<b>16 Hot Mix Asphaltic Concrete (See SGC #s 16,17,18, 23, 24, 25, 26)</b>					
16(a)	Asphaltic Base Course	t	3440		
16(b)	Asphaltic Surface Course	t	31802		
16(c)	Asphaltic Levelling Course	t	8344		

3-2 CARRIED FORWARD \$ 4,009,355.54

UNIT PRICE TABLE  
HIGHWAYS

NO.	TENDER ITEM	Unit	Estimated Quantity	Unit Price	Amount
<b>CARRIED FORWARD</b>					\$ 4,009,355.54
16(d)	Liquid Asphalt	t	2750		
16(e)	Blending Sand	t	6550		
16(f)	Asphaltic Patching (2 lifts of 50 mm)	m2	4047		
16(g)	Asphaltic Patching (One 50 mm lift)	m2	400		
<b>17</b>	<b>Supply and Installation of Guide Rail</b>				
17(a)	Standard Type Guide Rail	m	2426		
17(b)	Standard Type Buried Ends	each	24		
<b>18</b>	<b>Removal of Guide Rail</b>				
		m	2435		
<b>19</b>	<b>Supply &amp; Install Wooden Guide Posts</b>				
		each	8		
<b>20</b>	<b>Supply &amp; Installation of Sign Posts</b>				
20(a)	Type "A"	each	32		
20(b)	Type "B"	each	13		
20(c)	Type "C"	each	2		

UNIT PRICE TABLE  
HIGHWAYS

NO.	TENDER ITEM	Unit	Estimated Quantity	Unit Price	Amount
<b>CARRIED FORWARD</b>					<b>\$ 6,717,070.85</b>
20(d)	Type "D"	each	4		
20(e)	Type "E"	each	3		
21	Contingency				
22	Flagperson Hours	hrs	7253		
23	Mobilization & Demobilization	Lump Sum		Bid This Item	
24	Supply & Install Silt Fence	m	165		
25	Install Check Dam Sediment Traps	each	8		
26	Backhoe Hours	hrs	481		
27	<b>Supply and Installation of Pipe for Storm Sewer &amp; Subdrain Aluminized Type 2</b>				
27(b)	600 mm Diameter	m	28		
28	<b>Disposal of Pipes &amp; Culverts</b>				
28(a)	All Sizes	m	786		
32	Asphalt Gutter	m2	40		

*Handwritten signature*

UNIT PRICE TABLE  
HIGHWAYS

NO.	TENDER ITEM	Unit	Estimated Quantity	Unit Price	Amount
<b>CARRIED FORWARD</b>					<del>\$ 2,300,481.43</del>
34	Pulverize Existing Asphalt	m2	5970		
35	Cold Planing Asphalt (See SGC # 19)	m2	106620		
47	Supply Fill in Place				
47(a)	Supply Other Material in Place	t	39419		
47(d)	Supply Rock Fill in Place	m3	1320		
60	Salvage Signs & Signposts				
60(a)	Type A and Type B	each	38		
100	Fabricate, Supply & install Galv. Rigid Gate (See SGC # 28)	ea	2		
101	Fabricate, Supply & Install Sign Crib (See SGC 20)	ea	1		
102	Remove & Dispose Wooden Guide Post	ea	6		
105	Remove & Reinstall Type A Sign & Sign Post	ea	1		
121	Supply and Installation of Pipe Culverts HDPE (See SGC # 15)				
121(a)	300mm Dual Wall Corrugated 320KPa HDPE	m	111		



Section 27(1)(b), Section 27(1)(c)(i), Section 27(1)(c)(iii)

PROJECT NO. 55-13 THP

UNIT PRICE TABLE  
HIGHWAYS

NO.	TENDER ITEM	Unit	Estimated Quantity	Unit Price	Amount
<b>CARRIED FORWARD</b>					<del>\$ 7,808,575.05</del>
121(b)	400mm Dual Wall Corrugated 320KPa HDPE	m	38		
121(c)	500mm Dual Wall Corrugated 320KPa HDPE	m	77		
121(d)	600mm Dual Wall Corrugated 320KPa HDPE	m	31		

Total Estimated Tender

HST 13% of above

Total Estimated Tender Including  
HST Carried Forward to Page 1 of  
Tender Form

<del>\$7,808,575.05</del>	
7,808,951.64	
1,017,643.71	71
<del>\$1,017,893.71</del>	
8,819,595.35	35
<del>\$8,817,845.35</del>	



10. WE hereby acknowledge receipt of the following addenda:

Addendum No. 1, 2

Addendum No.

11. In order for a Tender to be valid, it must be signed by duly authorized officials as indicated in the Instructions to Bidders.

Firm Name Humber Valley Paving Ltd.

Address P.O Box 1162, Corner Brook, NL		Postal Code A2H 6T2
Telephone # 709-639-5252	Fax# 709-639-1501	E-Mail gcoleman@colemans.ca

\_\_\_\_\_  
 Witness

Section 30(1)

\_\_\_\_\_  
 Witness

\_\_\_\_\_  
 Signed

Darrin O'Quinn Corporate  
 Name and Title (Print) Controller

Aug 28th 2013  
 \_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signed

\_\_\_\_\_  
 Name and Title (Print)

\_\_\_\_\_  
 Date

CORPORATE SEAL



Transportation and Works

**DECLARATION OF EQUIPMENT**

In the event of being awarded the contract, the undersigned will make available for the work, the plant and the equipment listed below.

QTY	DESCRIPTION	CAPACITY	AGE	PRESENT LOCATION	OWNERS NAME
1	Astec Portable Drum Mix	400 tph	2006	Badger, NL	Humber Valley Aggregates
1	Caterpillar Paver	AP1055D	2006	Corner Brook, NL	Humber Valley Paving Ltd.
1	Dynapac Asphalt Roller	CA251A	1997	Corner Brook, NL	Humber Valley Paving Ltd.
1	I/R Propac Asphalt Roller	SD100DA	2001	Corner Brook, NL	Humber Valley Paving Ltd.
1	Caterpillar Grader	140H	2006	Corner Brook, NL	Humber Valley Paving Ltd.
1	Caterpillar Pneumatic Roller	PS150C	2006	Corner Brook, NL	Humber Valley Paving Ltd.
1	Caterpillar Loader	980G	2001	Corner Brook, NL	Humber Valley Aggregates
1	Caterpillar Loader	966H	2006	Corner Brook, NL	Humber Valley Aggregates
1	John Deere Loader	844J	2008	Corner Brook, NL	Humber Valley Aggregates
1	Cat Pulverizer/Milling Machine	PM-201	2006	Corner Brook, NL	Humber Valley Paving Ltd.
1	Ingersoll Rand Grade Roller	SD115D	1998	Corner Brook, NL	Humber Valley Paving Ltd.
1	Svedala Jaw Crusher	1206	1999	Corner Brook, NL	Humber Valley Aggregates
1	MFE Feeder Screener		2006	Corner Brook, NL	Humber Valley Aggregates
1	MFE Sandvik Cone Crusher	H4800	2006	Corner Brook, NL	Humber Valley Aggregates
1	RoadTec Shuttle Buggy	2500	2006	Corner Brook, NL	Humber Valley Paving Ltd.
<b>CONTRACTOR: Humber Valley Paving Ltd.</b>					
<b>ADDRESS: P. O. Box 1162, Corner Brook, NL A2H 6T2</b>					
<b>DATE: Sept 3rd, 2013</b>					



Transportation and Works  
**DECLARATION OF SUB CONTRACTORS**  
**APPENDIX 'B'**

The Tenderer also agrees that the following is a complete list of Sub-Contractors that will be required in the performance of the work and that no addition, deletion, or changes to this list will be permitted after the list is submitted.

State **OWN FORCES** if a Sub-Contractor is not required for any of the trades listed. If additional trades are required, insert in blank spaces.

SUB-CONTRACTOR	ADDRESS	TRADE
Humber Valley Paving Ltd.	Corner Brook, NL	
	OWN FORCES	CRUSHING
	OWN FORCES	SUBGRADE
	OWN FORCES	PAVING
		STRUCTURE
Mike Kelly and Sons Ltd.	Howley, NL	Installation of Pipe Culverts and Guide Rail
<b>CONTRACTOR: Humber Valley Paving Ltd.</b>		
<b>ADDRESS: P. O. Box 1162, Corner Brook, NL A2H 6T2</b>		
<b>DATE: Sept 3rd 2013</b>		



Transportation and Works

**CONSTRUCTION SCHEDULE FORM  
APPENDIX "C"**

2013

Item	Description	July				August				September				October				
		Week	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
2	Clearing									x	x							
4	Excavation for Foundation									x	x	x	x					
7	Supply and Installation of Pipe Culverts									x	x	x	x	x				
12	Selected Granular Base Course									x	x	x	x	x	x			
15	Tack Coat												x	x	x			
16	Hot Mix Asphaltic Concrete												x	x	x			
17	Installation of Guide Rail											x	x	x	x	x		
18	Removal of Guide Rail											x	x					
23	Mobilization and Demobilization									x					x	x		
26	Backhoe Hours									x	x	x						
34	Pulverize Existing Asphalt											x	x	x				
35	Cold Planing									x	x							
47	Supply Fill in Place											x	x	x				

Project Name: **PROJECT NO. 55-13 THP**

Contractor: **Humber Valley Paving Ltd.**

Address: **P. O. Box 1162, Corner Brook, NL A2H 6T2**

Signature:

TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS**1. GC17 INDEMNIFICATION**

- (a) Except as provided in (b) the Contractor shall be liable for, and shall indemnify and hold harmless the Owner against all claims, demands, losses, costs, damages, actions, suits or proceedings, whatsoever arising under any statute or Common Law:
- (i) in respect of personal injury to or the death of any person whomsoever arising out of or in the course of or caused by the carrying out of the work; and
  - (ii) in respect of any injury or damage whatsoever to any property, real or personal or any chattel real, insofar as such injury or damage arises out of or in the course of or by reason of the carrying out of the work.
- (b) The Contractor shall not be liable under (a) if the injury, death, loss or damage is due to any act or neglect of the Owner.

**2. INSURANCE**

Contractors are advised that General Conditions #26 LIABILITY INSURANCE and #27 PROPERTY INSURANCE are revised as follows:

**GC 26 LIABILITY INSURANCE****26.1 Commercial General Liability Insurance**

- (a) Without restricting the generality of GC 17 - Indemnification, the Contractor shall provide and maintain, either by way of a separate policy or by an endorsement to his existing policy, Commercial Liability Insurance acceptable to the Owner and subject to limits set out in detail in the Supplementary General Conditions inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof.
- (b) This insurance shall include as an additional insured Her Majesty the Queen in the Right of Newfoundland. The Contractor shall not commence any work until he obtains, at his expense, all required insurances as specified in the General Conditions and the Supplementary General Conditions. Such insurance must have the approval of the Engineer and be to the limits, form and amounts specified. The Contractor will not permit any Subcontractor to commence work on this Project until the same insurance requirements have been compiled with by the Subcontractor.
- (c) The insurance shall also include as Unnamed Insureds the architectural and engineering consultants of the Owner with respect to work performed by the Contractor, but excluding professional liabilities associated with such architectural and engineering consultants.
- (d) The Commercial General Liability Insurance will not be limited to, but shall include coverage for:

TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

- |   |  |
|---|--|
| 1. premises and operations liability          | 8. personal injury liability   |
| 2. products or completed operations liability | 9. liability with respect to non-owned licensed vehicles   |
| 3. blanket contractual liability              | 10. shoring, blasting, excavating, underpinning, demolition, pile driving and caisson work, work below ground surface, tunnelling and grading, as applicable only. |
| 4. broad form property damage                 |  |
| 5. cross liability                            |  |
| 6. elevator and hoist liability               |  |
| 7. contingent employer's liability            |  |

26.2 Automobile Liability Insurance

The Contractor shall provide and maintain liability insurance in respect of:

- (i) owned licensed vehicles and
- (ii) leased vehicles, subject to limits set out in the Supplementary General Conditions inclusive.

26.3 Aircraft and Water craft Liability Insurance

The Contractor shall provide and maintain liability insurance with respect to owned and non-owned aircraft and Water craft, as may be applicable, subject to limits set out in the Supplementary General Conditions inclusive. Such insurance shall be in the names of the Contractor, Her Majesty the Queen in the right of Newfoundland, the Owner and the Architect/Engineer as defined in 26.1(b) and (c) where they have an insurable interest in the use and operation of such aircraft and watercraft.

26.4 Completed operations shall be maintained continuously until twelve (12) months after the date the Architect/Engineer issues a Certificate of Substantial Completion.

26.5 All insurance policies shall contain an endorsement requiring notification of Her Majesty and the Named Insured, in writing, thirty (30) days prior to cancellation of any policy or material change except in the event of non-payment where policy conditions dealing with termination will apply.

**GC 27 PROPERTY INSURANCE**

27.1 The Contractor shall provide and maintain property insurance, acceptable to Her Majesty the Queen in the right of Newfoundland, insuring the full value of the work in the amount of the contract price and the full value as stated of products for incorporation into the work. The insurance shall include as additional insured Her Majesty the Queen in Right of Newfoundland.

27.2 Such coverage shall be provided for by either Broad Form Builders' Risks Policy or an Installation Floater or Piers, Wharves, and Docks Rider.

27.3 The policies shall insure on a Broad Form basis direct loss or damage subject to any exclusions specified in the Supplementary General Condition. Such coverage shall apply to:

- (a) others for which the Insureds may have assumed responsibility, to be used in or

TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

pertaining to the site preparations, demolitions of existing structures, erections and/or fabrication and/or reconstruction and/or repair of the insured project, while on the site or in transit, subject to the exclusion of the property specified.

(b) the installation, testing and any subsequent use of machinery and equipment including boilers, pressure vessels or vessels under vacuum.

(c) damage to the Work caused by an accident to and/or the explosion of any boiler(s) or pressure vessel(s) forming part of the work. Such coverage shall exclude construction machinery, equipment, temporary structural and other temporary facilities, tools, and supplies used in the construction of the work and which are not expendable under the Contract.

27.4 Policies provided shall contain an endorsement requiring notification of Her Majesty and the Named Insured, in writing, thirty (30) days prior to cancellation of any policy or material change of coverage except in the event of non-payment where policy conditions dealing with termination will apply.

27.5 All such insurance shall be maintained continuously until the date the Architect/Engineer issues a Certificate of Substantial Completion. All such insurance shall provide for the Owner to take occupancy of the work or any part thereof during the term of the insurance. Any increase in the cost of this insurance arising out of such occupancy shall be at the Owner's expense.

27.6 The policies shall provide that in the event of a loss, payment for damage to the Work shall be made to the Owner and the Contractor as their respective interests may appear. The Contractor shall act on behalf of the Owner and himself for the purpose of adjusting the amount of such loss with the Insurers. On the determination of the extent of the loss, the Contractor shall immediately proceed to restore the Work and shall be entitled to receive from the Owner (in addition to any sum due under the Contract) the amount at which the Owner's interest in the restoration work has been appraised, such amount to be paid as the work of restoration proceeds and in accordance with the Engineer/Architect's certificates for payment. 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 time for Substantial and Total Performance of the work as the Engineer/Architect may decide.

27.7 The Contractor shall be responsible for any deductible amounts under the policies and for providing such additional insurance as may be required to protect the insureds against loss on items excluded from the policies. Contractors are also advised that tender documents contain a certificate of insurance indicating type and limit of liability of insurance required for this project. The successful bidder will be required prior to commencement of work, to have the Certificate of Insurance completed by his insurance company and delivered to the Department of Transportation and Works no later than 30 days after the award of the contract.



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

## CERTIFICATE OF INSURANCE

<b>DESCRIPTION &amp; LOCATION OF WORK:</b>				
<b>PROJECT NO:</b>		<b>AWARD DATE:</b>		<b>VALUE \$ :</b>
<b>INSURER:</b>				
<b>ADDRESS:</b>				
<b>BROKER:</b>				
<b>ADDRESS:</b>				
<b>INSURED NAME OF CONTRACTOR:</b>				
<b>ADDRESS:</b>				
<b>ADDITIONAL INSURED (Excluding Automobile Liability Policy)</b>				
The OWNER: The Occupant/Operator of the Property: Project Consultants of the OWNER (excluding professional liabilities)				
This document certifies that the following policies of insurance and indicated coverage are at present in force subject to the terms, conditions and exclusions as contained therein covering the operations of the insured in connection with the above noted contract made between the named insured and the Owner.				
POLICY TYPE	NUMBER	INCEPTION DATE	EXPIRY DATE Y/M/D	LIMITS OF LIABILITY
1.1 COMMERCIAL GENERAL LIABILITY or 1.2 WRAP-UP LIABILITY (including where indicated)  A. BLASTING B. PILE DRIVING OR CAISSON WORK C. REMOVAL OR WEAKENING OF SUPPORT				\$2,000,000 Minimum
2A. BUILDERS' RISK "BROAD FORM" or 2B. INSTALLATION FLOATER "BROAD FORM" or 2C. PIERS, WHARVES, & DOCKS RIDER				100% Contract Value if Exceeds \$25,000
3. AUTOMOBILE LIABILITY INSURANCE				\$2,000,000 Minimum
4. AIRCRAFT and/or WATER CRAFT LIABILITY INSURANCE	Not required			
5. ENVIRONMENTAL IMPAIRMENT LIABILITY	Not required			
6. SHIPBUILDER'S or SHIP REPAIRER'S LIABILITY INSURANCE	Not required			
7. HULL & MACHINERY INSURANCE, and PROTECTION & INDEMNITY Insurance including 4/4 <sup>th</sup> COLLISION LIABILITY	Not required			
The Insurer agrees to notify the Owner, as defined above, in writing, thirty (30) days prior to cancellation, termination or material change of any policy.				
<b>NAME OF INSURER'S OFFICER or AUTHORIZED REPRESENTATIVE :</b>	<b>SIGNATURE:</b>		<b>Date:</b>	
			<b>Tele.:</b>	
			<b>Email:</b>	
Issuance of this certificate shall not limit or restrict the right of the Owner to request at any time duplicate certified copies of said insurance policies.				



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

3. **TENDER SURETY AND BONDING**

(a) **Bidding Security**

Please delete the sentence

"No bidding security will be required for a tendered amount of less than \$25,000.00, unless specifically called for elsewhere in the tender documents"

*and replace with:*

"All tenders, regardless of monetary value, require a Bid Security of at least ten percent (10%) of the total tendered amount, with a minimum security of five hundred dollars (\$500.00)." Bid Securities shall be in the form of a Bid Bond or Certified Cheque in favour of the Department of Transportation and Works."

*Add the Following:*

For tenders less than \$25,000.00, the terms of the Bid Security will be invoked and the amount retained by the Owner, if the Bidder fails to provide the required insurances and commence work within 30 days of being notified of the award of the work within the tender validity period.

The Tender Security of the unsuccessful bidders numbers two & three will be returned to them upon the award of the contract, Tender Securities of bidders higher than three will be returned after the tender opening. The Tender Security of the successful bidder will be retained until the first progress payment.

Bidders are reminded that the failure to submit a bid security in accordance with this requirement will result in rejection of bid submitted.

The Instructions to Bidders may provide for the acceptance, up to the Tender Closing, of amendments documented by telegram, fax, telex or the like. Where a form of Bidding Security other than a Bid Bond is provided with the original tender, an increase in the bid price will render that Bidding Security inadequate. Bidding Security adequate to cover the increased bid price must be provided to the Department prior to tender closing.

For example, if the original bid was submitted at \$100 000.00 with a Bid Security of \$10 000.00 (\$100 000.00 x 10%), and an increase in the bid of \$2 000.00 is submitted by telegram, fax, telex, or the like, then additional Bid Security of \$200.00 (\$2 000.00 x 10%) must be delivered to the Department prior to tender closing.

Failure to provide additional Bid Security prior to tender closing to cover increases to the original bid will make the bid subject to disqualification.

TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

(b) **Performance Bond**

Bidders are advised that the 50% Performance Bond referenced in 3(b) of the Instructions to Bidders will be based on the Contract Price which will either be the subtotal of Tender Prices or the Total Estimated Tender, not including the Harmonized Sales Tax.

(c) **Labour and Materials Bond**

Bidders are advised that the 50% Labour and Materials Bond referenced in 3 (c) of the Instructions to Bidders will be based on the Contract Price which will either be the subtotal of Tender Prices or the Total Estimated Tender, not including the Harmonized Sales Tax.

THE OWNER RESERVES THE RIGHT TO WAIVE THESE REQUIREMENTS IN PART OR IN WHOLE FOR ANY PROJECT, BY FURTHER SUPPLEMENTARY INSTRUCTIONS TO BIDDERS.

