



**Mid-Value Procurement
General Terms and Conditions**

1. Definitions

- 1.1 Unless otherwise outlined in these General Terms and Conditions, the Town's definitions, as outlined on the Town website at the following link <<https://www.aurora.ca/media/dpgnkhan/schedule-a-definitions.pdf>>, shall apply to and form part of all IRFQ documents, and all associated orders and Contracts.

2. General Terms

- 2.1 All Deliverables provided by the Contractor shall be completed in a professional and workmanlike manner to the satisfaction of the Town.
- 2.2 Upon being awarded the IRFQ, the Deliverables shall be completed by the Bidder as soon as possible and in any event within the period identified in the IRFQ or the Contract as the guaranteed period of delivery or completion.
- 2.3 Notwithstanding anything else, the provision of Deliverables under the Contract will be solely on an as-needed basis upon request by the Town. The Town makes no guarantee or representation regarding the quantity of Deliverables to be requested or provided under the Contract, and the Town reserves the right, at its sole discretion, not to assign or request any Deliverables from the Contractor. Any quantities provided are only an estimate and the Contractor will solely be compensated for the actual measured quantities of Deliverables provided in accordance with the Contract.
- 2.4 Any Contract executed pursuant to the IRFQ will not be an exclusive contract for the provision of the Deliverables. The Town may contract with others for the same or similar Deliverables, by way of another Procurement or otherwise, or may obtain the same or similar Deliverables internally.
- 2.5 No verbal arrangement or agreement relating to the Deliverables will be considered binding. Every notice, advice, or other communication pertaining to the IRFQ, the Contract, or the Deliverables must be in writing and signed by a duly Authorized person of the Town.
- 2.6 Should a dispute arise regarding the interpretation of the terms and conditions of the IRFQ or the Contract, the Town's interpretation shall prevail.
- 2.7 The Contractor may not assign the Contract, or any part of the Contract or the IRFQ, or the provision of any Deliverables, without the express prior written consent of the Town, which shall be within the sole and absolute discretion of the Town. Such written consent, however, if any, shall not under any circumstances relieve the Bidder/Contractor of their liabilities and obligations under the IRFQ or the Contract.

- 2.8 Unless otherwise expressly stated otherwise in the Contract, the Contractor shall only use new products in the provision of the Deliverables. The Contractor shall deliver and store all materials and equipment in accordance with the applicable manufacturers' instructions, with all manufacturers' labels and seals intact. When the use of certain materials or equipment are required by industry standards or performance specifications, the Contractor shall, upon the Town's written request, provide a report from an independent testing laboratory confirming compliance with the specified requirements.
- 2.9 All Deliverables under an official order issued pursuant to the IRFQ and Contract shall be subject to inspection by the Town, at any time, including but not limited to the point of unloading goods, materials, or equipment, as applicable. The Town shall not be liable for any additional costs incurred by the Bidder/Contractor in relation to such inspection(s), including but not limited to any additional costs for additional packaging, packing, or containers.
- 2.10 Any Deliverable determined to be defective, non-functional, incorrect, or unsuitable for its intended purpose, shall be unconditionally and promptly replaced, repaired, redone, or returned for a full credit at no cost to the Town. The Town shall not be liable for any additional costs incurred by the Bidder/Contractor, including but not limited to any restocking charges, transportation, or other service fees arising from such corrective actions. Exceptions to this provision shall apply only in cases of proven direct abuse or negligence by the end user, with the burden of proof resting solely on the Contractor.
- 2.11 The prices quoted in the Bid and set out in the Contract shall include all goods, materials, articles, equipment, labour, transportation, delivery, installation/set-up, and all other overhead, as specified in the Contract, all delivered F.O.B. destination, with freight prepaid and allowed.
- 2.12 The prices quoted in the Bid and set out in the Contract shall be payable in Canadian Funds and shall be exclusive of the Harmonized Sales Tax (HST), which should be itemized separately. Any variation in rate of foreign exchange that may be applicable to the Deliverables shall not increase any prices quoted in the Bid or set out in the Contract.
- 2.13 The prices quoted in the Bid and set out in the Contract shall include all excise taxes, duties, and tariffs that apply to the Deliverables. In the event the costs of the Deliverables are increased or decreased due to changes to excise taxes, sales taxes, duties, or tariffs, and which occur after the date of the Bid, but which were not anticipated at the time of bidding, then the amount of the increase or decrease shall increase or decrease the price payable by the Town accordingly, provided that a claim for an increase in costs is submitted by the Contractor to the Town prior to the provision of the Deliverables. For clarity, the Contractor is