4. **ISSUANCE OF ADDENDUM**

Reference is made to Section 2. (c) Tender Documents in the Instructions to Bidders, regarding the time frame permitted for the issuance of addendum prior to the tender closing date. Change seven (7) days to read five (5) days. Reference is also made to Section 8 Substitution of Materials in the Instructions to Bidders. Change seven (7) days to read five (5) days in the last paragraph of this section.

5. **PROVINCIAL PREFERENCE POLICY**

Effective June 5, 1998 the Provincial Preference Act has been repealed. Please delete GC 46 - Provincial Preference Policy, Instructions to Bidders - Section 11 Provincial Preference Policy, or Notice to Bidders - Section 9, and any other references to Provincial Preference contained in the specifications.

6. **SCOPE OF WORK**

Contractors are advised the PROJECT shall include, but will not be limited to, the scope as outlined in the following summary.

- A) Rehabilitation of the TCH from 0.9kms west of South Brook Bridge to the Interchange at R490 for approximately 11.5 kms.
- B) Pave culvert patch on the TCH near South Branch.
- C) Cold Plane and Re-pave South West Brook Bridge approaches, TCH.
- D) Asphalt Leveling Patches between Crabbes River Bridge and North Branch.



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

- E) Paving various locations on the Port aux Port Peninsula.
- Paving 3.5kms in Three Rock Cove, R463.
  - Replace 1200mm Culvert in Ship Cove, approx. 3.3kms from Intersection R460 with R463.
  - Asphalt leveling patch in Piccadilly, R 463.
  - Pave various gravel roads in Ship Cove and West Bay.
  - Cold Plane and re-pave Gaudons Brook Bridge approaches, R460
- F) Realignment of the TCH at St. Georges Intersection, R461 including access construction to Regional Land Fill Transfer Facility. Contractors are advised this work will be paid from Department of Municipal Affairs funding.
- G) Construction of accelerator lane at Edna's Road Access on the TCH.
- H) Pave washout area located approximately 60.5 kms from Intersection of R480, Burgeo Road (approx. 45m) along with milling and paving Lloyd's River Bridge (site 4-109) approaches.
- I) Paving various sections in Port aux Basques.
- Marine Atlantic Over Pass
  - Marine Atlantic off ramp to Port aux Basques
  - Grand Bay Bridge, TCH
- J) Pave Forestry Building Parking Lot, R 461-11, Barchois Brook.
- K) Pulverize and Pave weigh scales in Port aux Basques to reshape sub-grade in order to improve drainage around scales.
- L) Pulverize & re-pave C.N.A. Stephenville Crossing.
- M) Paving new salt shed at Abraham's Cove

For further information please refer to the breakdown of quantities in the tender document and the updated Department's Specifications Book.

7. **SPECIFICATIONS BOOK**

Contractors are advised that the specifications book of the Department of Transportation and Works dated MARCH 2011 and the 2012 and 2013 Errata apply to this project. These specifications are available on the Internet at <http://www.tw.gov.nl.ca/publications/specbook2011.pdf> and on the following pages:



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

<http://www.tw.gov.nl.ca/> under the **Road Contractors...** section; <http://www.tw.gov.nl.ca/publications/index.html> under **Manuals** section ; and at <http://www.tw.gov.nl.ca/road.html> . It is the contractor's responsibility to ensure that the correct version of the specifications book is used when bidding on this project.

8. **BONA FIDE STATUS**

Contractors are advised that Item No. 8 of the Tender Form is revised as follows:

Delete the paragraph:

"WE understand and agree to list the names of sub-contractors and suppliers whose bids have been used in the preparation of this tender price in Appendix "B". The list will be subject to the approval of the Owner. "By own forces" will be considered valid and satisfactory only if the tenderer is recognized by the Newfoundland and Labrador Construction Association or by the Road Builders Association as being a "bona fide" contractor or supplier of that particular trade or item.

And replace with the following:

"WE understand and agree to list the names of sub-contractors and suppliers whose bids have been used in the preparation of this tender price in Appendix "B". The list will be subject to the approval of the Owner." The bona fide status of a contractor will be determined by the Owner and decisions made by the Owner will be final.

9. **LIQUIDATED DAMAGES**

If the completion date of the whole of the works is later than the completion date specified in the contract, liquidated damages for such default shall be payable by the Contractor to the Owner. The rate per day will be determined as the total of the department's direct costs associated with maintaining a presence and carrying out contract administration duties on the project. The costs to be recovered as liquidated damages will include, but will not be limited to, salaries including overtime, for the normal staff compliment on the project, travel costs for the normal staff compliment on the project, vehicle rental charges, fuel for vehicles, and other equipment rental charges, such as survey equipment, which may be utilized on the project.

Depending on the scope of work, there may be other direct or indirect costs to the department, which will also be deemed to be recoverable as liquidated damages. These costs could be substantial.

No bonus will be assessed for completing the project ahead of the given completion date.

Contractors, by submission of their tender, shall be deemed to have accepted these terms.



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

10. **PETROLEUM PRODUCTS COST ADJUSTMENT**

**Fuel Cost Adjustment**

Adjustments will be made to progress estimates to reflect changes in fuel prices from The Benchmark Tender Price to those in effect during construction. The Benchmark Tender Price shall be the price established by the Newfoundland and Labrador Board of Commissioners of Public Utilities, Petroleum Pricing Office, at time of tender closing. Increases or decreases in excess of 10% of the Benchmark Tender Price will be paid or deducted accordingly.

For the calculation of adjustments the governing price will be the price in place at the 21<sup>st</sup> of the month for the zone in which the majority of the contract is being carried out, established by the Newfoundland and Labrador Board of Commissioners of Public Utilities, Petroleum Pricing Office. This price will apply for the period from the 21<sup>st</sup> of that month to the 20<sup>th</sup> of the following month. This adjustment will include any changes in taxes outlined in GC 22.2. No adjustments will be made for price changes resulting from the use of the "Interruption Formula".

The adjustment for fuel cost variation shall apply only to those items given in the accompanying list. For other tender items, there will be no fuel cost adjustments.

The adjustments shall be computed based on changes in the governing price, as defined above, in excess of or less than the Benchmark Tender Price at time of production. The Engineer shall then calculate the adjustment to be stated in the Monthly Progress Estimates. No adjustment will be made due to an increase in the price on fuel used after the identified contract completion date or approved contract extension date but adjustments due to a decrease in the price of fuel will be made after the identified contract completion date or approved contract extension date.

For the contract items included in the accompanying list, the fuel cost adjustment shall be calculated using the quantity of the item added to the progress estimate since the last estimate.

I-litre	Nominal Fuel Consumption Rate		
	Clear Diesel Fuel (3)	Furnace Oil (3)	Marked Diesel Fuel (4)
Excavation Other Material (1)	2.0 l/m <sup>3</sup> or 1.0 l/t	N/A	N/A
Excavation Solid Rock (2)	3.0 l/m <sup>3</sup> or 1.1 l/t	N/A	N/A
Granular "A" and Maintenance Grade III	1.0 l/t (5&6)	N/A	0.7 l/t



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

Granular "B"	1.0 l/t (5&6)	N/A	0.5 l/t
Asphaltic, Base Surface & Levelling Courses	2.0 l/t (5)	11.0 l/t	0.7 l/t
Overhaul on excavation items only	0.4 l/m <sup>3</sup> -km	N/A	N/A

- (1) Excavation Other Material shall also include Ditching Other Material, Other Material Borrow, Other Material Fill in Place, Unsuitable Material, Bog, and Excavation for Foundation Other Material.
- (2) Excavation Solid Rock shall also include Ditching Solid Rock, Quarried Rock, Rock Fill in Place, and Excavation for Foundation Solid Rock.
- (3) Clear diesel fuel adjustment and furnace oil adjustment applies to the respective items at the time of excavation or placement as applicable.
- (4) Marked diesel fuel adjustment applies to granular material and asphalt aggregate at the time of production. If the crusher used to produce the granular material or asphalt aggregate is not powered by a diesel generator, there will be no adjustment for marked fuel. If a contractor uses granular material or asphalt aggregate that was crushed previous to the project, there will be no adjustment for marked fuel.
- (5) If the granular material or asphalt aggregate is produced from a rock quarry source, an additional 0.15 l/t of clear diesel fuel will be added to the quantity shown in the table applicable at the time of drilling and blasting.
- (6) If the tender identifies Granular A, Granular B or Maintenance Grade III to be stockpiled for use by the Department of Transportation and Works, then the Nominal Fuel Consumption Rate to apply to stockpiled aggregate will be 0.50 l/t for Clear Diesel.

11. WARRANTY CHANGE TO GENERAL CONDITION NO. 31

Contractors are advised that General Conditions #31 WARRANTY is revised as follows:

**GC31 WARRANTY**

- 31.1 Without restricting any warranty or guarantee implied or stipulated by law the Contractor shall at the Contractor's own expense rectify and make good any defect or fault however caused appearing within a period of two (2) years from the date of Substantial Performance of the Work provided that the Contractor shall not be responsible for any defect or fault resulting from the design of the work.



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

- 31.2 The Contractor shall correct and/or pay for any damage to other work resulting from any corrections required under the conditions of 31.1.
- 31.3 Neither the Engineer/Architect's final certificate nor payment thereunder shall relieve the Contractor from the Contractor's responsibility hereunder.
- 31.4 The Owner and/or the Engineer/Architect shall give the Contractor written notice of observed defects promptly.
- 31.5 In any case where the Contractor claims that the Contractor is not responsible for a defect or fault because the Contractor claims such a defect or fault results from a design of the work by the Owner, the onus to establish that the same is so in the first instance shall be on the Contractor.
- 31.6 The Contractor shall, subject to the procedures for Settlement of Disputes contained in GC 16, abide by the direction and decisions of the Engineer/Architect made pursuant to the General Conditions and in particular GC 7 regarding the correction by the Contractor of any defect or fault in the work discovered during the warranty period referenced in GC 31.1 hereof.
- 31.7 The Contractor shall submit a schedule for the completion of the warranty work in respect of the defect or fault referenced in 31.1 hereof, which schedule must be acceptable to the Engineer/Architect within thirty (30) days of the Engineer/Architect requesting in writing such a schedule from the Contractor.
- 31.8 Where the Contractor rectifies and makes good any defect or fault for which the Contractor is responsible under this Warranty, the Contractor shall warrant the portion of the work that is corrected for a further two (2) years from the date that the correction was done.

12. **PAYMENTS ON ACCOUNT OF PAVEMENT SMOOTHNESS OR ASPHALT DENSITY**

No payment shall be made to the Contractor pursuant to Sections 330.05.09.06.03 and 330.05.10.02 or Sections 330.06.09.03 and 330.06.09.05 of the Specifications Book that is referenced in SGC 7 before the end of the warranty period provided for in GC 31.1 and shall not be made if a warranty claim has been made under GC 31 until that warranty claim has been resolved. If a warranty claim has not been made by the Owner under GC 31 or if a warranty claim has been made under GC 31 and resolved, any payment(s) due to the Contractor pursuant to Sections 330.05.09.06.03 and 330.05.10.02 or Sections 330.06.09.03 and 330.06.09.05 of the Specifications Book shall be made within thirty



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

(30) days of the later of the resolution of the warranty claim or the expiration of the warranty period referenced in GC 31.

13. **OCCUPATIONAL HEALTH AND SAFETY DIRECTIVES**

Contractors are advised portions of Section 190 of the Specifications, Occupational Health and Safety, have been revised in the 2012 and 2013 Errata for the 2011 Specifications Book to be consistent with the OHS Regulations, commonly seen OHS orders, as well as, some areas of best practice.

Contractors are advised that the specifications book of the Department of Transportation and Works dated MARCH 2011 and the 2012 and 2013 Errata are available on the following page <http://www.tw.gov.nl.ca/publications/index.html>.

14. **CONSTRUCTION SIGNAGE**

Contractor is advised that they shall designate an employee and vehicle for the sole purpose of ensuring that all construction signage is installed and maintained as per the Department of Transportation and Works Signage manual. This individual shall be required to remain on site at all times during any work. Furthermore, this stipulation will remain in effect for any work performed by any sub-contractor.

All cost associated with supplying this signage person and vehicle shall be considered incidental to the contract. **No additional payments shall be made by the Department for this item.**

15. **ITEM No. 7 OF THE UNIT PRICE TABLE: Supply & Installation of Pipe Culverts**

Contractor is to verify culvert quantity with the resident engineer prior to ordering culverts for this project.

16. **ITEM 16(B) ASPHALT SURFACE**

Contractors are advised that in all locations other than Part "A" of the project all areas identified as leveling patching or paving will be paved with Surface Course Asphalt and will be compensated under the Surface Course Asphalt item of the Unit Price Table. Contractors are advised to include all associated costs in the Surface Course Asphalt tender item for this requirement.



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

17. **ITEM 16(c) ASPHALTIC LEVELLING COURSE**

Asphaltic Leveling shall be Type I leveling and shall be used in all milled areas of the TCH under Part "A" of the Project.

18. **ITEM # 16b ASPHALTIC PATCHING**

Contractor is advised that patching on the TCH shall consist of 2-50mm lifts. The contractor will be required to mill back one meter each side of the asphalt cuts. This will be considered incidental to the asphalt patching price.

19. **ITEM #35 COLD PLANING ASPHALT**

Contractors are advised that all millings removed shall be stockpiled at the Transportation and Works Depot in Steel Mountain. Standard milling depth shall be 50mm, except in areas where milling will be done to re-establish the cross section of the existing asphalt. Milling depths in those areas will vary and may be greater than 50mm as directed by the engineer. Milling width will vary from 4.0m to 10.5m and in areas where the milling is taken full width of the existing asphalt the gravel shoulder shall be graded level with the milled asphalt. This grading shall be considered incidental to the Cold Planing Unit Price.

Where asphalt is to be milled to a depth of 50mm the depth will be measured by running a straight edge across the top edges of the milled area and measured from the bottom of the straight edge to the milled asphalt surface. Depths of less than 90% of the specified depth shall be re-milled prior to paving. In areas where the milled depth exceeds the specified depth by 10% or greater, no payment will be paid for surface asphalt, asphalt liquid and blending sand for that portion greater than 55mm in depth.

Contractors are advised that Section 360 of the General Specifications shall apply to this item.

20. **ITEM 101 – FABRICATE, SUPPLY AND INSTALL SIGN POST – TYPE ‘A’ CRIBBING PROTECTION**

All work under this item shall conform to Section 909 – "Marine Structures".

Contractor shall be responsible for fabricating, supplying and installing cribbing protection for a type 'A' sign post located at the intersection of the TCH and R461 as detailed within the drawing set.

Payment:



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

Payment shall be at the contract price for the fabrication, supply and installation of the Sign Post – Type ‘A’ Cribbing Protection and shall be considered compensation in full for all equipment, labour and materials to construct as per detail SK-C-01 within the drawing set including all granular material.

Sign post shall be paid in accordance with Item 20 (a) – “Supply and Installation of Sign Posts” of the Unit Price Table.

**21. COORDINATION WITH UTILITIES – PART F: REALIGNMENT OF THE TCH AT ST. GEORGES INTERSECTION, R461**

The Contractor is advised that there may be a requirement to relocate power poles and/or fibre optic line along the TCH and adjacent areas. The Contractor must schedule the work in coordination with all utility companies to minimize delay.

**The Department will not accept any claims resulting from work delays or interference caused from any utility or other contractors.**

**22. COMMUNICATION DEVICES**

Contractor is advised that flagpersons shall be equipped with either 2-way or 3-way radios only. Flagpersons shall not be permitted to use any cellular devices during work hours of operation unless it is deemed an emergency. If flagpersons are seen using cellular devices for any other purposes they will be asked to leave site immediately.

The Department will not accept any claims resulting from work delays for the dismissal of any flagpersons who fail to abide by this requirement. Contractors are strongly advised to enforce this item promoting site safety.

**23. GENERAL REQUIREMENTS OF PAVEMENT MIXTURE**

**Contractors should pay particular attention to the general requirements of the pavement mixture as the surface course gradation has been modified for this project.**

Contractors are advised Section 330.02.02.01 of the Specifications have been modified for this project as follows:

**330.02.02.01 General Requirements for Pavement Mixture**

The mixture shall consist of suitably graded fine and coarse aggregate thoroughly mixed with asphalt cement as specified. Blending sand, filler and chemical additives shall be added when required.



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

Unless otherwise specified, the aggregates shall be combined in such proportions as to produce a mixture conforming to the grading of Table 3.

**TABLE 3**  
**Asphalt Aggregate Mixtures**

Sieve Size	Percent Passing by Dry Weight		
	Surface Course	Levelling Course Type I**	Base Course & Levelling Course Type II***
22.0 mm	100	100	100
19.0 mm	100	100	90-100
12.5 mm	93-100	75-100	75-90
9.5 mm	75-92	63-95	63-84
4.75 mm	<b>50-65</b>	35-78	35-55
2.00 mm	32-55	20-55	20-42
0.425 mm	16-25	10-25	10-25
0.150 mm	5-12	5-12	5-12
0.075 mm	2-5*	2-5*	2-6*
Asphalt Cement (% By Weight of Total Mixture)	4.5 - 7.0	4.5 - 7.0	4.5 - 7.0

\* The dust/effective asphalt ratio of all mixtures shall be between 0.6 and 1.2. Dust is defined as material passing the 0.075 mm sieve.

\*\* Levelling Course Type I to be used where thickness of compacted lift is to be less than or equal to 30 mm.

\*\*\* Levelling Course Type II to be used where thickness of compacted lift is to be greater than 30 mm. Once a mix design has been designated or approved by the Engineer, the Contractor shall be required to produce a pavement mixture conforming to the following mix control tolerances. The mix must still fall inside the gradation envelopes of Table 3.

Individual Sample Tolerance for Production of Combined HMA

Aggregate Passing 19.0 mm sieve	± 5%
Aggregate Passing 12.5 mm sieve	± 5%
Aggregate Passing 9.5 mm sieve	± 5%
Aggregate Passing 4.75 mm sieve	± 5%
Aggregate Passing 2.00 mm sieve	± 4%
Aggregate Passing 425 µm sieve	± 3%
Aggregate Passing 150 µm sieve	± 2%
Aggregate Passing 75 µm sieve	± 1%

## 24. END PRODUCT SPECIFICATION PROJECT

Contractors are advised for this project section 330.06 End Product Specification (EPS) for Asphalt Concrete Mix – Hot Placed will be applied in addition to the applicable sections of 330.01 through to 330.04. As part of the specifications for this project the Contractor will be solely responsible for all hot mix asphalt mix designs and quality



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

control functions in accordance with the above noted specifications. As per the specifications the Contractor must also submit a quality control inspection testing plan.

For this project performance measures for unit price adjustments will be applied at a rate of 50% for Marshall Air Voids Table 13, Gradation Table 14 and Material Application Rate Table 17. Material which falls into the rejected area of the specifications for these performance criteria will be applied at the full rate and as per 330.06.14.03 Basis of Payment for Rejected Mix. All other performance measures will be applied at the full specified rates.

## **25. HOT MIX ASPHALTIC CONCRETE ANTI-STRIPING ADDITIVE**

Contractors are advised Section 330.02.01.05 of the Specifications have been modified for this project as follows:

### **330.02.01.05 Anti-Stripping Additive**

For this project an approved anti-stripping additive shall be added to all Hot Mix Asphaltic Concrete. The anti-stripping additive may be either an approved liquid anti-stripping additive or hydrated lime ( $\text{Ca}(\text{OH})_2$ ) with each meeting the requirements outlined as follows.

If an approved liquid anti-stripping additive is utilized it shall be added to all Hot Mix Asphaltic Concrete at a minimum application rate of 0.5% of additive by weight of asphalt cement or the recommended percentage as determined from Lottman test results. Approved liquid anti-stripping additives include the products AD-here LOF 6500 (ARR-MAZ Custom Chemicals) and Redicote C-3082 (Akzo Nobel Chemicals). All other products must be approved by the Department's Materials Engineering Division.

Suppliers of the asphalt cement and anti-stripping additives shall provide in writing all mixing requirements and proof of product compatibility. Treated asphalt PG binders must meet the relevant performance grade specifications.

Contractors must inform the Engineer and advise workers of the proper procedures, use of protective clothing and equipment when handling anti-stripping additives. Hot mix asphaltic concrete with liquid anti-strip additives is known to produce strong odours. Contractors must ensure the mix materials are used under proper environmental conditions to guarantee the safety and comfort of construction personnel and the public.

Modified Lottman tests in accordance with AASHTO T 283 Resistance of Compacted Hot Mix Asphalt (HMA) to Moisture-Induced Damage shall be completed within the mix design procedure to determine if the minimum application rate is sufficient. An additional rate of anti-strip and/or an alternate anti-stripping additive will be required if one of the following conditions occurs as determined by AASHTO T 283:

- The tensile strength ratio of the hot mix asphalt concrete is less than 0.80
- There is visual evidence of stripping. Acceptable specimens shall have a visual stripping rating of 1.0 or lower based on a scale from 0 to 10 (with 0 being no visual stripping and 10 being fully stripped).