only entitled to claim the direct costs of any such taxes, duties, or tariffs imposed directly on the materials that form part of the Deliverables, and the Town shall in no circumstances be liable for any other costs, losses, or damages that might arise as a result of the imposition of any such additional taxes, duties, or tariffs. In the event such taxes, duties, or tariffs decrease, the Town shall be liable to only pay the decreased amount that is in effect, and no notice shall be required for the decrease to be implemented. Notwithstanding anything else in the IRFQ or the Contract, if additional taxes, duties, or tariffs are applied to the Deliverables, upon provision of notice by the Contractor of a claim for an increase in costs of the Deliverables pursuant to the above, the Town shall have the option, at its sole discretion, to terminate the Contract and cancel the provision of any Deliverables regardless of any prior orders or commitments, without any right for the Contractor to claim compensation, and without incurring any liability whatsoever by the Town.

- 2.14 Unless otherwise directed by the Town, payments to the Contractor shall be made via electronic funds transfer (EFT). Upon request by the Town, the Contractor shall complete and submit to the Town the Town's EFT payment form.
- 2.15 Upon completion of the Contract by the Contractor, the Town may complete a written performance evaluation of the Contractor. A copy of the evaluation and supporting documentation may be made available to any persons requesting Town references for the Contractor, and may also be reviewed and form part of the criteria when considering the Town's future award of contracts. The Contractor expressly authorizes the completion, retention, and release of any information that forms part of the evaluation.
- 2.16 Any correspondence, documentation, and information provided to the Town by any Bidder or Contractor in connection with, or arising out of, the IRFQ or the Contract, including any Bid, shall become the property of the Town, and subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended ("MFIPPA"). Bidders/Contractors are advised to identify any material, scientific, technical, commercial, proprietary, or similar confidential information, which could cause them injury if disclosed to the public. Further, any parties providing personal information to the Town pursuant to the IRFQ or the Contract are deemed to have consented to such information being used in the evaluation and the administration of the Bids and the Contract, at the discretion of the Town. Any questions relating to the MFIPPA are to be directed to the Town Clerk.
- 2.17 The parties acknowledge and agree that the relationship between the Town and the Contractor is that of an independent contractor, and nothing contained in the IRFQ, the Contract, or otherwise, shall be construed as creating an employment relationship, a joint venture, a partnership, or any other type of relationship. The Contractor, and its employees, directors, officers, agents, consultants,

subcontractors, and suppliers are all independent of the Town and are not employees of the Town for any purpose, including, without limitation, pursuant to or within the meaning of the *Employment Standards Act, 2000*, S.O. 2000, c. 41, the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, or any other applicable statute or regulation. The Contractor, as an independent contractor, agrees to assume all risk associated with its activities under the Contract.

- 2.18 Notwithstanding anything else, the parties acknowledge and agree that the Contractor shall be solely responsible for ensuring the health and safety of all of its employees, sub-contractors, sub-consultants, and other personnel involved in the provision of the Deliverables, and the Contractor shall, at all times, be responsible for complying with all applicable laws, rules, orders, regulations, decrees, policies, procedures, bulletins, directives, mandates, guidelines, and recommendations put in place by the public health authorities or government bodies, including the Town, in relation to any health, safety, security, disease, virus, pandemic, epidemic, or other biological or physical agents or health risks that may be detrimental to human health, including but not limited to COVID-19, SARS, Avian Flu, H1N1, or any variants thereof, and as amended from time to time, regardless of when it is introduced, put into place, or varied (collectively, the “Health Regulations”).