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

- The results of the mix utilizing neat hot mix asphalt concrete (or with no anti-stripping additive) significantly exceed the performance of the mix with the anti-stripping additive.

In addition to AASHTO T 283 requirements, the asphalt hot mix containing the anti-stripping additive shall pass a boiling water test in accordance with ASTM D3625 Standard Practice for the Effect of Water on Bituminous-Coated Aggregate Using Boiling Water within the mix design procedure. The pass criterion for ASTM D 3625 is 95% or greater retained bitumen coating of aggregate.

An additional rate of anti-strip and/or an alternate anti-stripping additive will also be required if the aggregate is known to be prone to stripping from past performance and the minimum application rate was insufficient.

If additional or alternative anti-stripping additives are required, a further 10 working days will be required after the Contractor has advised the Department of its new anti-strip proposal and all materials have been received by the Materials Engineering Division. The Contractor and his supplier shall provide sample materials, any technical information and Manufacturer's recommended application rates.

Modified Lottman Tests (AASHTO T 283) and Boiling Water Tests (ASTM D3625) shall also be conducted on field produced samples of hot mix. All field produced samples shall also pass the requirements above.

Where hydrated lime is used as an anti-strip additive the dosage requirement shall be the greater of one half (1/2) percent by mass of total dry aggregate, or the recommended percentage as determined from the Lottman and Boiling Water test results.

Where hydrated lime is utilized the hydrated lime shall be added to all aggregates by either of the following methods:

- (a) Hydrated lime slurry shall be homogeneously mixed with the aggregate in a pug-mill or tumble mixer prior to entering the asphalt plant (the hydrated lime slurry shall be produced at the approximate rate of 1 part lime to 3-4 parts water).
- (b) Dry hydrated lime shall be homogeneously mixed with wetted aggregate in a pug-mill or tumble mixer prior to entering the asphalt plant. The wetted aggregate shall have a minimum moisture content of 2% by weight for coarse aggregate and 3% by weight for fine aggregate.

Hydrated lime shall be mixed with the aggregate at least 4 hours prior to entering the asphalt plant. Aggregate treated with hydrated lime shall be used within the same construction season. Treatment shall include both coarse and fine aggregate components of the asphalt aggregate.

Where hydrated lime is to be utilized, the Contractor shall provide the Department with complete information on how the hydrated lime is to be used in the treatment of aggregates. Hot mix produced containing hydrated lime, shall conform to all requirements of the contract before acceptance. The design amount of hydrated lime will be added as a percentage of the total dry aggregate weight.

The cost of all anti-stripping additives (including hydrated lime) will be borne by the Contractor no separate or additional payment will be made.

## **26. SOLVENT BASED EXTRACTION OF ASPHALT CEMENT TESTING**

For this project, the Contractor shall provide a fume hood located inside his field laboratory for Department testing purposes, having adequate forced air circulation. This requirement is necessary to ensure the safety of personnel conducting the extraction of asphalt cement from the



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

hot-mix asphalt using N-Propyl Bromide. Contractors shall also provide the required N-Propyl Bromide solvent to conduct the testing.

The fume hood must be located appropriately within the laboratory to allow proper functional access and so as to not interfere with other laboratory functions or testing.

Fume hoods complete with work surfaces, cabinets, sinks, exhaust blowers and chemical extraction pumps must be approved by the Materials Engineering Division prior to purchase. Proposed fume hoods shall meet or exceed ASHRAE-110, NFPA-45, and UL 1805 standards as well SEFA recommended practices.

Materials and description criteria below shall be met.

**1. Fume Hood**

- Minimum dimensions of 72 inches wide x 32 inches deep x 48 inches high to permit placement of vacuum extractor, vacuum pump and hot plate
- Constructed of chemical resistant, flame retardant, non-metallic composite resin, both interior and exterior
- Interior fume chamber is moulded one piece seamless with all corners coved.
- Equipped with vertical slide safety tempered glass slash with chemical resistant sash frame – sash track – and sash lift
- Sash stops which can be manually adjusted by field personnel
- Vapour-proof light fixture mounted in hood with switch pre-wired to junction box
- 115v, 20amp, single phase 2-duplex receptacle installed on front column of fume hood for a vacuum pump and hot plate
- Switch installed for chemical extraction pump

(Hemco Uniflow LE Fume Hood Part No. 35611 or Equivalent)

(Hemco Safety Sash Lock Part No. 51651 or Equivalent)

(Hemco 2 Duplex Receptacle Part No. 50029-2 or Equivalent)

(Hemco Single Receptacle Part No. 50030-2 or Equivalent)

**2. Work Surface (Countertop)**

- Stainless steel work surface with dimensions to match internal fume hood chamber.
- Surface dished minimum 3/8" to contain spillage.
- Hole must be cut in surface to allow installation of oval cup sink.
- Polyolefin 3 inch by 9 inch oval cup sink for drainage

(Hemco Stainless Steel Work Surface Part No. 20616 or Equivalent)

(Hemco Oval Cup Sink Part No. 40121 or Equivalent)

**3. Acid Storage Base Cabinets**



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

- Storage base cabinets having dimensions to match fume hood chamber (minimum dimensions for one cabinet 72 inches wide or two cabinets 36 inches wide each.)
- Constructed of top grade furniture steel with a chemical resistant finish.
- Interior shall have a moulded one piece seamless liner constructed of chemical resistant composite resin.
- Adequate space for two 5 gallon containers. One container will hold clean solvent to pump into extractor whereas the second container will hold the asphalt cement / N-Propyl bromide extract solution from the vacuum extractor. (Rather than setting up the two containers, the Contractor may run lines for clean solvent and extract to barrels outside the trailer that are properly secured.)
- Adjustable Shelf and vented hinged doors.

(Two Hemco Acid Storage Base Cabinets Part No. 15030 (36 inches wide) or equivalent)

**4. Fume Hood Exhaust Blower**

- Belt driven exhaust blower installed next to hood or externally on the trailer roof. Capacity of 500-1000 CFM
- ¼ HP, 115 V motor
- Pilot light switch for air blower.
- Ventilation duct hardware and vents shall be supplied and installed as per fume hood manufacturer's instructions

(Hemco Epoxy Coated Steel Blower Belt Drive Part No. 51705X or Equivalent)  
(Hemco Blower Switch with Pilot Light Part No. 50027-1 or Equivalent)

**5. Chemical Extraction Pump**

- 115v liquid-flow pump to be installed in base cabinet to extract N-Propyl Bromide from container
- Pump outfitted with chemical resistant Viton diaphragm
- Piping made of PVC plastic

The fume hood must also be inspected prior to use in accordance with all applicable regulations.

**Contractors are to provide the required N-Propyl Bromide solvent to conduct the testing.** For rough estimate purposes each extraction test requires approximately 5 litres solvent to complete while each 600 t subplot of asphalt mix production will require at least one full solvent extraction test.

Contractors must also dispose of used solvent by means of an approved chemical waste disposal company. Verification of proper disposal of the solvent shall be provided to the resident engineer upon completion of the work.



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

In addition to the requirement for the fume hood and solvent above the hot mix asphalt specifications are modified as follows:

**CHANGE to Section 330.06.13.02 Measurement for Payment for Asphalt Cement****330.06.13.02 Measurement for Payment for Asphalt Cement**

The asphalt cement will be measured in tonnes, rounded to two decimal places. Payment for Asphalt Cement shall be as per the percentage (%) of asphalt cement required in the approved Job Mix Formula. However, where the Lot mean of deviations for Asphalt Cement contents are found to be in the penalty zones subsequently described, Asphalt Cement will be paid on actual content only for the individual sublots found to be deficient to the point of being in the penalty or rejectable zone, as determined by ASTM D2172 Standard Test Methods for Quantitative Extraction of Bitumen from Bituminous Paving Mixtures. Any moisture content in the hot mix asphalt will be determined and deducted. The method of determination of this moisture content will be in accordance with AASHTO 329 Standard Method of Test for Moisture Content of Hot Mix Asphalt by Oven Method.

Samples of hot mix asphalt shall be taken randomly, in accordance with 330.06.09.02 and tested to ensure conformance with the specifications stated herein. Sampling and testing shall be performed in accordance with ASTM D979 and ASTM D2172. Additional samples may also be taken and tested in accordance with ASTM D2172, for verification purposes.

If the test results representing the Lot mean of deviations for asphalt cement content falls into the above-stated "Penalty Zone", the payments for both Asphalt Cement and Hot Mix Asphalt shall be adjusted by deducting a percentage from the unit prices per Table 12 for the Lot mean of deviations as appropriate. These adjustments shall apply to the areas of pavement represented by these samples.

If the test results representing the Lot mean of deviations fall into the above-stated "Rejectable Zone", then no payment will be made for either the asphalt cement or hot mix asphalt represented by those samples.

In the event of any and all disputes over asphalt content, the asphalt contents as determined by the Engineer, in accordance with the above stated method, shall govern in all cases.

**27. PROJECT SIGNS AND FUNDING**

Contractor is advised that this project is jointly funded by the Province and the Government of Canada under the Canadian Strategic Infrastructure Fund. Additional project signs will be required to be erected on this project identifying the project is funded under the Federal Government's "Canada's Economic Action Plan". These project signs will be required to be erected adjacent to the standard provincial government project signs at both limits of the contract, on the TCH portion, and signs will be supplied by the Province for the contractor to erect. No additional payment will be made for this requirement.



TRANSPORTATION AND WORKS  
SUPPLEMENTARY GENERAL CONDITIONS

**28. ITEM 100 – FABRICATE, SUPPLY AND INSTALL GALV. RIGID GATE**

All work under this item shall conform to Drawing 1217-1 – “TYPICAL RIGID GATE DETAIL” and Section 660 of the Specifications “Supply & Installation of Chain Link Fence”. The two gates supplied under this item shall have a connection and locking mechanism provided to join the two gates at the center of the roadway leading to the Western Regional Landfill Site. All costs associated with this provision shall be included in the Unit Prices bid for this item.

The report below is to be completed on a monthly basis by all contractors engaged in Construction/Maintenance and or other project work for the Government of Newfoundland and Labrador, Department of Transportation and Works.  
 Please attach information pertaining to items highlighted with an asterisk (\*)

Contractor Information				
Contractor/Company Name				
Report Prepared By				
Report for Period		Beginning:	Ending:	
Project and Location				
Contact	Name	Contact Number		
Contract Manager				
Contractor CSO				
Site Manager				
Monthly OHS Performance Indicators				
Lagging Indicators		Leading Indicators		
<i>Indicate the total within reporting period above</i>	Monthly Total	<i>Indicate the total within reporting period above</i>	Monthly Total	Records available
Lost Time Injuries		Tool Box Talks (safety specific)*		
Working Days Lost		OHS Committee/Rep Meetings*		
Return to Work Plans		Bi-Weekly Project Meeting		
First Aid Incidents		Site Safety Orientations		
*Medical Aid Incidents		Site Inspections*		
Total Hours Worked (site)		Hazard Reports Submitted		
Accident /Incident reports		Hazard Assessments Conducted*		
Accident Incident Investigations Conducted*		Traffic Control Signage Log Completed*		
OHS Division Activities				
OHS Division Inspections		OHS Division Directives Issued*		
Sub-Contractor Information				
Name sub-contractors working on site	Description of work conducted by sub-contractors		Days on site	COR Certified (Y/N)
Training Information				
Training conducted with staff	Brief description of training conducted with safety or work practice focus		Total staff trained	Records available (Y/N)
Equipment Maintenance				
Annual equipment inspections conducted (Y/N)	All equipment passed inspection (Y/N)	Records Available (Y/N)	Non-Routine maintenance required? Identify equipment	List maintenance conducted
Report completed on:		Signature:		

---

## Definitions

---

**First Aid incident** – An Occupational Injury/Illness that requires first aid treatment only and does not result in loss of time from work or Restricted Work.

**Medical aid incident** – A classification of Occupational Injury/Illness for Medical Treatment beyond First Aid Injury where there has been no Lost Days. i.e: Visit to a health care provider or hospital specific to the injury

**Lost-Time Injury** – An injury/illness resulting in Lost Days beyond the date of injury as a direct result of an Occupational Injury/Illness incident on the project.

**Working Days Lost** – The number of calendar days that the employee is unable to work beyond the day of injury specific to the project in which the injury occurred. Calculate total days for all employees working on the project.

**Total Hours Worked** – Total number of hours of employment (i.e., the actual worked hours) of all employees for each contractor and sub-contractor companies for the reporting period specific to the project.

**Accident** – An undesired event resulting in death, ill health, injury, damage or other loss.

**Incident** – An unplanned, undesired event that had the potential to cause injury or other damage.

**Accident/Incident Report** – all accidents and incidents must be reported, whether through an internal reporting structure or through the WHSCC employers form 7. All accidents of a serious nature must also be reported to the OHS Division within 24 hours (serious accidents re outlined in section 54(3) of the OHS Act)

**Accident/Incident Investigation** – is an investigation by the employer into the root cause of an accident or incident to identify hazards and prevent workplace accidents/incidents from recurring.

## DEPARTMENT OF TRANSPORTATION AND WORKS

### Contractor Daily Traffic Control and Signage Log

Date/Time	Location/Project	Indicate the number of signs in the signage layout outlined from the TCM	Current completion/status of signage	Contractor/specified weather conditions	Signage Type Specify sign materials for the work and contractor (VMS)	Identify activities completed prior to the commencement of work and any signage repairs, replacements, or upgrading required	Report completed by	Signage adjusted, indicates date and time of adjustments/respection	Log reviewed by T&W Engineer (date and time)



## UNIT PRICE TABLE

## INDEX

**INSTRUCTION TO BIDDERS**

PAGE	ITEM
1	Index
2	1. Tender
2	2. Tender Documents
2-3	3. Tender Surety and Bonding
3	4. Completion of Tender Form
3	5. Unacceptable Tenders
4	6. Amendments to Tender
4	7. Withdraw of Tender
4	8. Substitution of Materials
4	9. Use of Bid Depository
4	10. Acceptance of Tender



Transportation and Works

## INSTRUCTIONS TO BIDDERS

### 1. TENDERS

- (a) Envelopes containing the Tender are to be clearly marked identifying the Project No. and the Project Name as shown on the Tender Form, and the envelopes to be addressed:

**Deputy Minister**

c/o Tendering and Contracts Section, Dept. of Transportation & Works,  
Ground Floor-West Wing, Confederation Bldg., East Block, P.O. Box 8700, St. John's, NL A1B 4J6

The name and address of the Bidder and the closing time and date must be shown on the envelope.

- (b) Tenders must be received by Tendering and Contracts Section, Department of Transportation and Works on or before the exact closing time and date indicated in the advertisement or as amended by the Deputy Minister. **TENDERS RECEIVED AFTER THAT TIME WILL NOT BE CONSIDERED.**
- (c) The Form of Agreement is included in the Contract Documents at the time of tender requests for the purpose of information to Bidders and shall not be completed at the Time of Tender submission.
- (d) Before submitting a Tender, bidders shall carefully examine the Contract Documents and the site of the proposed work and fully inform themselves of the existing conditions and limitations. No subsequent allowance under the Contract Documents will be considered for any Bidder who had failed to become familiar with all aspects of the work.
- (e) The Owner will not defray any expenses incurred by the bidders in the preparation and submission of their tenders.

### 2. TENDER DOCUMENTS

- (a) The Tender Documents consist of the Instructions to Bidders, Tender Form, Agreement, Drawings, Specifications, and any Amendments to the Contract Documents issued during the tender period.
- (b) Every interpretation of or addition to the contract Documents to be considered a valid part of the Contract Documents will be issued in the form of a written addendum.
- (c) No addendums will be issued less than seven (7) days prior to the closing date of the Tender.

### 3. TENDER SURETY AND BONDING

(a) Bidding Security

Every bidder shall submit with their Tender a bid bond issued by an approved Surety Company licensed to do business in the Province of Newfoundland and Labrador and made out in favour of the Department of Transportation and Works. The bid bond shall be at least ten percent (10%) of the tendered amount. No bidding security will be required for a tendered amount of less than \$25,000 unless specifically called for elsewhere in the tender document. An approved certified cheque may be substituted in lieu of the bid bond. The bidding security will be returned upon receipt of the Performance and Labour and Materials Bonds. The terms of the bid security will be invoked and the amount retained by the Owner if the Bidder fails to enter into an agreement when notified of the award of the work within the tender validity period; or fails to provide the Performance and Labour and Materials bonds in the amount and within the period specified.

(b) Performance Bond

A Performance Bond will be required in the amount of fifty percent (50%) of the contract price. The Performance Security is to be received not later than two (2) weeks after the award of the contract by the letter of intent and prior to the formal execution of the agreement. No work is to be undertaken until the Performance Security has been received. Performance Security will not be required for a contract value of less than \$25,000. In lieu of the Performance Bond, the Minister may accept at his sole discretion an approved certified cheque for ten percent



Transportation and Works

(10%) of the tendered amount. The cheque will be retained until satisfactory completion of the work including the guarantee period, after which this amount will be returned to the contractor together with the accrued interest thereon at the current bank rate.

(c) Labour and Materials Payment Bond

A Labour and Materials Payment Bond will be required in the amount of fifty percent (50%) of the contract price. The Labour and Materials Payment Bond is to be received not later than two (2) weeks after the award of the contract by the letter of intent and prior to the execution of the formal agreement. No work is to be undertaken until the Labour and Materials security has been received. Labour and Materials security will not be required for a contract valued at less than \$25,000.

In lieu of the Labour and Materials Bond, the Minister may accept at his sole discretion and approved certified cheque of ten percent (10%) of the tendered amount. The cheque will be retained until substantial completion of the work as defined by the Mechanics Lien Act and upon receipt of a completed and approved Statutory Declaration Form. This security, if in the form of a cheque, will be returned to the Contractor together with the accrued interest thereon at the current bank rate.

#### 4. COMPLETION OF TENDER FORM

- (a) The Tender Form is to be completed in its entirety and submitted in the envelopes provided and the name of the Bidder entered in the "Name of Bidder" space on the tender envelope. The Bidder should retain a copy of the tender for their records.
- (b) Type or legibly print the information required on the Tender Form.
- (c) Type or legibly print the Bidder's full business name and address in the spaces provided on the Tender Form.
- (d) Sign the Tender Form in the space provided as indicated:
  - In the case of a Sole Proprietorship signature, Sole Proprietor will sign where indicated in the presence of a witness who will sign where indicated. Insert the words "Sole Proprietor" next to the signature. In the case of a Partnership signature, all partners will sign where indicated in the presence of a witness who will sign where indicated. Insert the word "Partner next to signatures".
  - In the case of a Limited Company, signatures of authorized signing officers will sign where indicated, in the presence of a witness who will sign where indicated, and the corporate seal will be affixed. Indicate next to signature the corporate title of each signer.
- (e) The attention of the Bidder is drawn to the necessity of legibly pricing each and every item in any schedule of quantities and of calculating the units and totals exactly correct to agree with the tender amounts. Failure to do so will be sufficient grounds for rejection.
- (f) Spaces or Appendices will be provided with the Tender Form if required for a list of sub-contractors, use of bid depository, contractor's experience, list of equipment. All such spaces and appendices must be completed in their entirety, legibly by the typewriter or by printing in ink.
- (g) If it becomes necessary to correct an error made on the Tender Form, such correction must be initialled and dated by the person or persons signing the Tender Form.

#### 5. UNACCEPTABLE TENDERS

- (a) Tenders not submitted on the Tender Form provided will not be considered.
- (b) Telegraphic or telex tenders will not be accepted.
- (c) Tenders received after the Tender Closing time will not be considered.
- (d) Incomplete Tenders will be rejected.
- (e) Tenders not accompanied by an approved security in the correct amount will be rejected.
- (f) Tenders containing qualification or additional clauses to the Tender Form will be rejected.
- (g) Incorrectly prepared tenders may be rejected.





**6. AMENDMENTS TO TENDER**

Properly documented amendments to the Tender will be permitted up to the Tender closing time. Amendments documented by telegram, fax, telex, or written form will be acceptable.

**7. WITHDRAWAL OF TENDERS**

Bids may be withdrawn without penalty in written form, by fax, telegram, or by telex request if received prior to the time fixed for the opening.

**8. SUBSTITUTION OF MATERIALS**

- (a) Tenders shall be based upon using the materials or products as specified without substitution. Where two or more brand names are specified the choice shall be left to the Contractor. Where only one brand name is stated there shall be no substitution.
- (b) Where the Specifications include the "or approved equal" clause, substitutions may be proposed provided that:
  - 1. the request for a substitution is made in writing at least fourteen (14) days prior to the bid date;
  - 2. the request shall clearly define and describe the product for which the substitution is requested;
  - 3. the substituted article is equivalent to the specified article with regards to design, function, appearance, durability, operation and quality.

Approval of the substitution by the Architect/Engineer shall be in form of an addendum to the Specifications issued at least seven (7) days prior to the Tender closing date to all of those contractors listed as having received a copy of the Contract Documents.

**9. USE OF BID DEPOSITORY**

The attention of the Bidder is drawn to the fact that the Bid Depository of the Newfoundland and Labrador Construction Association will be used for the Trade as listed in Appendix \_\_\_\_\_.

**10. ACCEPTANCE OF TENDER**

- (a) The Owner will not necessarily accept the lowest or any tender.
- (b) Upon written acceptance of the tender within the tender validity period, the Tender Form becomes part of the Contract Documents and the successful bidder becomes the Contractor. The Contractor will be required to execute a formal agreement with the Owner within thirty (30) days of the date of the letter of intent.



Transportation and Works

## GENERAL CONDITIONS OF UNIT PRICE CONTRACT

## INDEX

SECTION	PAGE	
1	2-3	Definitions
2	3	Documents
3	3	Additional Instructions and Schedule of Work
4	4	Documents Provided
5	4	Documents on the Site
6	4	Ownership of Documents and Models
7	4	Engineer's/Architect's Decisions
8	4-5	Delay
9	5	Owner's Right to do Work
10	5-6	Owner's Right to stop Work or Terminate Contract
11	6	Contractor's Right to stop Work or Terminate Contract
12	7	Other Contractors
13	7	Assignment
14	7-8	Subcontractors
15	8	Emergencies
16	8	Settlement of Disputes and Claims
17	8	Indemnification
18	8-9	Changes in the Work
19	9-10	Valuation and Certification of Changes in the Work
20	10	Application for Payment
21	10-12	Certificates and Payments
22	12	Taxes and Duties
23	12-13	Laws, Notices, Permits and Fees
24	13	Patent Fee
25	13	Workmen's Compensation
26	13-14	Liability Insurance
27	14-15	Property Insurance
28	15-16	Protection of Work and Property
29	16	Damages and Mutual Responsibility
30	16	Bonds
31	16-17	Warranty
32	17	Contractor's Responsibilities and Control of the Work
33	17	Superintendence
34	17	Labour and Products
35	17-18	Subsurface Conditions
36	18	Use of Premises
37	18	Cleanup and Final Cleaning of Work
38	18	Cutting and Remedial Work
39	18-19	Inspection of Work
40	19	Rejected Work
41	19-20	Shop Drawings
42	20	Samples
43	20	Tests and Mix Designs
44	20	Materials and Substitutions
45	20-21	Labour
46	21	Provincial Preference Policy
47	21	Time of Essence



Transportation and Works

## GENERAL CONDITIONS OF UNIT PRICE CONTRACT

**GC1 DEFINITIONS****1.1 Contract Documents**

The Contract Documents consist of the instruction to Bidders, executed Agreement, General Conditions of Contract, Supplementary General Conditions of Contract, Specifications, Drawings and such other documents as are listed in Article A-2 of the Agreement, including all amendments thereto incorporated before their execution and subsequent amendments thereto made pursuant to the provisions of the contract or agreed upon between the parties. The Successful Bidder's tender, and any addenda to the Specification issued during the bidding period shall also form part of the Contract Documents.

**1.2 Owner, Engineer/Architect, Contractor**

The Owner, Engineer/Architect and Contractor are the persons, firms or corporations identified as such in the Agreement and referred to throughout the Contract Documents as if singular in number and masculine in gender. The Term Owner, Engineer/Architect and Contractor means the Owner, Engineer/Architect or Contractor or their authorized representatives as designated by each party in writing.

**1.3 Subcontractor**

A Subcontractor is a person, firm or corporation having a direct contract with the Contractor to perform a part of the Work included in the Contract, or to supply products worked to a special design according to the Contract Documents, but does not include one who merely supplies products not so worked.

**1.4 The Project**

The Project is the total construction of which the work performed under the Contract Documents may be the whole or a part.

**1.5 Products**

The term Products means all material, machinery, equipment and fixtures forming the completed work as required by the Contract Documents but does not include machinery and equipment used for preparation, fabrication, conveying and erection of the Work and normally referred to as construction machinery and equipment.

**1.6 The Work**

Work includes the whole of the works, materials, matters and things required to be done, furnished and performed by the Contractor under the Contract.

**1.7 Materials and Equipment**

The term Materials and Equipment means all materials, machinery, equipment and fixtures forming the completed work as required by the Contract Documents but does not include machinery and equipment used for preparation, fabrication, conveying and erection of the work and normally referred to as construction machinery and equipment.

**1.8 Other Contractor**

The term Other Contractor means any person, firm or corporation employed by or having a separate contract directly or indirectly with the Owner for work other than that required by the Contract Documents.

**1.9 Time**

The Contract Time is the time stated in Article A-1(c) of the Agreement for Substantial Performance of the Work.

- (a) The date of Substantial Performance of the Work is the date certified by the Engineer/Architect.
- (c) The term day, as used in the Contract Documents, shall mean the calendar day.



Transportation and Works

- (d) The term working day means any day observed by the construction industry in the area of the place of building.

#### 1.10 Substantial Performance

A Contract shall be deemed to be substantially performed

- (a) when the work or a substantial part thereof is ready for use or is being used for the purpose intended; and  
 (b) when the work to be done under the contract is capable of completion or correction at a cost of not more than
- (i) three per centum of the first two hundred and fifty thousand dollars (\$250,000) of the contract price,
  - (ii) two per centum of the next two hundred and fifty thousand dollars (\$250,000) of the contract price, and
  - (iii) one per centum of the balance of the contract price.

#### 1.11 Total Performance

Total Performance shall mean the entire work has been performed to the requirements of the Contract Documents and is so certified by the Engineer/Architect.

### GC2 DOCUMENTS

- 2.1 The Contract Documents shall be signed in duplicate by the Owner and the Contractor.  
 2.2 Words which have well known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.  
 2.3 In the event of conflicts between Contract Documents the following shall apply:
- |   |  |
|---|--|
| (a) Documents of later date shall govern.   | (d) Specifications shall govern over Drawings  |
| (b) Figured dimensions shown on the Drawings shall govern even though they may differ from scaled dimensions. | (e) The General Conditions of Contract shall govern over Specifications.                       |
| (c) Drawings of larger scale shall govern over those of smaller scale of the same date.                       | (f) Supplementary General Conditions shall govern over the General Conditions of the Contract. |
|   | (g) The Agreement shall govern over all documents  |

### GC3 ADDITIONAL INSTRUCTIONS AND SCHEDULE OF WORK

- 3.1 During the progress of the Work the Engineer/Architect shall furnish to the Contractor such additional instructions as may be necessary to supplement the Contract Documents. All such instructions shall be consistent with the intent of the Contract Documents.  
 3.2 Additional instructions may include minor changes to the Work which affect neither the Contract Price nor the Contract Time.  
 3.3 Additional instructions may be in the form of drawings, samples, models or written instructions.  
 3.4 Additional instructions will be issued by the Engineer/Architect with reasonable promptness and in accordance with any schedule agreed upon.  
 3.5 The Contractors shall, within thirty (30) days of the signing of this contract provide the Owner with a schedule of work.

### GC4 DOCUMENTS PROVIDED

- 4.1 The Contractor will be provided, without charge, a reasonable number of Contract Documents or parts thereof as reasonably necessary for the performance of the Work.



#### GC5 DOCUMENTS ON THE SITE

- 5.1 The Contractor shall keep one copy of all current Contract Documents and shop drawings on the site, in good order and available to the Engineer/Architect and/or his representatives. This requirement shall not be deemed to include the executed Contract Documents.

#### GC6 OWNERSHIP OF DOCUMENTS AND MODELS

- 6.1 All Contract documents and copies thereof, and all models are and shall remain the property of the owner and are not to be used on other work.
- 6.2 Such documents are not to be copied or revised in any manner without the written authorization of the owner.
- 6.3 Models furnished by the Contractor or the Owner are the property of the owner.

#### GC7 ENGINEER/ARCHITECTS DECISIONS

- 7.1 The Engineer/Architect, in the first instance, shall decide on questions arising under the Contract Documents and interpret the requirements therein. Such decisions shall be given in writing.
- 7.2 The Contractor shall notify the Engineer/Architect in writing within 5 days of receipt of a decision of the Engineer/Architect referred to in 7.1 should the Contractor hold that a decision by the Engineer/Architect is in error and/or at variance with the contract Documents. Unless the Contractor fulfills this requirement subsequent claims by him for extra compensation, arising out of the decision, will not be accepted.
- 7.3 If the question of error and/or variance is not resolved immediately, and the Engineer/Architect decides that the disputed work shall be carried out, the Contractor shall act according to the Engineer/Architect's written decision.

Any question of change in Contract Price and/or extension of Contract Time due to such error and/or variance shall be decided as provided in GC16 - Settlement of Disputes.

#### GC8 DELAY

- 8.1 If it can be clearly shown that the Contractor is delayed in the performance of the work by any act or fault of the Owner or other Contractor, then the contract time shall be extended for such reasonable time as the Engineer/Architect may decide in consultation with the Contractor.

The Contractor shall be reimbursed for any costs incurred by the Contractor as a result of such a delay occasioned by the act or fault, provided that it can be clearly shown that the Contractor's forces cannot work efficiently elsewhere on the project and that the incurred cost is limited to that which could not reasonably have been avoided.

- 8.2 If the Contractor is delayed in the performance of the Work by a Stop Work Order issued by any court or other public authority, and providing that such order was not issued as the result of any act or fault of the Contractor or of any one employed by him directly or indirectly, then the Contract Time shall be extended for such reasonable time as the Engineer/Architect may decide, in consultation with the Contractor, and the Contractor shall be reimbursed for any onsite costs incurred by him as the result of such delay.
- 8.3 If the Contractor is delayed in the performance of the Work by civil disorders, labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized Contractor's Association, of which the Contractor is a member) fire, unusual delay by common carriers or unavoidable casualties or, without limit to any of the foregoing, by any cause of any kind whatsoever beyond the Contractor's control, then the Contract Time shall be extended for such reasonable time as may be decided by the Engineer/Architect in consultation with the Owner and



Transportation and Works

the Contractor, but in no case shall the extension of time be less than the time lost as the result of the event causing the delay unless such shorter extension or time be agreed to by the Contractor.

- 8.4 No extension shall be made for delay unless written notice of claim is given to the Engineer/Architect within fourteen (14) days of its commencement, providing that in the case of a continuing cause of delay only one notice shall be necessary.

#### GC9 OWNER'S RIGHT TO DO WORK

- 9.1 If the Contractor should neglect to prosecute the Work properly or fail to perform any provisions of the Contract, the Owner may 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 within five (5) working days of receiving the notice.
- 9.2 If the correction of the default cannot be completed within the five (5) working days specified, the Contractor shall be considered to be in compliance with the Owner's instructions if the Contractor:
- (a) commences the correction of the default within the specified time, and
  - (b) provides the Owner with an acceptable schedule for such correction, and
  - (c) completes the correction in accordance with such schedule.
- 9.3 If the Contractor fails to comply with the provisions 9.1 and 9.2 the Owner may, without prejudice to any other right or remedy the Owner may have, correct such default and may deduct the cost thereof from the payment then or thereafter due the Contractor.

#### GC10 OWNER'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

- 10.1 If the Contractor should be adjudged bankrupt, or makes a general assignment for the benefit of creditors or if a receiver is appointed on account of the Contractor's insolvency, the Owner may, without prejudice to any other right or remedy he may have, by giving the Contractor written notice, terminate the Contract.
- 10.2 The Owner may notify the Contractor in writing that the Contractor is in default of the Contractor's contractual obligations, if the Contractor:
- (a) fails to proceed regularly and diligently with the work; or
  - (b) without reasonable cause wholly suspends the carrying out of the work before the completion thereof; or
  - (c) refuses or fails to supply sufficient properly skilled workmen or proper workers, products or construction machinery and equipment for the scheduled performance of the work within five (5) working days of receiving written notice from the Engineer/Architect, except in those cases provided in GC8 - Delay; or
  - (d) fails to make payments due to the Contractor's Subcontractors, suppliers or his workmen; or
  - (e) persistently disregards laws or ordinances, or the Engineer/Architect's instructions; or
  - (f) Otherwise violates the provisions of the Contract to a substantial degree. Such written notice by the Owner shall instruct the Contractor to correct the default within five (5) working days from the receipt of the written notice.
- 10.3 If the correction of the default cannot be completed within the five (5) working days specified, the Contractor shall be considered to be in compliance with the Owner's instructions if the Contractor:
- (a) commences the correction of the default within the specified time,
  - (b) provides the Owner with an acceptance schedule for such correction, and
  - (c) completes the correction in accordance with such schedule.
- 10.4 If the Contractor fails to correct the default within the time specified or subsequently agreed upon, the Owner may, without prejudice to any other right or remedy the Owner may have, stop the work or terminate the Contract.
- 10.5 If the Owner terminates the contract under the conditions set out above, the Owner is entitled to:



Transportation and Works

- (a) take possession of the premises and products and utilize the temporary buildings, plants, tools, construction machinery and equipment, goods, materials, intended for, delivered to and placed on or adjacent to the work and may complete the work by whatever method he may deem expedient but without undue delay or expense;
- (b) withhold any further payments to the Contractor until the work is finished;
- (c) upon total performance of the work, charge the Contractor the amount by which the full cost of finishing the work including compensation to the Engineer/Architect for his additional services and a reasonable allowance to cover the cost of any corrections required by GC31 - Warranty, exceeds the unpaid balance of the Contract Price; or if such cost of finishing the work is less than the unpaid balance of the Contract Price, pay the Contractor the difference.
- (d) on expiry of the warranty period, charge the Contractor the amount by which the cost of corrections under GC31 - Warranty exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the Contractor the difference.

#### GC11 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

- 11.1 If the Owner should be adjudged bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Owner's insolvency, the Contractor may, without prejudices to any other right or remedy the Contractor may have, by giving the Owner written notice, terminate the Contract.
- 11.2 If the work should be stopped or otherwise delayed for a period of thirty days or more under an order of any court, or other public authority, and providing that such order was not issued as the result of any court, or other public authority, and providing that such order was not issued as the result of any act or fault of the Contractor or of any one directly or indirectly employed by him, the Contractor may, without prejudice to any other right or remedy he may have, by giving the Owner 15 days written notice, terminate the Contract.
- 11.3 The Contractor may notify the Owner in writing that the Owner is in default of the Owner's contractual obligations if:
  - (a) the Engineer/Architect fails to issue a certificate in accordance with GC21 - Certificates and Payments;
  - (1) The Owner fails to pay to the Contractor when due any amount certified by the Engineer/Architect and verified by the audit of the Owner. Such written notice shall advise the Owner that if such default is not corrected within fifteen (15) days from the receipt of the written notice the Contractor may, without prejudice to any other right or remedy the Contractor may have, stop the work and/or terminate the contract.
  - (2) 11.4 If the Contractor terminates the Contract under the conditions set out above, the Contractor shall be entitled to be paid for all work performed and for any loss sustained upon products and plant supplied with reasonable overhead, profit and damages.

#### GC12 OTHER CONTRACTORS

- 12.1 The Owner reserves the right to let separate contracts in connection with the project of which the Work is part.
- 12.2 The Owner shall coordinate the work and insurance coverage of Other Contractors as it affects the Work of this Contract.
- 12.3 The Contractor shall coordinate his work with that of Other Contractors and connect as specified or shown in the Contract Documents. Any change in the cost incurred by the Contractor in the planning and performance of such work which was not shown or included in the Contract documents as of the date of signing the Contract, shall be evaluated as provided under GC19 - Valuation and Certification of Changes in the Work.
- 12.4 The Contractor shall report to the Engineer/Architect any apparent deficiencies in other Contractor's work which would affect the Work of this Contract immediately they come to the Contractor's attention and shall confirm



Transportation and Works

such report in writing. Failure by the Contractor to so report shall invalidate any claims against the Owner by reason of the deficiencies of Other Contractor's work except as to those of which the Contractor was not reasonably aware.

### GC13 ASSIGNMENT

- 13.1 The Contractor shall not assign the contract or any part thereof or any benefit or interest therein or thereunder without the written consent of the Owner.

### GC14 SUBCONTRACTORS

- 14.1 The Contractor agrees to preserve and protect the rights of the Owner under the Contract with respect to any work to be performed under subcontract. The Contractor shall:
- (a) require the Contractor's Subcontractors to perform their work in accordance with and subject to the terms and conditions of the Contract Documents, and
  - (b) be fully responsible to the Owner for acts and omissions of the Contractor's Subcontractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by them.

The Contractor therefore agrees that the Contractor will incorporate all the terms and conditions of the Contract Documents into all Subcontract Agreements the Contractor enters into with the Contractor's Subcontractors.

- 14.2 The Contractor shall employ those Subcontractors proposed by the Contractor in writing and accepted by the Owner prior to the signing of the Contract for such portions of the work as may be designated in the bidding requirements.
- 14.3 The Owner may, for reasonable cause, object to the use of a proposed Subcontractor and require the Contractor to employ one of the other Subcontractor Bidders.
- 14.4 In the event that the Owner requires a change from any proposed Subcontractor the Contract Price shall be adjusted by the difference in cost occasioned by such required change.
- 14.5 The Contractor shall not be required to employ as a Subcontractor any person or firm to whom the Contractor may reasonably object.
- 14.6 The Engineer/Architect may, upon reasonable request and at his or her discretion, provide to a Subcontractor information as to the percentage of the Subcontractor's work which has been certified for payment.
- 14.7 Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the Owner.

### GC15 EMERGENCIES

- 15.1 The Engineer/Architect has authority in an emergency to stop the progress of the work whenever in his or her opinion such stoppage may be necessary to ensure the safety of life, or the work, or neighbouring property. This includes authority to make changes in the work, and to order, assess and award the cost of such work, extra to the Contract or otherwise, as may in his or her opinion be necessary. The Engineer/Architect shall, within two (2) working days, confirm in writing any such instructions. In such a case if the work has been performed under direct order of the Engineer/Architect, the Contractor shall keep the Contractor's right to claim the value of such work.
- 15.2 Should the work be stopped by civil pickets, or other disorder, neither the Owner nor the Contractor shall have claim for a change in the price of the Contract.





## GC16 SETTLEMENT OF DISPUTES AND CLAIMS

- 16.1 In the case of any dispute or claim arising between the Owner and the Contractor as to their respective rights and obligations under the Contract, either party hereto may give the other written notification of such dispute or claim. The notification of dispute or claim shall be made within fourteen (14) days of the dispute or cause of action arising. If the dispute or claim cannot be resolved to the satisfaction of both parties, either party may refer the matter to such judicial tribunal as the circumstances require.
- 16.2 Legal proceedings shall not take place until after the performance or the substantial performance of the disputed work except:
- (a) when the dispute concerns a certificate for payment.
  - (b) where either party can show that the matter in dispute requires immediate consideration while evidence is available.
  - (c) in the case of legal proceedings, where the action may become prescribed by reason of delay.

## GC17 INDEMNIFICATION

- 17.1 Except as provided in 17.2, the Contractor shall be liable for, and shall indemnify and hold harmless the Owner and the Engineer/Architect, their agents and employees from and against all claims, demands, losses, costs, damages, actions, suits or proceedings, whatsoever arising under any statute or Common Law:
- (a) in respect of personal injury to or the death of any person whomsoever arising out of or in the course of or caused by the carrying out of the work; and
  - (b) in respect of any injury or damage whatsoever to any property, real or personal or any chattel real, insofar as such injury or damage arises out of or in the course of or by reason of the carrying out of the work.
- 17.2 The Contractor shall not be liable under 17.1 if the injury, death, loss or damage is due to any act or neglect of the Owner or Engineer/Architect, their agents or employees.

## GC18 CHANGES IN THE WORK

- 18.1 The Owner may make changes by altering, adding to, or deducting from the Work, with the amount due under the Contract and the Contract Time being adjusted accordingly.
- 18.2 Except as provided in GC15 - Emergencies, no change shall be made without a written order from the Engineer/Architect and no claim for an addition or deduction from the amount due under the Contract or change in the Contract time shall be valid unless so ordered and at the same time valued or agreed to be valued as provided in GC19 - Valuation and Certification of Changes in the Work.

## GC19 VALUATION AND CERTIFICATION OF CHANGES IN THE WORK

- 19.1 The value of any change shall be determined in one or more of the following methods:
- (a) by unit prices as provided in Article A-3 of the Agreement
  - (b) by unit prices subsequently agreed upon
  - (c) by cost and a fixed or percentage fee.

In the case of changes in the work valued as outlined in 19.1(c), the Contractor shall submit detailed invoices, vouchers and time sheets for all materials and labour to complete the extra work.

When work is performed by the Contractor's own forces his markup for overhead shall be ten (10) percent and his profit ten (10) percent of the agreed or actual cost of the change. When work is performed by one of his Subcontractors the Subcontractors's markup for overhead shall be ten (10) percent of the agreed or actual cost of the change plus five (5) percent for profit.



Transportation and Works

The Contractor's markup for overhead and profit shall be (10) percent of the Subcontractor's total price.

- 19.2 Notwithstanding the provisions of 19.1, in case of changes in the work:
- (a) where unit prices are provided in the contract for work to be done those unit prices shall be used in determining the value of any change, and
  - (b) the amount charged for equipment rentals shall be that provided in the contract and no additional amount shall be paid as markup for overhead or profit for the Contractor or Subcontractor.
- 19.3 When a change in the work is proposed or required the Contractor shall present to the Engineer/Architect for approval the Contractor's claim for any change in the Contract Price and/or change in Contract Time. The Engineer/Architect shall satisfy himself or herself as to the correctness of such claim and, when approved shall issue a written order to the Contractor to proceed with the change. The value of work performed in the change shall be included for payment with the regular certificate for payment.
- 19.4 In case of changes in the Work to be paid for under methods (b) and (c) of 19.1, the form of presentation of costs and methods of measurement shall be agreed to by the Engineer/Architect and Contractor before proceeding with the change. The Contractor shall keep accurate records, as agreed upon, of quantities or costs and present an account of the cost of the change in the Work, together with vouchers where applicable.
- 19.5 If the method of valuation, measurement and the change in Contract Price and/or change in Contract Time cannot be promptly agreed upon, and the change is required to be proceeded with then the Engineer/Architect shall determine the method of valuation, measurement and the change in Contract Price and/or Contract Time subject to final determination in the manner set out in GC16 - Settlement of disputes. In this case the Engineer/Architect shall issue a written authorization for the change setting out the method of valuation and if by lump sum his or her valuation of the change in Contract Price and/or Contract Time.
- 19.6 In the case of a dispute in the valuation of a change authorized in the Work pending final determination of such value, the Engineer/Architect shall certify the value of work performed and include the amount with the regular certificates for payment.
- 19.7 It is intended in all matters referred to above that both the Engineer/Architect and Contractor shall act promptly.

#### GC20 APPLICATION FOR PAYMENT

- 20.1 Applications for payment on account as provided for in Article A-4 may be made monthly as the Work progresses.
- 20.2 Application for payment shall be made monthly on a date to be agreed between the Owner and the Contractor and the amount claimed shall be for the value of work performed and products delivered to the site at that date.
- 20.3 Application for release of **holdback monies** following the Substantial Performance of the Work and the application for final payment shall be made at the time and in the manner set forth in GC21 - Certificates and Payments.

#### GC21 CERTIFICATES AND PAYMENTS

- 21.1 The Engineer/Architect shall, within ten (10) days of receipt of an application for payment from the Contractor submitted in accordance with GC20 - Application for Payment, issue a certificate for payment in the amount applied for or such other amount as he or she shall determine to be properly due. If the Engineer/Architect amends the application he shall promptly notify the Contractor in writing, giving his or her reasons for the amendment.
- 21.2 The Owner shall within twenty-one (21) days of issuance of a certificate for payment by the Engineer/Architect, make payment to the Contractor on account, in accordance with the provisions of the Agreement.



Transportation and Works

- 21.3 If payment is not made within sixty (60) days of issuance of a certificate for payment by the Engineer/Architect the owner will be liable for interest on the amount owing at the rate of 9% per annum from the sixty-first (61st) day to the date of payment.
- 21.4 Notwithstanding any other provisions of this Contract:
- (a) If on account of climatic or other conditions reasonably beyond the control of the Contractor there are items of work that cannot be performed, the payment in full for that which has been performed as certified by the Engineer/Architect shall not be withheld or delayed by the Owner on account thereof, but the Owner may withhold from the Contract Price until the remaining work is finished an amount sufficient to cover the cost to the Owner of performing such remaining work and to adequately protect the Owner from claims.
  - (b) Where legislation permits and where, upon application by the Contractor, the Engineer/Architect has certified that a Subcontract has been totally performed to his or her satisfaction prior to the Substantial Performance of this Contract, the Owner shall pay the Contractor the holdback retained for such Subcontractor on the day following the expiration of the Statutory Limitations Period stipulated in the Mechanics' Lien Act applicable to the place of building.
- The holdbacks will be released on the following conditions:
- (i) a copy of the contract between the Subcontractor and the Contractor, or some other suitable Document satisfactory to the Owner, must be presented to the Owner.
  - (ii) the Subcontract is completed without deficiencies.
  - (iii) the warranty for the Subcontract will not start until Substantial Performance of the General Contract;
  - (iv) the Contractor provides an approved statutory declaration that all monies have been paid to the Subcontractors;
  - (v) the Owner will, at that time, release the total amount specified on the Sub-contractors Contract.
- 21.5 Notwithstanding the provisions of 21.4(b) and notwithstanding the wording of such certificate the Contractor shall ensure that such work is protected pending the Total Performance of the Contract and be responsible for the correction of any defects in it regardless of whether or not they were apparent when such certificates were issued.
- 21.6 The Engineer/Architect shall, within ten (10) days of receipt of an application from the Contractor for a Certificate of Substantial Performance, make an inspection and assessment of the work to verify the validity of the application. The Engineer/Architect shall within seven (7) days of his or her inspection notify the Contractor of his or her approval or disapproval of the application. When the Engineer/Architect finds the Work to be Substantially Performed he or she shall issue such a certificate. The date of this certificate shall be the date of Substantial Performance of the Contract. Immediately following the issuance of the Certificate of Substantial Performance, the Engineer/Architect, in consultation with the Contractor shall establish a reasonable date for the Total Performance of the Contract.
- 21.7 Following the issuance of the Certificate of Substantial Performance and upon receipt from the Contractor of all documentation called for in the Contract Documents the Engineer/Architect shall issue a certificate for payment of holdback monies. The release of holdback monies authorized by this certificate shall become due and payable on the day following the expiration of the Statutory Limitation Period stipulated in the Mechanics' Lien Act applicable to the place of building, providing that no lien or privilege claims against the Work exist and the Contractor has submitted to the Owner a sworn statement that all accounts for labour, subcontracts, products, construction machinery and equipment and any other indebtedness which may have been incurred by the Contractor in the Substantial Performance of the Work and for which the Owner might in any way be held responsible have been paid in full except holdback monies properly retained.
- 21.8 The Engineer/Architect shall, within ten (10) days of receipt of an application from the Contractor for payment upon Total Performance of the Contract, make an inspection and assessment of the work to verify the validity of the application. The Engineer/Architect shall within seven (7) days of his or her inspection notify the Contractor of his or her approval or disapproval of the application. When the Engineer/Architect finds the Work to be totally performed to his or her satisfaction he or she shall issue a Certificate of Total Performance and certify for payment the remaining monies due to the Contractor under the Contract less any holdback monies which are required to be retained. The



Transportation and Works

date of this certificate shall be the date of Total Performance of the Contract. The Owner shall, within thirty (30) days of issuance of such certificate, make payment to the Contractor in accordance with the provisions of Article A-4 of the Agreement.

- 21.9 The release of any remaining holdback monies shall become due and payable on the day following the expiration of the Statutory Limitation Period stipulated in the Mechanics' Lien Act applicable to the place of building or where such legislation does not exist or apply in accordance with such other legislation, regulations governing privileges, industry practice or such other provisions which may be agreed to between the parties, provided that no claims against the Work exist and the Contractor has submitted to the Owner a sworn statement that all accounts for labour, subcontracts, products, construction machinery and equipment and any other indebtedness which may have been incurred by the Contractor in the Total Performance of the Work and for which the Owner might in any way be held responsible, have been paid in full except holdback monies properly retained.
- 21.10 No certificate for payment, or any payment made thereunder, nor any partial or entire use of occupancy of the Work by the Owner shall constitute an acceptance of any work or products not in accordance with the Contract Documents.
- 21.11 The issuance of the Certificate of Total Performance shall constitute a waiver of all claims by the Owner against the Contractor except those previously made in writing and still unsettled, if any, and those arising from the provisions of GC31 - Warranty, or those arising from negligence on the part of the Contractor. The acceptance of the Certificate of Total Performance or of the payment due thereunder shall constitute a waiver of all claims by the Contractor against the Owner except those made in writing prior to his application for payment upon Total Performance of the Contract and still unsettled, if any.
- 21.12 The holdback to be used by the Engineer/Architect when issuing certificate of payment will be ten (10) percent of the value of the work completed at the date of the Contractor's claim.
- 21.13 Notwithstanding the provisions of 21.3 or any other provision of this Contract, the Owner may:
- (a) in the event of a claim by the owner against the Contractor for damages arising out of the performance or non-performance of the Contract, withhold payment of any amount equal to the alleged damages until the liability of damages is established and no amount of interest will be paid on amounts held under this clause;
  - (b) set-off amounts owing by the Contractor to the Owner;
  - (c) following the issuance of the Certificate of Substantial Performance, withhold payment of an amount equal to twice the cost, as estimated by the Engineer/Architect of remedying efficiencies until the issuance of a Certificate of Total Performance and no amount of interest will be paid on amounts held under this clause.

## GC22 TAXES AND DUTIES

- 22.1 Unless otherwise stated in Supplementary General Conditions the Contractor shall pay all government sales taxes, customs duties and excise taxes with respect to the Contract.
- 22.2 Any increase or decrease in costs to the Contractor due to changes in such taxes and duties after the date of the Agreement and up to the agreed date of completion shall increase or decrease the Contract Price accordingly. If the owner so desires the Contractor is to co-operate with the Engineer/Architect and Owner and permit access to books and records in order to establish the amount of such taxes involved.
- 22.3 The Contractor shall maintain full records of the Contractor's estimates of and actual cost to the Contractor of the work together with all proper tender calls, quotations, contracts, correspondence, invoices, receipts and vouchers relating thereto, shall make them available to audit and inspection by the Owner, the Auditor General for Newfoundland and Labrador or by persons acting on their behalf, shall allow them to make copies thereof and to take extracts therefrom, and shall furnish them with any information which they may require from time to time in connection with such record.

**GC23 LAWS, NOTICES, PERMITS AND FEES**

- 23.1 The laws of the place of building shall govern the work.
- 23.2 The Contractor shall obtain all permits licenses and certificates and pay all fees required for the performance of the Work which are in force at the date of tender submissions (but this shall not include the obtaining of permanent easements or rights of servitude).
- 23.3 The Contractor shall give all required notices and comply with all laws, ordinances, rules, regulations, codes and order of all authorities having jurisdiction relating to the Work, to the preservation of the public health and construction safety which are or become in force during the performance of the Work.
- 23.4 The Contractor shall not be responsible for verifying that the Contract Documents are in compliance with the applicable laws, ordinances, rules, regulations and codes relating to the Work. If the Contract Documents are at variance therewith, or changes which require modification to the Contract Documents are made to any of the laws, ordinances, rules, regulations and codes by the authorities having jurisdiction subsequent to the date of tender submission, any resulting change in the cost shall constitute a corresponding change in the Contract Price. The Contractor shall notify the Engineer/Architect in writing requesting direction immediately of any such variance or change is observed by him or her.
- 23.5 If the Contractor fails to notify the Engineer/Architect in writing and obtain his or her direction as required in GC23.4 and performs any work knowing it to be contrary to any laws, ordinances, rules, regulations, codes and orders of any authority having jurisdiction, the Contractor shall be responsible for and shall correct any violations thereof and shall bear all costs, expense and damages, attributable to the Contractor's failure to comply with the provisions of such laws, ordinances, rules, regulations, codes and orders.

**GC24 PATENT FEES**

- 24.1 The Contractor shall pay all royalties and patent license fees required for the performance of the contract and such royalties or fees shall be deemed to have been included in the contract price.  
The Contractor shall hold the Owner harmless from and against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Contractor's performance of the Contract which are attributable to an infringement or an alleged infringement of any patent or invention by the Contractor or anyone for whose acts the Contractor may be liable.
- 24.2 The Owner shall hold the Contractor harmless against all claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the Contractor's performance of the Contract which are attributable to an infringement or an alleged infringement of any patent or invention in executing anything for the purpose of the Contract, the model, plan or design of which was supplied to the Contractor by the Owner.

**GC25 WORKER'S COMPENSATION**

- 25.1 Prior to commencing the Work and prior to receiving payment on Substantial and Total Performance of the Work, the Contractor shall provide evidence of compliance with all requirements of the Province of the place of building with respect to worker's compensation including payments due thereunder.
- 25.2 At any time during the term of Contract, when requested by the Engineer/Architect, the Contractor shall provide such evidence of compliance by the Contractor and any or all of the Contractor's Subcontractors.

**GC26 LIABILITY INSURANCE**

- 26.1 Comprehensive General Liability Insurance



Transportation and Works

- (a) Without restricting the generality of GC17 - Indemnification, the Contractor shall provide and maintain, either by way of a separate policy or by an endorsement to his existing policy, Comprehensive General Liability insurance acceptable to the Owner and subject to limits set out in detail in the Supplementary General Conditions inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof.
- (b) The insurance shall be in the joint names of the Contractor and the Owner, shall also cover as Unnamed Insureds all Subcontractors and anyone employed directly or indirectly by the Contractor or the Contractor's Subcontractors to perform a part or parts of the Work but excluding suppliers whose only functions is to supply and or transplant products to the project site.
- (c) The insurance shall also include as Unnamed Insureds the architectural and engineering consultants of the Owner and Engineer/Architect.
- (d) The insurance shall preclude subordination claims by the Insurer against anyone insured thereunder.
- (e) The Comprehensive General Liability Insurance will not be limited to, but shall include coverage for:
- |  |   |
|--|---|
| (1) premises and operations liability          | (7) personal injury liability arising out of false arrest, detention or imprisonment or malicious prosecution, libel, slander or defamation of character, invasion of privacy, wrongful eviction or wrongful entry. |
| (2) products or completed operations liability | (8) shoring, blasting, excavation, underpinning, demolition, pile driving and caisson work, work below ground surface, tunneling and grading, as applicable.  |
| (3) blanket contractual liability              | (9) liability with respect to non-owned licensed vehicles.  |
| (4) cross liability                            |   |
| (5) elevator and hoist liability               |   |
| (6) contingent employers's liability           |   |

#### 26.2 Automobile Liability Insurance

The Contractor shall provide and maintain liability insurance in respect of owned licensed vehicles subject to limits set out in detail in the Supplementary General Conditions inclusive.

#### 26.3 Aircraft and Water craft Liability Insurance

The Contractor shall provide and maintain liability insurance with respect to owned and non-owned aircraft and water craft, as may be applicable, subject to limits set out in detail in the Supplementary General Conditions inclusive. Such insurance shall be in the joint names of the Contractor, the Owner, the Engineer/Architect and those parties defined in 26.1(b)(c) where they have an interest in the use and operation of such aircraft or water craft. The insurance shall preclude subordination claims by the Insurer against anyone insured thereunder.

26.4 All liability insurance shall be maintained continuously until twelve (12) months after the date the Engineer/Architect issues a certificate of Substantial performance.

26.5 The Contractor shall provide the Owner with evidence of all liability insurance prior to the commencement of the work and shall promptly provide the Owner with a certified true copy of each insurance policy.

26.6 All liability insurance policies shall contain an endorsement to provide all Named Insureds with prior notice of changes and cancellations. Such endorsements shall be in the following form:

"It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way or cancelled until 30 days after written notice of such change or cancellation shall have been given to all Named Insureds".

### GC27 PROPERTY INSURANCE

27.1 The Contractor shall provide and maintain property insurance, acceptable to the Owner, insuring the full value of the Work in the amount of the Contract Price and the full value as stated of products for incorporation into the Work. The insurance shall be in the joint names of the Contractor, the Owner, the Subcontractors and all others having an insurable interest in the Work. The policies shall include all Subcontractors as Unnamed Insureds or, if they specifically request, as Named Insureds. The Policies shall preclude subordination claims by the Insurer against anyone insured thereunder.



Transportation and Works

- 27.2 Such coverage shall be provided for by EITHER an ALL Risks Builder's Risk Policy OR by a combination of a standard Builders' Risk Fire Policy including Extended Coverage and Malicious Damage Endorsements and a Builders' Risk Difference in Conditions Policy providing equivalent coverage, of Piers, Wharves and Docks Government Structures Policy.
- 27.3 The policies shall insure against all risks of direct loss or damage subject to the exclusion specified in the Supplementary General Conditions. Such coverage shall apply to:
- (a) all products, labour and supplies of any nature whatsoever, the property of the Insureds or of others for which the Insureds may have assumed responsibility, to be used in or pertaining to the site preparations, demolition of existing structures, erections and/or fabrication and/or reconstruction and/or repair of the insured project, while on the site or in transit, subject to the exclusion of the property specified.
  - (b) the installation, testing and any subsequent use of machinery and equipment including boilers, pressure vessels or vessels under vacuum.
  - (c) damage to the Work caused by an accident to and/or the explosion of any boiler(s) or pressure vessels(s) forming part of the work.

Such coverage shall exclude construction machinery, equipment, temporary structural and other temporary facilities, tools, and supplies used in the construction of the work and which are not expendable under the Contract.

- 27.4 The Contractor shall provide the Owner with evidence of all insurance prior to commencement of the Work and shall promptly provide the Owner with a certified true copy of each insurance policy.

Policies provided shall contain an endorsement to provide all Named Insureds with prior notice of changes and cancellations. Such endorsements shall be in the following form: "It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way or cancelled until 30 days after written notice of such change or cancellation shall have been given to all Named Insureds".

- 27.5 All such insurance shall be maintained continuously until ten (10) days after the date the Engineer/Architect issues a certificate to Total Performance. All such insurance shall provide for the Owner to take occupancy of the work or any part thereof during the terms of this insurance. Any increase in the cost of this insurance arising out of such occupancy shall be at the Owner's expense.
- 27.6 The policies shall provide that, in the event of a loss, payment for damage to the Work shall be made to the Owner and the Contractor as their respective interests may appear. The Contractor shall act on behalf of the Owner and the Contractor for the purpose of adjusting the amount of such loss with the Insurers. On the determination of the extent of the loss, the Contractor shall immediately proceed to restore the Work and shall be entitled to receive from the Owner (in addition to any sum due under the Contract) the amount at which the Owner's interest in the restoration work has been appraised, such amount to be paid as the work of the restoration proceeds and in accordance with the Engineer/Architect's certificates for payment.

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 time for Substantial and Total Performance of the Work as the Engineer/Architect may decide.

- 27.7 The Contractor and/or the Contractor's Subcontractors as may be applicable shall be responsible for any deductible amounts under the policies and for providing such additional insurance as may be required to protect the insureds against loss on items excluded from the policies.

## GC28 PROTECTION OF WORK AND PROPERTY

- 28.1 The Contractor shall protect the property adjacent to the Project site from damage as the result of his operations under the Contract.



Transportation and Works

- 28.2 The Contractor shall protect the Work and the Owner's property from damage and shall be responsible for any damage which may arise as the result of the Contractor's operations under the Contract except damage which occurs as the result of:
- errors in the Contract Documents, and/or
  - acts or omissions by the Owner's agents, employees or Other Contractors.
- 28.3 Should any damage occur to the Work and/or property for which the Contractor is responsible the Contractor shall make good such damage at the Contractor's own expense or pay all costs incurred by others in making good such damage.
- 28.4 Should any damage occur to the Work and/or Owner's property for which the Contractor is not responsible as provided in GC17 the Contractor shall make good such damage to the Work, and, if the Owner so directs to the Owner's property, and the Contract Price and Contract Time shall be adjusted in accordance with GC18 - Changes in the Work.
- 28.5 The Contractor shall be completely responsible for the safety of the work as it applies to protection of the public and property and the construction of the work.

The Codes that must be followed and enforced for safety are:

- The National Building Code, Part 8 Construction Safety Measures (Latest Edition);
  - The Workmen's Compensation Board Accident Prevention Regulations (Latest Edition);
  - Canadian Code for Construction Safety (Latest Edition) as issued by the Associate Committee of the National Building Code.
- 28.6 Any person not following stipulated safety regulations shall be dismissed.

#### **GC29 DAMAGES AND MUTUAL RESPONSIBILITY**

- 29.1 If either party to this Contract should suffer damage in any manner because of any wrongful act or neglect of the other party or anyone employed by that party then that party shall be reimbursed by the other party for such damages. The party reimbursing the other party shall be subrogated to the rights of the other party in respect of such wrongful act or neglect if it be that of a third party.
- 29.2 Claims under this GC shall be made in writing to the party liable within reasonable time after the first observance of such damage and not later than the time limits stipulated in GC21-Certificates and Payments, and may be adjusted by agreement or in the manner set out in GC16-Settlement of Disputes and Claims
- 29.3 If the Contractor has caused damage to any Other Contractor on the work, the Contractor agrees upon due notice to settle with such Other Contractor by agreement or arbitration, if the other Contractor will so settle. If such Other Contractor sues the Owner on account of any damaged alleged to have been so sustained, the Owner shall notify the Contractor and may require the Contractor to defend the action at the Contractor's expense. If any final order or judgement against the Owner arises therefrom the Contractor shall pay or satisfy it and pay all costs incurred by the Owner.
- 29.4 If the Contractor becomes liable to pay or satisfy any final order, judgement or award against the Owner then the Contractor, upon undertaking to indemnify the Owner against any and all liability for costs, shall have the right to appeal in the name of the Owner such final order or judgement to any and all courts of competent jurisdiction.

#### **GC30 BONDS**

- 30.1 The Owner shall have the right during the period stated in the tender documents for acceptance of the tender to require the Contractor to provide and maintain in good standing until the fulfilment of the Contract, bonds covering the faithful performance of the Contract including the requirements of the Warranty provided for in GC31-Warranty, and the payment of all obligations arising under the Contract.
- 30.2 All such bonds shall be issued by a duly incorporated surety company approved by the Owner and authorized to transact the business of surety-ship in the Province of Newfoundland and Labrador.





Transportation and Works

- 30.3 If bonds are called for in the tender documents or supplementary general conditions or instructions to bidders, the costs attributable to providing such bonds shall be included in the tender price.
- 30.4 Should the Owner require the provision of a bond or bonds by the Contractor other than those provided for under 30.3, the Contract Price shall be increased by all costs attributable to providing such bonds.
- 30.5 The Contractor shall promptly provide the Owner with any bonds that are required.

**GC31 WARRANTY**

- 31.1 Without restricting any warranty or guarantee implied or stipulated by law the Contractor shall at the Contractor's own expense rectify and make good any defect or fault however caused appearing within a period of one year from the date of Substantial Performance of the Work provided that the Contractor shall not be responsible for any defect or fault resulting from the design of the work.
- 31.2 The Contractor shall correct and/or pay for any damage to other work resulting from any corrections required under the conditions of 31.1.
- 31.3 Neither the Engineer/Architect's final certificate nor payment thereunder shall relieve the Contractor from the Contractor's responsibility hereunder.
- 31.4 The Owner and/or the Engineer/Architect shall give the Contractor written notice of observed defects promptly.

**GC32 CONTRACTOR'S RESPONSIBILITIES AND CONTROL OF THE WORK**

- 32.1 The Contractor shall have complete control of the Work except as provided in GC15 - Emergencies. The Contractor shall effectively direct and supervise the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all parts of the Work under the Contract.
- 32.2 The Contractor shall have the sole responsibility for the design, erection, operation, maintenance and removal of temporary structural and other temporary facilities and the design and execution of construction methods required in their use. The Contractor shall engage and pay for registered professional engineering personnel skilled in the appropriate discipline to perform these functions where required by law or by the Contract Documents and in all cases where such temporary facilities and their method of construction are of such a nature that professional engineering skill is required to produce safe and satisfactory results.
- 32.3 Notwithstanding the provisions of paragraphs 32.1 and 32.2 above, or any provisions to the contrary elsewhere in the Contract Documents where such Contract Documents include design for temporary structural and other temporary facilities and methods shall be deemed to comprise part of the overall design of the Work and the Contractor shall not be held responsible for that part of the design or the specified method of construction. The Contractor shall, however, be responsible for the execution of such design or specified method of construction in the same manner that the Contractor is responsible for the execution of the Work.
- 32.4 The Contractor shall carefully examine the Contract Documents and shall promptly report to the Engineer/Architect any error, inconsistency or omission the Contractor may discover. The Contract shall not be held liable for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents.

**GC33 SUPERINTENDENCE**

- 33.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Work site at all times while work is being performed.
- 33.2 The superintendent shall be satisfactory to the Engineer/Architect and shall not be changed except for good reason and only then after consultation with an agreement by the Engineer/Architect.



Transportation and Works

- 33.3 The superintendent shall represent the Contractor at the Work site and directions given to the Contractor by the Engineer/Architect shall be held to have been given to the Contractor. Important directions shall be confirmed to the Contractor in writing, other directions will be so confirmed if requested.

#### GC34 LABOUR AND PRODUCTS

- 34.1 Unless otherwise stipulated elsewhere in the Contract Documents, the Contractor shall provide and pay for all labour products, tools, construction equipment and machinery, water, heat, light, power, transportation and other facilities and services necessary for the proper performance of the Work.
- 34.2 All products provided shall be new unless otherwise specified in the Contract Documents. Any products which are not specified shall be of a quality best suited to the purpose required and their use subject to the approval of the Engineer/Architect.
- 34.3 The Contractor shall at times maintain good order and discipline among his employees engaged on the Work and shall not employ on the Work any unfit person nor anyone not skilled in the task assigned to him.

#### GC35 SUBSURFACE CONDITIONS

- 35.1 The Contractor shall promptly notify the Engineer/Architect in writing if, in the Contractor's opinion, the subsurface conditions at the Project site differ materially from those indicated in the Contract Documents or as may have been represented to the Contractor by the Owner or Engineer/Architect before the time of tender submission.
- 35.2 After prompt investigation, should the Engineer/Architect determine that conditions do differ materially, he or she shall issue appropriate instructions for changes in the Work as provided for in GC18 - Changes in Work.

#### GC36 USE OF PREMISES

- 36.1 The Contractor shall confine the Contractor's apparatus, the storage of products and the operations of the Contractor's workers to limits indicated by laws, ordinances, permits or by directions of the Engineer/Architect and shall not unreasonably encumber the premises with his products.
- 36.2 The Contractor shall not load or permit to be loaded any part of the Work with a mass that will endanger its safety.
- 36.3 The Contractor shall enforce the Engineer/Architect's instructions regarding signs, advertisements, fires and smoking.
- 36.4 Unless otherwise provided the Contractor shall, at the Contractor's own expense, and without extra cost to the Owner, make suitable provision to accommodate all traffic either pedestrian or vehicular, over or around, the project upon which work is being performed in a manner satisfactory to the Engineer/Architect.
- 36.5 The Contractor shall provide and maintain at the Contractor's own expense such fences, barriers, signs, lights and watchmen as may be necessary to prevent avoidable accidents to residents or to the public generally.

#### GC37 CLEANUP AND FINAL CLEANING OF WORK

- 37.1 The Contractor shall maintain the work in a tidy condition and free from the accumulation of waste products and debris, other than that caused by the Owner, other Contractor or their employees.
- 37.2 When the Work is Substantially Performed the Contractor shall remove all of the Contractor's surplus products, tools, construction machinery and equipment not required for the performance of the remaining work. The Contractor shall also remove any waste products and debris and leave the Work clean and suitable for occupancy by the Owner unless otherwise specified.
- 37.3 When the Work is totally Performed, the Contractor shall remove all of the Contractor's surplus products, tools, construction machinery and equipment. The Contractor shall also remove any waste products and debris, other than that caused by the Owner, other contractors or their employees.

**GC38 CUTTING AND REMEDIAL WORK**

- 38.1 The Contractor shall do all cutting and remedial work that may be required to make the several parts of the Work come together properly.
- 38.2 The Contractor shall coordinate the schedule for the Work to ensure that this requirement is kept to a minimum.
- 38.3 Should the Owner or anyone employed by the Contractor be responsible for ill-timed work necessitating cutting and/or remedial work shall be valued as provided in GC19 - Valuation and Certification of Changes in the work and added to the Contract Price.
- 38.4 Cutting and remedial work shall be performed by specialists familiar with the materials affected and shall be performed in a manner to neither damage nor endanger any Work.

**GC39 INSPECTION OF WORK**

- 39.1 The Owner and the Owner's authorized representatives shall have access to the Work for inspection wherever it is in preparation or progress. The Contractor shall cooperate to provide reasonable facilities for such access.
- 39.2 If special tests, inspections or approvals are required by the Contract Documents, the Engineer/Architect instructions or the laws or ordinances of the place of building the Contractor shall give the Engineer/Architect timely notice requesting inspection. Inspection by the Engineer/Architect shall be made promptly. The Contractor shall arrange inspection by other authorities and shall notify the Engineer/Architect of the date and time.
- 39.3 If the Contractor covers or permits to be covered any of the Work that is subject to inspection or before any special tests and approvals are completed without the approval of the Engineer/Architect, the Contractor shall uncover the Work, have the inspection satisfactorily completed and make good the Work at the Contractor's own expense.
- 39.4 Examination of any questioned work may be ordered by the Engineer/Architect. If such work be found in accordance with the Contract the Owner shall pay the cost of examination and replacement, together with the cost of subsequent verification testing. If such Work be found not in accordance with the Contract through the fault of the Contractor, the Contractor shall pay such cost.
- 39.5 The Contractor shall furnish promptly to the Engineer/Architect two (2) copies of all certificates and inspection reports relating to the Work.

**GC40 REJECTED WORK**

- 40.1 Defective Work, whether the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the Contractor, and whether incorporated in the Work or not, which has been rejected by the Engineer/Architect as failing to conform to the Contract Documents shall be removed promptly from the premises by the Contractor and replaced and/or executed promptly in accordance with the Contract Documents at the Contractor's expense.
- 40.2 Other Contractor's Work destroyed or damaged by such removals or replacements shall be made good promptly at the Contractor's expense.
- 40.3 If in the opinion of the Engineer/Architect it is not expedient to correct defective work not done in accordance with the Contract Documents, the Owner may deduct from the Contract Price the difference in value between the Work as done and that called for by the Contract, the amount of which shall be determined in the first instance by the Engineer/Architect.

**GC41 SHOP DRAWINGS**

- 41.1 The term "shop drawings" means drawings, diagrams, illustrations, schedules, performance charts, brochures, and other data which are to be provided by the Contractor to illustrate details of a portion of the Work.



Transportation and Works

- 41.2 The Contractor shall arrange for the preparation of clearly identified shop drawings as called for by the Contract Documents or as the Engineer/Architect may reasonably request.
- 41.3 Prior to Submission to the Engineer/Architect the Contractor shall review all shop drawings. By this review the Contractor represents that the Contractor has determined and verified all field measurements, field construction criteria, materials, catalogue numbers and similar data or will do so and that the Contractor has checked and coordinated each shop drawing with the requirements of the work and the Contract Documents. The Contractor's review of each shop drawing shall be indicated by stamp, date and signature of a responsible person.
- 41.4 The Contractor shall submit shop drawings to the Engineer/Architect for his or her review with reasonable promptness and in orderly sequence so as to cause no delay in the Work or in the Work of Other Contractors. If either the Contractor or the Engineer/Architect so requests they shall jointly prepare a schedule fixing the dates for submission and return of shop drawings. Shop drawings shall be submitted in the form of a reproducible transparency or prints as the Engineer/Architect may direct. At the time of submission the Contractor shall notify the Engineer/Architect in writing of any deviations in the shop drawings from the requirements of the Contract Documents.
- 41.5 The Engineer/Architect will review and return shop drawings in accordance with any schedule agreed upon, or otherwise with reasonable promptness so as to cause no delay. The Engineer/Architect's review shall be for conformity to the design concept and for general arrangement only and such review shall not relieve the Contractor of responsibility for errors or omissions in the shop drawings or of responsibility for meeting all requirements of the Contract Documents unless a deviation on the shop drawings has been approved in writing by the Engineer/Architect.
- 41.6 The Contractor shall make any changes in shop drawings which the Engineer/Architect may require consistent with the Contract Documents and resubmit unless otherwise directed by the Engineer/Architect. When resubmitting the Contractor shall notify the Engineer/Architect in writing of any revisions other than those requested by the Engineer/Architect.

#### GC42 SAMPLES

- 42.1 The Contractor shall submit for the Engineer/Architect's approval such standard manufacturers' samples as the Engineer/Architect may reasonably require. Samples shall be labeled as to origin and intended use in the Work and shall conform to the requirements of the Contract Documents.
- 42.2 The Contractor shall provide samples of special products, assemblies, or components when so specified. The cost of such samples not specified shall be authorized as an addition to the Contract Price as provided in GC18 - Changes in the Work.

#### GC43 TESTS AND MIX DESIGNS

- 43.1 The Contractor shall furnish to the Engineer/Architect test results and mix designs as may be requested. The testing company must first be approved by the Engineer/Architect.
- 43.2 The cost of test and mix designs beyond those called for in the Contract Documents or beyond those required by laws, ordinances, rules and regulations relating to the work and the preservation of public health, shall be as authorized an addition to the Contract Price as provided in GC18-Changes in the Work.

#### GC44 MATERIALS AND SUBSTITUTIONS

- 44.1 Materials, described and named in the specifications with "or approved equal" clause after the Manufacturer's name, or so described as to establish quality only and substitutions of a similar material may be made after award of the contract provided the Engineer/Architect's approval is obtained.
- 44.2 Requests for substitutions must be accompanied by sufficient information in the form of shop drawings, manufacturer's literature, samples and other data to permit proper investigation of the substitutes proposed. Also, indicate the increase or decrease in price.



Transportation and Works

44.3 Whenever a substitute is proposed for approval the Contractor shall guarantee that such proposed substitute will not adversely affect the space requirements allocated on the drawings for the material specified, and the Contractor shall agree to bear any additional expense incurred due to the Contractor's use of the proposed substitute.

44.4 The Engineer/Architect may accept or reject any or all of the proposed substitutions as he or she sees fit, and his or her decision on a question of equality shall be final.

**GC45 LABOUR**

45.1 In carrying out his duties under this contract, the Contractor should comply with all Provincial and Federal legislation respecting labour and the employment of labour, where applicable, including the labour standards code and shall not operate in conflict with the Human Rights legislation. In the employment of labour, preference should be given to persons normally resident in Newfoundland and Labrador.

45.2 The Contractor and Subcontractors shall maintain and keep available for inspection by the Owner, a record of the names and addresses of all persons employed on the project.

45.3 All work shall be done by workers skilled in their various trades.

45.4 There shall be no discrimination in the selection of workers for employment on the project in respect of race, religious views or political affiliation, and the office of the Canada Manpower will be used in the recruitment of workers where practicable.

45.5 The Contractor shall pay fair wages and shall pay rates of wages and allowances to the various classes of labour not less favorable than those prevailing in the area where the work is being performed.

**GC46 PROVINCIAL PREFERENCE POLICY**

46.1 Preference will be given to Newfoundland and Labrador Contractors and Subcontractors and to products manufactured, processed or supplied in Newfoundland and Labrador, in accordance with the Provincial Preference Act, associated regulations and guidelines.

**GC47 TIME OF ESSENCE**

47.1 Time is of the essence of the Contract.



Transportation and Works

**AGREEMENT BETWEEN OWNER AND CONTRACTOR for use when a unit price forms the basis of payment and to be used only with the General Conditions of the Contract**

**THIS AGREEMENT** made in duplicate the 6<sup>th</sup> day of September in the year two thousand-thirteen.

**BY AND BETWEEN**

Her Majesty the Queen in Right of Newfoundland and Labrador as represented by the Minister of Transportation and Works acting pursuant to the Executive Council Act, SNL 1995 c. E-16.1.

hereinafter called the "Owner"

AND Humber Valley Paving Ltd.

hereinafter called the "Contractor"

**WITNESSETH** : that the Owner and Contractor undertake and agree as follows:

**ARTICLE A-1 THE WORK**

The Contractor shall:

- (a) perform all the Work required by the Contract Documents for **PROJECT NO. 55-13THP** (See Tender Form for Description) which have been signed in duplicate by both the parties,
- (b) do and fulfil everything indicated by this Agreement, and
- (c) commence the Work by the        day of        2013 and substantially perform the Work of this Contract as certified by the Engineer by the 31st day of October, 2013.
- (d) The "Engineer" is the person designated as such from time to time by the Owner.

**ARTICLE A-2 CONTRACT DOCUMENTS**

The following is an exact list of the Contract Documents referred to in Article A-1:  
(SEE TABLE OF CONTENTS FOR LIST OF DOCUMENTS AND DRAWINGS).

**ARTICLE A-3 CONTRACT PRICE**

The Owner shall pay to the Contractor in lawful money of Canada for the performance of the Contract, the amounts determined for each of the items of work completed at the unit price stated in the unit price table, subject to the adjustments provided herein and in the General Conditions of the Contract. The quantities contained in the unit price table are approximate only, and the final payment shall be made for the actual quantities that are incorporated in or made necessary by the work covered by the Contract.

**THE CONTRACT PRICE IS Eight million eight hundred nineteen thousand five hundred ninety five dollars and thirty five cents (\$8,819,595.35)** (including HST) in Canadian funds which price shall be subject to adjustments as may be required in accordance with the General Conditions of the Contract.

**ARTICLE A-4 PAYMENT**

- (a) Subject to applicable legislation and, where such legislation does not exist or apply, in accordance with such prescribed regulations or industry practice respecting holdback percentages and in accordance with the provisions of the General Conditions of the Contract, the Owner shall:
  - a. make monthly payments to the Contractor on account of the Contract Price. The amounts



Transportation and Works

- b. of such payments shall be as certified by the Engineer and upon Substantial Performance of the work as certified by the Engineer pay to the contractor any unpaid balance of holdback monies then due; and
- c. upon Total Performance of the Work as certified by the Engineer pay to the contractor any unpaid balance of the Contract Price then due.

(b) If the Owner fails to make payments to the Contractor as they become due under the terms of this Contract in any award by a court, interest at the rate and in the manner specified in GC21-Certificates and Payments, shall become due and payable until payment. Such interest shall be calculated and added to any unpaid amounts monthly.

**ARTICLE A-5 ADDRESSES FOR NOTICES**

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

The Owner at: Tendering and Contracts, Dept. of Transportation & Works  
 Ground Floor-West Wing, East Block, Confederation Bldg.  
 P.O. Box 8700, St. John's, NL, A1B 4J6

The Contractor at **Humber Valley Paving Ltd., P.O. Box 1162, Corner Brook, NL A2H 6T2**

The Engineer at: Cyril McCarthy, Regional Director, 74 Old Bonne Bay Road, Deer Lake, NL A8A 1X9

**ARTICLE A-6 SUCCESSION**

The General Conditions of the Contract hereto annexed, and all other aforesaid Contract Documents, are all to be read into and form part of this Agreement and the whole shall constitute the Contract between the parties and subject to law and the provisions of the Contract Documents shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors and assigns.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement under their respective corporate seals and by the hands of their proper officers hereunto duly authorized.

**SIGNED, SEALED AND DELIVERED** in the presence of:

**OWNER**

Department of Transportation and Works

*[Signature]*  
 Brent Meade, Deputy Minister  
 Date: *Nov 12/13*

**CORPORATE SEAL**

**CONTRACTOR**

*Darrin O'Quinn Corporate Controller*  
 Name and Title (Print)  
*[Signature]* *11/7/13*  
 Signed Date

Name and Title  
 Signed Date

Name and Title



Transportation and Works

N.B. Where any legal jurisdiction, local practice or client requirement calls for proof of authority to execute this document, proof of such authority in the form of a certified copy of a resolution naming the person or persons in question as authorized to sign the Agreement for and on behalf of the Corporation or Partnership, should be attached.



THE GUARANTEE COMPANY OF NORTH AMERICA

PERFORMANCE BOND

Standard Construction Document

CCDC 221 - 2002

No. HS4139681

Bond Amount \$4,409,797.68

HUMBER VALLEY PAVING LIMITED as Principal, hereinafter called the Principal, and THE GUARANTEE COMPANY OF NORTH AMERICA a corporation created and existing under the laws of CANADA and duly authorized to transact the business of Suretyship in CANADA as Surety, hereinafter called the Surety, are held and firmly bound unto HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NEWFOUNDLAND AND LABRADOR AS REPRESENTED BY THE MINISTER OF TRANSPORTATION AND WORKS as Oblige, hereinafter called the Oblige, in the amount of FOUR MILLION, FOUR HUNDRED AND NINE THOUSAND, SEVEN HUNDRED AND NINETY-SEVEN ---68/100 DOLLARS (\$4,409,797.68) lawful money of Canada, for the payment of which sum the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, the Principal has entered into a written contract with the Oblige, dated September 4, 2013 for REHABILITATION OF THE TCH FROM 0.9 KM WEST OF SOUTH BROOK BRIDGE TO THE INTERCHANGE AT R490 FOR APPROX 11.5 KM. REALIGNMENT OF THE TCH AT ST. GEORGES INTERSECTION, R461 & PAVING VARIOUS LOCATIONS ON THE PORT AUX PORT PENINSULA, NL. - CONTRACT NO. 055-13THP hereinafter referred to as the Contract.

The condition of this obligation is such that if the Principal shall promptly and faithfully perform the Contract then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Whenever the Principal shall be, and declared by the Oblige to be, in default under the Contract, the Oblige having performed the Oblige's obligations thereunder, the Surety shall promptly:

- 1) remedy the default, or;
2) complete the Contract in accordance with its terms and conditions or;
3) obtain a bid or bids for submission to the Oblige for completing the Contract in accordance with its terms and conditions and upon determination by the Oblige and the Surety of the lowest responsible bidder, arrange for a contract between such bidder and the Oblige and make available as work progresses (even though there should be a default, or a succession of defaults, under the contract or contracts of completion, arranged under this paragraph) sufficient funds to pay to complete the Principal's obligations in accordance with the terms and conditions of the Contract and to pay those expenses incurred by the Oblige as a result of the Principal's default relating directly to the performance of the work under the Contract, less the balance of the Contract price; but not exceeding the Bond Amount. The balance of the Contract price is the total amount payable by the Oblige to the Principal under the Contract, less the amount properly paid by the Oblige to the Principal, or;
4) pay the Oblige the lesser of (1) the Bond Amount or (2) the Oblige's proposed cost of completion, less the balance of Contract price.

It is a condition of this bond that any suit or action must be commenced before the expiration of two (2) years from the earlier of (1) the date of Substantial Performance of the Contract as defined in the lien legislation where the work under the Contract is taking place, or, if no such definition exists, the date when the work is ready for use or is being used for the purpose intended, or (2) the date on which the Principal is declared in default by the Oblige.

The Surety shall not be liable for a greater sum than the Bond Amount.

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

IN WITNESS WHEREOF, the Principal and the Surety have Signed and Sealed this Bond dated September 30, 2013.

SIGNED and SEALED in the presence of

B. J. Patey
B. S. Patey

HUMBER VALLEY PAVING LIMITED

[Signature]
Name of person signing

THE GUARANTEE COMPANY OF NORTH AMERICA

[Signature]
Janice Oehm, ATTORNEY IN FACT

**LABOUR & MATERIAL PAYMENT BOND  
(Trustee Form)**

Standard Construction Document  
**CCDC 222 - 2002**

No. HS4139681

Bond Amount \$4,409,797.68

HUMBER VALLEY PAVING LIMITED as Principal, hereinafter called the Principal, and THE GUARANTEE COMPANY OF NORTH AMERICA a corporation created and existing under the laws of CANADA and duly authorized to transact the business of Suretyship in CANADA as Surety, hereinafter called the Surety, are held and firmly bound unto HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NEWFOUNDLAND AND LABRADOR AS REPRESENTED BY THE MINISTER OF TRANSPORTATION AND WORKS as Oblige, hereinafter called the Oblige, in the amount of FOUR MILLION, FOUR HUNDRED AND NINE THOUSAND, SEVEN HUNDRED AND NINETY-SEVEN —68/100 DOLLARS (\$4,409,797.68) lawful money of Canada, for the payment of which sum the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, the Principal has entered into a written contract with the Oblige, dated September 4, 2013 for REHABILITATION OF THE TCH FROM 0.9 KM WEST OF SOUTH BROOK BRIDGE TO THE INTERCHANGE AT R490 FOR APPROX 11.5 KM. REALIGNMENT OF THE TCH AT ST. GEORGES INTERSECTION, R461 & PAVING VARIOUS LOCATIONS ON THE PORT AUX PORT PENINSULA, NL. - CONTRACT NO. 055-13THP in accordance with the Contract Documents submitted, and which are by reference made part hereof and are hereinafter referred to as the Contract.

The Condition of this obligation is such that, if the Principal shall make payment to all Claimants for all labour and material used or reasonably required for use in the performance of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A Claimant for the purpose of this Bond is defined as one having a direct contract with the Principal for labour, material, or both, used or reasonably required for use in the performance of the Contract, labour and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment directly applicable to the Contract provided that a person, firm or corporation who rents equipment to the Principal to be used in the performance of the Contract under a contract which provides that all or any part of the rent is to be applied towards the purchase price thereof, shall only be a Claimant to the extent of the prevailing industrial rental value of such equipment for the period during which the equipment was used in the performance of the Contract. The prevailing industrial rental value of equipment shall be determined, insofar as it is practical to do so, by the prevailing rates in the equipment marketplace in which the work is taking place.
2. The Principal and the Surety, hereby jointly and severally agree with the Oblige, as Trustee, that every Claimant who has not been paid as provided for under the terms of its contract with the Principal, before the expiration of a period of ninety (90) days after the date on which the last of such Claimant's work or labour was done or performed or materials were furnished by such Claimant, may as a beneficiary of the trust herein provided for, sue on this Bond, prosecute the suit to final judgment for such sum or sums as may be justly due to such Claimant under the terms of its contract with the Principal and have execution thereon. Provided that the Oblige is not obliged to do or take any act, action or proceeding against the Surety on behalf of the Claimants, or any of them, to enforce the provisions of this Bond. If any act, action or proceeding is taken either in the name of the Oblige or by joining the Oblige as a party to such proceeding, then such act, action or proceeding, shall be taken on the understanding and basis that the Claimants, or any of them, who take such act, action or proceeding shall indemnify and save harmless the Oblige against all costs, charges and expenses or liabilities incurred thereon and any loss or damage resulting to the Oblige by reason thereof. Provided still further that, subject to the foregoing terms and conditions, the Claimants, or any of them may use the name of the Oblige to sue on and enforce the provisions of this Bond.
3. It is a condition precedent to the liability of the Surety under this Bond that such Claimant shall have given written notice as hereinafter set forth to each of the Principal, the Surety and the Oblige, stating with substantial accuracy the amount claimed, and that such Claimant shall have brought suit or action in accordance with this Bond, as set out in sub-clauses 3 (b) and 3 (c) below. Accordingly, no suit or action shall be commenced hereunder by any Claimant:
  - a) unless such notice shall be served by mailing the same by registered mail to the Principal, the Surety and the Oblige, at any place where an office is regularly maintained for the transaction of business by such persons or served in any manner in which legal process may be served in the Province or Territory in which the subject matter of the Contract is located. Such notice shall be given.
    - i) in respect of any claim for the amount or any portion thereof, required to be held back from the Claimant by the Principal, under either the terms of the Claimant's contract with the Principal, or under the lien Legislation applicable to the Claimant's contract with the Principal, whichever is the greater, within one hundred and twenty (120) days after such Claimant should have been paid in full under the Claimant's contract with the Principal;
    - ii) in respect of any claim other than for the holdback, of portion thereof, referred to above, within one hundred and twenty (120) days after the date upon which such Claimant did, or performed, the last of the work or labour or furnished the last of the materials for which such claim is made under the Claimant's contract with the Principal;

- b) after the expiration of one (1) year following the date on which the Principal ceased work on the Contract, including work performed under the guarantees provided in the Contract;
  - c) other than in a Court of competent jurisdiction in the Province or Territory in which the work described in the Contract is to be installed or delivered as the case may be and not elsewhere, and the parties hereto agree to submit to the jurisdiction of such Court.
4. The Surety agrees not to take advantage of Article 2365 of the Civil Code of the Province of Quebec in the event that, by an act or an omission of a Claimant, the Surety can no longer be subrogated in the rights, hypothec and privileges of said Claimant.
  5. Any material change in the contract between the Principal and the Oblige shall not prejudice the rights or interest of any Claimant under this Bond, who is not instrumental in bringing about or has not caused such change.
  6. The amount of this Bond shall be reduced by, and to the extent of any payment or payments made in good faith, and in accordance with the provisions hereof, inclusive of the payment by the Surety of claims made under the applicable lien legislation or legislation relating to legal hypothecs, whether or not such claim is presented under and against this Bond.
  7. The Surety shall not be liable for a greater sum than the Bond Amount.

IN WITNESS WHEREOF, the Principal and the Surety have Signed and Sealed this Bond dated September 30, 2013.

SIGNED AND SEALED  
in the presence of

*B. J. Patey*  
B. J. Patey

HUMBER VALLEY PAVING LIMITED

*[Signature]*  
*[Signature]*  
Name of person signing

THE GUARANTEE COMPANY OF NORTH AMERICA

*[Signature]*  
Janice Dehm, ATTORNEY IN FACT

**CCDC** Copyright 2002  
Canadian Construction Documents Committee

(CCDC 222 - 2002 has been approved by the Surety Association of Canada)

b.004

**Decision Note**  
**Department of Transportation and Works**

**Title: Assignment of Project 55-13THP – Ministerial Direction Required**

**Decision Required:**

- TW recommends assignment of the Humber Valley Paving (HVP) contract to Marine Contractors Inc. (MCI) subject to MCI providing to the Province:
  - A certificate of insurance;
  - A Performance Bond covering all of MCI's obligations under the contract;
  - A Labour and Materials Payment Bond covering all of MCI's obligations under the Contract
  - A letter of good standing under the Certificate of Recognition Program from the NL Construction Safety Association; and,
  - A Certificate of Clearance from the Workplace, Health, Safety & Compensation Commission.
  - All other documentation required by the original contract including but not limited to:
    - Construction Schedule
    - List of Equipment
    - Site Specific Safety Plan
- MCI will be required, within 10 days of the assignment and before commencing work, to make arrangements through the Regional Office for a pre-construction meeting to discuss all aspects of the work.
- TW further recommends HVP be required to identify any unpaid creditors on this project and an explanation of how and when they will be paid or why they were not paid.

**Background and Current Status:**

- Project 55-13THP was awarded to HVP on September 4, 2013, with a completion date of October 31, 2013. The contract, worth \$7,804,951.50 exclusive of HST, included rehabilitation of the TCH from 0.9 kms west of South Brook Bridge to the Interchange at R490 for approximately 11.5 km, realignment of the TCH at St. Georges Intersection, R461, and paving various locations on the Port aux Port Peninsula.
- Components of the contract which TW considered essential due to safety concerns were completed in the fall of 2013. The value of work completed was less than \$50,000 and has been paid to HVP.
- Given the contract was awarded late in the season and consistent with TW practice on contracts likely to spread across construction seasons, at the initial pre-construction meeting between TW and HVP, on October 1, 2013, an extension of the completion date to October 31, 2014 was contemplated. Consistent with departmental practice, it was agreed a final date for completion would be determined in the spring, 2014.
- On April 29<sup>th</sup>, 2014, HVP made a written request to TW seeking the department's consent to assign the contract and completion of the remaining work to MCI.

- TW understands from discussions with officials from HVP that it is going through [REDACTED] restructuring. The company has not bid on any road tenders issued by TW this year [REDACTED] HVP currently has no other active contracts with TW. [REDACTED]
- Requests to TW for assignment of road construction projects is not common. There has only been one such request in the last six years. That request was in 2009 and was approved. Assignment requests also occur in the department's other lines of business including leasing, marine, and consulting contracts, with the underlying legal principles of assignment being the same.

Assessment of the Assignment Request:

- A contractor may seek to assign the contract to a company of its choosing. Assignment is a commercial transaction between two companies. As a general condition of all TW's contracts, contractors are required to obtain the consent of the department to assign contracts, or any part thereof. TW reviews and assesses the requests to ensure that the proposed assignee meets the department's criteria to complete the contract (outlined below) before consenting to the assignment.
- Once the original contract is awarded under the *Public Tender Act*, the tender process is complete and cannot be revisited. Assignment of the contract has no relationship to the tender process. However, in this instance MCI was the only other bidder on the tender and its bid was \$80,000 higher than HVP's. That is not a factor in assignment.

Section 21(b)

- Assignment of a contract means that the contract is completed as awarded, at the same contract prices and with the same terms, conditions and warranties as the original contract. Assignment is provided for in law and specifically in TW's contracts. [REDACTED]
- [REDACTED]
- In considering whether or not to consent to an assignment, TW considers the following criteria:
  - Is the assignee capable of doing the work – MCI is a stable, reliable company with a proven track record. MCI has completed 9 projects for TW at a value of \$27.4M. All of MCI's post-construction evaluation reports have been positive. The department is not concerned with the company's capacity to assume this work. MCI's capacity is also determined by its ability to secure bonds and insurance.
  - Does the assignee have the required bonds/insurance in place – This condition will be met before the contract is assigned. [REDACTED]

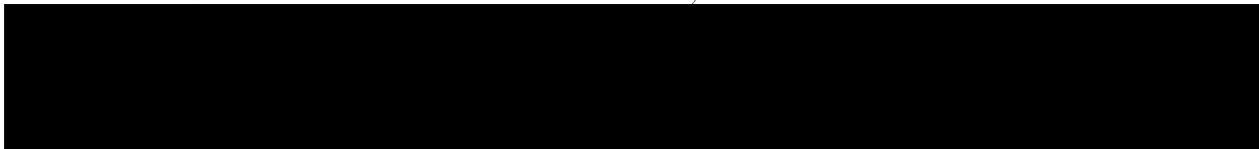


- Can the assignee meet all contractual obligations – Based on MCI’s past performance and evaluations and given TW’s knowledge of MCI and the terms of the proposed assignment agreement, TW has no concerns with MCI’s ability to meet the contractual obligations. This will be substantiated on receipt of:
  - Construction Schedule
  - List of Equipment
- TW and GNL are saved harmless – This condition will be met in the execution of the assignment agreement.

- Based on the assessment of the criteria, the Department concludes the assignment criteria have been satisfied.

Section 27(1)(b), Section 27(1)(c)(i), Section 27(1)(c)(iii)

- In addition to the assessment of the above criteria, TW also considered the following additional information:



- TW has knowledge of [redacted] restructuring underway at HVP.

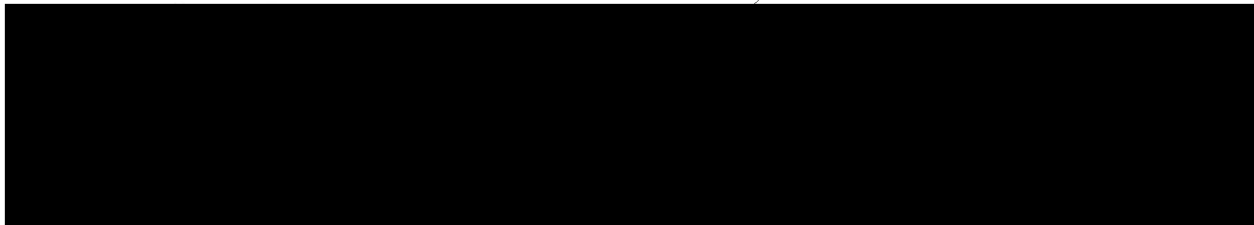


- Based on the letter from the bonding company and discussions with HVP officials, TW has concluded that there is an increased risk and a higher likelihood that HVP cannot meet its contractual obligations.

Section 21(b)

Assignment Agreement

- Based on the department’s assessment that MCI has met TW assignment criteria, TW, through its legal counsel, has negotiated, in principle, a mutually acceptable form of assignment agreement with HVP and MCI’s legal counsel (draft agreement attached).



- Under the novation, the original contract with HVP will continue in the name of MCI as if MCI was the original party to the contract. All other terms and conditions of the contract will remain the same, including the awarded value of the contract and maintaining subcontractors listed in the contract. MCI will have to provide the following assurances to TW:
  - A certificate of insurance;
  - A Performance Bond covering all of MCI’s obligations under the contract;
  - A Labour and Materials Payment Bond covering all of MCI’s obligations under the Contract

- A letter of good standing under the Certificate of Recognition Program from the NL Construction Safety Association; and,
- A Certificate of Clearance from the Workplace, Health, Safety & Compensation Commission.
- All other documentation required by the original contract including but not limited to:
  - Construction Schedule
  - List of Equipment
  - Site Specific Safety Plan
- The Mechanics Lien Holdback in place for HVP's performance to date will be assigned to the credit of MCI and continue to be held by TW as would all future Mechanics Lien holdbacks for the benefit of the project.
- The Province, and any contractors on the project, will continue to benefit from having the performance of the contract subject to Performance and Labour and Materials Bonds. The Province's consent to the assignment is subject to receiving equivalent bonding commitments and obligations from MCI as were originally received from HVP. TW understands MCI's intention is to meet this commitment using the same bonding company as HVP. There will be no difference in the Province's legal exposure, and there will be no increased business risk exposure by accepting MCI's bonds in place of those provided by HVP.
- HVP will be released from its future obligations under the contract. Further, with the release of HVP's Performance and Labour and Materials Payment Bonds, its indemnifying parties will also be released from liabilities to which they might otherwise be exposed under this contract.
- As a condition of the government's consent to the assignment, HVP will be required to provide TW with the identity of any unpaid creditors on this project and an explanation of how and when they will be paid or why they were not paid. This is not a common feature of assignment agreements however; TW officials felt it a prudent course of action given that work commenced last year and their current knowledge of the company's [REDACTED] restructuring. HVP has agreed to provide this information and TW will work with HVP and MCI should there be any unpaid creditors to ensure the appropriate payment of creditors.

**Alternatives:**

Section 27(1)(b), Section 27(1)(c)(i), Section 27(1)(c)(iii)

- TW has three options when asked to consent to an assignment:
  1. Do not provide consent. If TW does not consent to the assignment of the contract and HVP indicates it is not able or prepared to complete the contract, TW would have to put the company in default and call the bonds. The bonding company would begin an investigation to determine the extent of the bond company's responsibility. This is not the recommended option.

**Advantages:**

- None

**Disadvantages:**

- [REDACTED]
- The bonding company, GCNA, may argue that its liability would be limited or negated as TW refused the assignment which would have mitigated any losses to either party.
- The TCH between South Brook Bridge and Route 490 represents approximately 85% of the value of this contract and is cost shared with the federal government. While it has not been confirmed, delays in completing this contract may affect the recovery of the federal funds (\$3-4M).
- The Province may be exposed to additional financial risk as the project cost may escalate if the project is retendered or the bonding company chooses alternate means of contract completion and refuses to pay any additional costs.

2. Explore other approaches to contract completion (e.g. subcontracting the work). TW considered whether other options may be available and proposed to HVP the possibility that HVP subcontract the work to MCI. This is not the recommended option.

Advantages:

- Maintains HVP's responsibility for completion of the contract and obligations under the performance bonds.

Section 27(1)(b), Section 27(1)(c)(i), Section 27(1)(c)(iii)

Disadvantages:

- Neither MCI nor HVP support this option. [REDACTED] Both companies agreed that discussion between the companies showed that assignment is the preferred approach over sub-contracting.

- [REDACTED]
- [REDACTED]

- Presents some contract administration challenges as TW would have no direct contractual relationship with MCI.

Section 27(1)(b), Section 27(1)(c)(i), Section 27(1)(c)(iii)

3. Provide consent for the assignment. The parties would execute an assignment agreement that would see MCI assume HVP's contract obligations. This is the recommended option.

Advantages:

- Provides the most legal certainty for GNL. TW/GNL are not exposed to any liabilities that did not exist under the original contract and are protected and saved harmless should there be claims as a result of the contract and that the contract is delivered as tendered. Furthermore, this would mitigate the risks of an unfavourable decision of the bonding company.
- Given the original contract provides for assignment, consent to contract assignment should not be unreasonably withheld and would occur in the normal course of business.

- [REDACTED]
- TW has a contractual relationship with MCI, it is familiar and satisfied with the quality of its work and MCI has the capacity to complete the additional work.

Section 27(1)(b), Section 27(1)(c)(i), Section 27(1)(c)(iii)



- Provides project certainty. The work proceeds with the only delays being the time from the start of the construction season to the date of the assignment.

Disadvantages:

- None

**Prepared/approved by:** Gary Gosse/Brent Meade, in consultation with JUS

**Approved by:**

June 1, 2013

**Gosse, Gary R.**

---

**From:** Gene Coleman <gcoleman@colemans.ca>  
**Sent:** Tuesday, April 29, 2014 11:21 AM  
**To:** Gosse, Gary R.  
**Subject:** Project 55-13

Hi Gary, please consider this email as approval from HVP to proceed with assigning Marine Contractors with Project 55-13. They will supply their own Bonds once they have approval from your Department.

Thanks,

Gene Coleman



**GOVERNMENT OF NEWFOUNDLAND AND LABRADOR**  
 Department of Transportation and Works

**FORM 160A - CONTRACTOR PERFORMANCE EVALUATION REPORT PART I:  
 CONTRACT WORK OTHER THAN WARRANTY WORK**  
 Transportation Contracts

	Project No: <b>23-12 PHP</b>
Contractor: <b>Marine Contractors</b>	Vendor No:
Project Title: <b>Cold Plane and Repave East and West bound lanes of the TCH from km 658, Pynns Brook Weigh Scales, to km 687 near Corner Brook for approx 29 km.</b>	

Category	Performance Levels		Assessed Points
<b>Quality of Workmanship:</b> Assessment of the Contractor's conformance with the contract documents and standard industry practices relative to the quality of work performed.	Acceptable	50	<b>50</b>
	Unacceptable	0	
<b>Timeliness in Completing Work:</b> Conformance to the specified project schedule and/or completion date.	On Time	25	<b>15</b>
	Late	15	
	Very Late	0	
<b>Management / Administration of the Project:</b> Assessment of the Contractor's overall administration/management of the contract versus the effort required by TW.	Above Average	25	<b>25</b>
	Average	15	
	Below Average	0	
<b>Total Point Rating</b>			

Overall Evaluation

- 80 - 100      Satisfactory      Contractor remains eligible to bid future tenders
- 51 - 79      Unsatisfactory      Eligibility to bid future tenders may be affected. Notice to follow after further assessment
- 0 - 50      Unacceptable      Contractor's eligibility to bid future tenders to be reviewed for possible suspension. Notification to follow.

Comments:

---



---



---

Contractor may appeal or respond to this evaluation by writing the Manager of Tendering and Contracts, Dept. of Transportation and Works, P.O. Box 8700, St. John's, NL A1B 4J6

 Resident Engineer	Regional Engineer	Regional Director
<b>12-11-07</b> Date	Date	Date



**GOVERNMENT OF NEWFOUNDLAND AND LABRADOR**  
**Department of Transportation and Works**

**FORM 160A - CONTRACTOR PERFORMANCE EVALUATION REPORT PART I:**  
**CONTRACT WORK OTHER THAN WARRENTY WORK**  
**Transportation Contracts**

	Project No: 7-12 THP
Contractor: Marine Contractors Ltd	Vendor No:
Project Title: Rehabilitation of TCH from 1.85 kms West of R450 Overpass towards Port Aux Basque for Approx 9.3 KMs	

Category	Performance Levels		Assessed Points
<b>Quality of Workmanship:</b> Assessment of the Contractor's conformance with the contract documents and standard industry practices relative to the quality of work performed.	Acceptable	50	50
	Unacceptable	0	
<b>Timeliness in Completing Work:</b> Conformance to the specified project schedule and/or completion date.	On Time	25	15
	Late	15	
	Very Late	0	
<b>Management / Administration of the Project:</b> Assessment of the Contractor's overall administration/management of the contract versus the effort required by TW.	Above Average	25	25
	Average	15	
	Below Average	0	
<b>Total Point Rating</b>			<b>80</b>

**Overall Evaluation**

- 80 - 100      **Satisfactory**      Contractor remains eligible to bid future tenders
- 51 - 79      **Unsatisfactory**      Eligibility to bid future tenders may be affected. Notice to follow after further assessment
- 0 - 50      **Unacceptable**      Contractor's eligibility to bid future tenders to be reviewed for possible suspension. Notification to follow.

Comments:

---



---



---

Contractor may appeal or respond to this evaluation by writing the Manager of Tendering and Contracts, Dept. of Transportation and Works, P.O. Box 8700, St. John's, NL A1B 4J8

 Resident Engineer	 Regional Engineer	
SEPT 28/13 <small>Date</small>	30/09/13 <small>Date</small>	<small>Date</small>



**GOVERNMENT OF NEWFOUNDLAND AND LABRADOR**  
**Department of Transportation and Works**

**FORM 160A - CONTRACTOR PERFORMANCE EVALUATION REPORT PART I:**  
**CONTRACT WORK OTHER THAN WARRENTY WORK**  
**Transportation Contracts**

	Project No: 41-11 PHP
Contractor: <b>Marine Contractors</b>	Vendor No:
Project Title: <b>Pulverize &amp; Pave Sections of R420, Sops Arm Rd. and R421 Hampden Rd.</b>	

Category	Performance Levels		Assessed Points
<b>Quality of Workmanship:</b> Assessment of the Contractor's conformance with the contract documents and standard industry practices relative to the quality of work performed.	Acceptable	50	<b>50</b>
	Unacceptable	0	
<b>Timeliness in Completing Work:</b> Conformance to the specified project schedule and/or completion date.	On Time	25	<b>25</b>
	Late	15	
	Very Late	0	
<b>Management / Administration of the Project:</b> Assessment of the Contractor's overall administration/management of the contract versus the effort required by TW.	Above Average	25	
	Average	15	<b>15</b>
	Below Average	0	
<b>Total Point Rating</b>			<b>90</b>

**Overall Evaluation**

- 80 - 100**                      **Satisfactory**                      Contractor remains eligible to bid future tenders
- 51 - 79**                         **Unsatisfactory**                      Eligibility to bid future tenders may be affected. Notice to follow after further assessment
- 0 - 50**                              **Unacceptable**                      Contractor's eligibility to bid future tenders to be reviewed for possible suspension. Notification to follow.

Comments:

---



---



---

Contractor may appeal or respond to this evaluation by writing the Manager of Tendering and Contracts, Dept. of Transportation and Works, P.O. Box 3700, St. John's, NL A1B 4J8

Resident Engineer  Date: 11-12-06	Regional Engineer  Date: 06/12/11	Regional Director  Date:
---	---	--------------------------------



**GOVERNMENT OF NEWFOUNDLAND AND LABRADOR**  
**Department of Transportation and Works**

**FORM 160A - CONTRACTOR PERFORMANCE EVALUATION REPORT PART I:**  
**CONTRACT WORK OTHER THAN WARRANTY WORK**  
**Transportation Contracts**

<b>Contractor:</b> Marine Contractors Ltd.	<b>Project No:</b> 61-11 PHP "A", "B", "C", "D"
<b>Vendor No:</b>	

**Project Title:** Mill & Fill section of TCH (~ 2kms); Pulverizing / Milling & Paving sections of R440 and R450; Upgrading and paving four sections of R402, Gallants Road.

Criteria	Performance	Weight	Score
<b>Quality of Workmanship:</b> Assessment of the Contractor's conformance with the contract documents and standard industry practices relative to the quality of work performed.	Acceptable	50	50
	Unacceptable	0	
<b>Timeliness in Completing Work:</b> Conformance to the specified project schedule and/or completion date.	On Time	25	
	Late	15	15
	Very Late	0	
<b>Management / Administration of the Project:</b> Assessment of the Contractor's overall administration/management of the contract versus the effort required by TW.	Above Average	25	
	Average	15	15
	Below Average	0	
<b>Total Point Rating</b>			

**Overall Evaluation**

- 80 - 100      Satisfactory      Contractor remains eligible to bid future tenders
- 51 - 79      Unsatisfactory      Eligibility to bid future tenders may be affected. Notice to follow after further assessment
- 0 - 50      Unacceptable      Contractor's eligibility to bid future tenders to be reviewed for possible suspension. Notification to follow.

**Comments:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contractor may appeal or respond to this evaluation by writing the Manager of Tendering and Contracts, Dept. of Transportation and Works, P.O. Box 6700, St. John's, NL A1B 4J6

 Resident Engineer	 Regional Engineer	 Regional Director
12-09-27 <small>Date</small>	22/09/12 <small>Date</small>	 <small>Date</small>



**GOVERNMENT OF NEWFOUNDLAND AND LABRADOR**  
**Department of Transportation and Works**

**FORM 160A - CONTRACTOR PERFORMANCE EVALUATION REPORT PART I:**  
**CONTRACT WORK OTHER THAN WARRANTY WORK**  
**Transportation Contracts**

	Project No: 10-11 THR
Contractor Marine Contractors Limited	Vendor No:
Project Title: Upgrading of the TCH from Massey Drive Overpass to Lady Slipper Road, km 689.5 to km 895	

Category	Performance Levels		Assessed Points
Quality of Workmanship: Assessment of the Contractor's conformance with the contract documents and standard industry practices relative to the quality of work performed.	Acceptable	50	<b>50</b>
	Unacceptable	0	
Timeliness In Completing Work: Conformance to the specified project schedule and/or completion date.	On Time	25	<b>25</b>
	Late	15	
	Very Late	0	
Management / Administration of the Project: Assessment of the Contractor's overall administration/management of the contract versus the effort required by TW.	Above Average	25	<b>25</b>
	Average	15	
	Below Average	0	
<b>Total Point Rating</b>			<b>100</b>

Overall Evaluation

- 80 - 100                      Satisfactory                      Contractor remains eligible to bid future tenders
- 61 - 79                              Unsatisfactory                      Eligibility to bid future tenders may be affected. Notice to follow after further assessment
- 0 - 50                                      Unacceptable                      Contractor's eligibility to bid future tenders to be reviewed for possible suspension. Notification to follow.

Comments:

---



---



---

Contractor may appeal or respond to this evaluation by writing the Manager of Tendering and Contracts, Dept. of Transportation and Works, P.O. Box 8700, St. John's, NL A1B 4J6

 Resident Engineer	 Regional Engineer	
MAR 20/13 Date	20/03/13 Date	Regional Director  Date



**GOVERNMENT OF NEWFOUNDLAND AND LABRADOR**  
**Department of Transportation and Works**

**FORM 160A - CONTRACTOR PERFORMANCE EVALUATION REPORT PART I:**  
**CONTRACT WORK OTHER THAN WARRANTY WORK**  
**Transportation Contracts**

Contractor: Marine Contractor's Inc.	Project No: 56-12 PHP
Project Title: Pulverize & Pave a 0.6km section of R480, Burgeo Road, a 1km section of Joe McGinnis Rd, R405-14, and 9 sections of R403 Flat Bay, for a distance of 2.5 kms.	Vendor No:

Category	Performance Levels		Assessed Points
<b>Quality of Workmanship:</b> Assessment of the Contractor's conformance with the contract documents and standard industry practices relative to the quality of work performed.	Acceptable	50	40
	Unacceptable	0	
<b>Timeliness in Completing Work:</b> Conformance to the specified project schedule and/or completion date.	On Time	25	20
	Late	15	
	Very Late	0	
<b>Management / Administration of the Project:</b> Assessment of the Contractor's overall administration/management of the contract versus the effort required by TW.	Above Average	25	20
	Average	15	
	Below Average	0	
<b>Total Point Rating</b>			<b>80</b>

**Overall Evaluation**

- 80 - 100**                      **Satisfactory**                      Contractor remains eligible to bid future tenders
- 51 - 79**                        **Unsatisfactory**                      Eligibility to bid future tenders may be affected. Notice to follow after further assessment
- 0 - 50**                            **Unacceptable**                      Contractor's eligibility to bid future tenders to be reviewed for possible suspension. Notification to follow.

Comments:

---



---



---

Contractor may appeal or respond to this evaluation by writing the Manager of Tendering and Contracts, Dept. of Transportation and Works, P.O. Box 6700, St. John's, NL A1B 4J6

 Resident Engineer	 Regional Engineer	Regional Director
2012.10.26 <small>Date</small>	05/12/12 <small>Date</small>	 <small>Date</small>





**GOVERNMENT OF NEWFOUNDLAND AND LABRADOR**  
 Department of Transportation and Works

**FORM 160A - CONTRACTOR PERFORMANCE EVALUATION REPORT PART I:**  
**CONTRACT WORK OTHER THAN WARRANTY WORK**  
 Transportation Contracts

	Project No: 76-11 PHP
Contractor: <b>Humber Valley Paving LTD.</b>	Vendor No:
Project Title: Pulverizing, Paving, and Resurfacing various areas on the Northern Peninsula which include R432, road to Roddickton, R434, Conchs, Castor's River Road, and Bartlett's Harbour Road towards R430.	

Category	Performance Levels	Points	Assessed Points
Quality of Workmanship: Assessment of the Contractor's conformance with the contract documents and standard industry practices relative to the quality of work performed.	Acceptable	60	50
	Unacceptable	0	
Timeliness in Completing Work: Conformance to the specified project schedule and/or completion date.	On Time	25	15
	Late	15	
	Very Late	0	
Management / Administration of the Project: Assessment of the Contractor's overall administration/management of the contract versus the effort required by TW.	Above Average	25	15
	Average	15	
	Below Average	0	
<b>Total Point Rating</b>			<b>80</b>

Overall Evaluation

- 80 - 100      Satisfactory      Contractor remains eligible to bid future tenders
- 51 - 79      Unsatisfactory      Eligibility to bid future tenders may be affected. Notice to follow after further assessment
- 0 - 50      Unacceptable      Contractor's eligibility to bid future tenders to be reviewed for possible suspension. Notification to follow.

Comments:

---



---



---

Contractor may appeal or respond to this evaluation by writing the Manager of Tenders and Contracts, Dept. of Transportation and Works, P.O. Box 8700, St. John's, NL, A1B 4J8

Resident Engineer  Date: 12-08-22	Regional Engineer  Date: 28/08/22	Regional Director  Date:
---	---	--------------------------------

**This Assignment Agreement made at St. John's, NL, this 12<sup>th</sup> day of June, 2014.**

**Between: HUMBER VALLEY PAVING LTD.,** a body corporate organized and existing under the laws of the Province of Newfoundland & Labrador  
(hereinafter called the "Assignor")

**And: MARINE CONTRACTORS INC.,** a body corporate organized and existing under the laws of the Province of Newfoundland & Labrador  
(hereinafter called the "Assignee")

**And: HER MAJESTY THE QUEEN IN RIGHT OF NEWFOUNDLAND AND LABRADOR,** as represented by the Minister of Transportation and Works  
(hereinafter called the "Consenter")

**Whereas the Assignor** entered into a contract with Her Majesty the Queen in right of Newfoundland & Labrador with respect to Project 55-13 THP effective 4 September 2013 (hereinafter referred to as the "Contract").

**And Whereas the Assignor** is desirous of assigning the benefit and burden of the Contract and the interest of the Assignor in the Contract to the Assignee;

**And Whereas the Assignee** is prepared to and is desirous of accepting the benefit and burden of the Contract and the interest of the Assignor in the Contract from the Assignor;

**And Whereas** pursuant to this Assignment Agreement all the necessary bonds required under the Tender and this Assignment Agreement will be issued by the Assignee's Bonding Company and exist in the name of the Assignee and in favour of the Consenter;

**And Whereas** under the terms & conditions of the Contract and in particular G.C. 13 of the same the benefit & burden of the Contract & interest of the Assignor in the Contract may be assigned by the Assignor to the Assignee with the permission of the Consenter;

**And Whereas the Consenter** is prepared to consent to the assignment of the benefit and burden of the Contract and interest of the Assignor in the Contract to the Assignee on the terms and conditions more particularly set out herein;

**Now Therefore this Agreement Witnesseth** that in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by each of the parties

*PM*

hereto to the other, the receipt and sufficiency of which consideration is acknowledged by the parties hereto the parties agree as follows:

1. Subject to Sections 3 & 4 hereof the Assignor assigns to the Assignee the burden & benefit of the Contract and transfers, assigns & conveys the interest of the Assignor in the Contract to the Assignee;
2. Subject to Sections 3 & 4 hereof the Assignee accepts from the Assignor the burden & benefit of the Contract and the assignment, transfer and conveyance from the Assignor of the interest of the Assignor in the Contract;
3. The Consenter consents to the assignment of the benefit and burden of the contract by the Assignor to the Assignee & the assignment of the interest of the Assignor in the Contract to the Assignee subject to:

(i) the Assignee maintaining in place and providing to the Consenter as required by the Contract:

(a) a certificate of insurance;

(b) a Performance Bond covering all of the Assignor's and Assignee's obligations under the Contract as though the Assignee and not the Assignor had been the contractor that originally signed the Contract with the Consenter as Owner;

(c) a Labour and Materials Payment Bond covering all of the Assignor's and Assignee's obligations under the Contract as though the Assignee and not the Assignor had been the contractor that originally signed the Contract with the Consenter as Owner;

(d) a letter of good standing under the Certificate of Recognition Program from the Newfoundland & Labrador Construction Safety Association; and

(e) a Certificate of Clearance from the Workplace, Health, Safety & Compensation Commission;

(ii) the Mechanics Lien Holdback that the Consenter has in place as of the date of this Agreement with respect to the Contract being maintained in place and administered and paid out in accordance with the Contract and the law and laws applicable in this jurisdiction with respect to Mechanics Liens;

(iii) the Assignee providing all other documentation required by the

Contract, including a Construction Schedule that is acceptable to the Consenter, a List of the Equipment to be used in completing the Contract, a Site Specific Safety Plan; and

(iv) this Assignment Agreement and the consent of the Consenter given hereunder not taking effect until this Assignment Agreement is fully executed by the parties hereto and all of the requirements of paragraph 3 hereof have been met;

4. For greater certainty the parties hereto agree that this Assignment Agreement will be null and void and of no legal effect if the Assignee has not met all of the requirements of paragraph 3 hereof within fourteen (14) days of the date of execution of this Agreement; and
5. This Assignment Agreement may be signed in counterparts, facsimile and PDF format and the counterparts when taken together shall constitute a legal and binding contract upon the parties thereto and together shall be deemed to constitute an original.
6. The Consenter hereby releases and forever discharges the Assignor:
  - (a) from any and all liabilities incurred by the Assignor arising or related to its performance of the Contract prior to the effective date of this Assignment Agreement, except to the extent of any claim or claims arising under the same, that is the legal responsibility of the Assignor and that is not assumed or covered by the Assignee or the Assignee's Bonding Company under the Labour and Materials Payment Bond or the Performance Bond referenced in paragraph 3 of this Agreement; and
  - (b) from any and all actions, causes of action, contracts, covenants, whether express or implied, claims, whether statutory or otherwise, and demands for damages, indemnity, costs, interest, loss or injury of every nature and kind whatsoever and howsoever arising which it may heretofore have had, may now have, or may hereinafter have, by reason of or existing out of any causes or matters related to the performance of the Contract by the Assignee after the date of this Assignment Agreement, save and except for and in respect of those matters which are excepted from the release provided for in clause 6(a) of this Assignment Agreement.

In Witnesseth Whereof the parties hereto have executed this Agreement on the date and at the place first above noted.



Signed & the Corporate Seal of  
the Assignor affixed in the presence of:

Deborah A. Ford  
Witness

Humber Valley Paving Ltd.

[Signature]  
Assignor

Signed & the Corporate Seal of  
the Assignee affixed in the presence of:

\_\_\_\_\_  
Witness

Marine Contractors Inc.

\_\_\_\_\_  
Assignee

Signed & the Corporate Seal of  
the Contractor affixed in the  
presence of:

\_\_\_\_\_  
Witness

Her Majesty the Queen in right of  
Newfoundland & Labrador as  
Represented by the Minister of  
Transportation and Works

\_\_\_\_\_  
Consenter

**ANDREA BUGDEN**  
A Commissioner for Oaths in and  
for the Province of Newfoundland  
and Labrador. My Commission  
expires on December 31, 2014

Signed & the Corporate Seal of  
the Assignor affixed in the presence of:

\_\_\_\_\_  
Witness

Signed & the Corporate Seal of  
the Assignee affixed in the presence of:

Abugden  
Witness

Signed & the Corporate Seal of  
the Contractor affixed in the  
presence of:

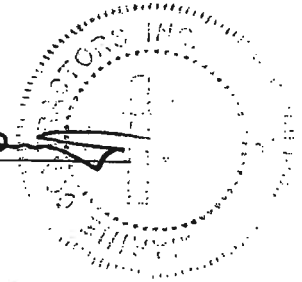
\_\_\_\_\_  
Witness

**Humber Valley Paving Ltd.**

\_\_\_\_\_  
Assignor

**Marine Contractors Inc.**

[Signature]  
Assignee



**Her Majesty the Queen in right of  
Newfoundland & Labrador as  
Represented by the Minister of  
Transportation and Works**

\_\_\_\_\_  
Consenter

**Signed & the Corporate Seal of  
the Assignor affixed in the presence of:**

\_\_\_\_\_  
**Witness**

**Humber Valley Paving Ltd.**

\_\_\_\_\_  
**Assignor**

**Signed & the Corporate Seal of  
the Assignee affixed in the presence of:**

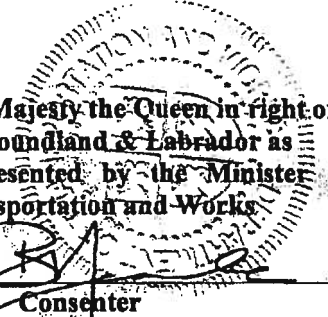
\_\_\_\_\_  
**Witness**

**Marine Contractors Inc.**

\_\_\_\_\_  
**Assignee**

**Signed & the Corporate Seal of  
the Contractor affixed in the  
presence of:**

  
\_\_\_\_\_  
**Witness**

  
**Her Majesty the Queen in right of  
Newfoundland & Labrador as  
Represented by the Minister of  
Transportation and Works**

  
\_\_\_\_\_  
**Consenter**