The Town may at any time request that the Contractor provide documentation of its health and safety protocols and proof of the Contractor’s compliance with all Health Regulations, and the Contractor shall provide the same to the Town forthwith. The Contractor is responsible for being informed about and satisfying themselves with respect to all applicable Health Regulations.

Notwithstanding anything else, the Contractor shall not be entitled to payment for any costs, charges, or delays incurred as a result of any Health Regulations, including the costs for acquiring any equipment or supplies necessary to comply with the Health Regulations, or for any costs or losses related to varying any work methods, personnel, or material.

- 2.19 Pursuant to sections 7 and 80.49 of Ontario Regulation 191/11 (“Integrated Accessibility Standards”), under the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c. 11 (the “AODA”), every Contractor that is a provider of Deliverables to the public shall ensure that all persons who are an employee or volunteer of the Contractor, all persons who participate in the developing of the Contractor’s policies, practices, and procedures governing the provision of the Deliverables to members of the public, and all other persons who provide Deliverables on behalf of the Contractor, shall be trained as required pursuant to the Integrated Accessibility Standards and the AODA.

Upon request by the Town, the Contractor shall provide, within ten (10) Days of the request, all documents describing the training policies and procedures of the Contractor, and proof of the required employee training.

3. Delay and Indemnification

- 3.1 The Contractor shall have no claim against the Town for compensation, damages, or any other losses arising from or related to any stoppages or delays, regardless of the cause.
- 3.2 The Contractor shall at all times defend, hold harmless, and fully indemnify the Town and its councillors, officers, directors, employees, agents, successors, and assigns (collectively, the "Indemnified Parties") from and against all actions, causes of action, suits, claims, liabilities, demands, liens, losses, costs, charges, damages, expenses, and any other proceedings which may be brought or threatened against any of the Indemnified Parties, or which the Indemnified Parties may suffer or incur in any manner, based upon, occasioned by, or attributable to, directly or indirectly, any acts or omissions in relation to the Contract or the IRFQ, and/or the execution and performance or maintenance of the Deliverables, including, but not limited to, any allegations of negligence or breach of contract or duty, personal injury including death, damage to or loss of property, breach of any intellectual property rights (including in relation to inventions, copyrights, trademarks, or patents), and further including but not limited to any acts or omissions regarding any adjoining lands and highways used in connection with the provision of the Deliverables, and/or the supply or non-supply of plant and material for the Deliverables, arising from any act, delay, or omission (willful, negligent, or otherwise), on the part of the Contractor, its directors, officers, agents, sub-contractors, sub-consultants, employees, or other persons for whom the Contractor is legally responsible,. This obligation shall survive expiration or termination of this Contract and the Deliverables.

4. Termination and Default

- 4.1 If any person or corporation contracting with the Town pursuant to the IRFQ is found to have provided, or agreed to provide, any interest, whether financial or otherwise, to a Town employee in relation to the Contract or the award of the Contract, then such Bidder or Contractor, and their representatives and assigns, shall forfeit all claims under the Contract, and for all Deliverables, and the Town will have the right to terminate any resulting Contract at any time without the Town incurring any liability whatsoever.
- 4.2 The Town shall have the right to cancel, at any time upon notice, the provision of, or any order of, any Deliverables not yet fully provided at that time, without the Town incurring any liability whatsoever.

- 4.3 Without limiting and in addition to anything else, the Town reserves the right, in its sole discretion, to terminate any Contract resulting from the IRFQ, at any time, in whole or in part, for any reason or for no reason, upon providing thirty (30) Days prior written notice to the Contractor.
- 4.4 In addition to anything else, if the Contractor fails to comply with any request, instruction, or order of the Town, or fails to pay its accounts, or fails to comply with or persistently disregards statutes, regulations, by-laws, or directives of relevant authorities relating to the work under this Contract, or fails to execute work with skill and diligence, or assigns or sublets work under this Contract or any portion thereof without the written consent of the Town, or refuses to correct defective work, or is otherwise in default in carrying out its part of any of the terms, conditions, and obligations of this Contract, then the Town may, in its sole discretion, provide notice to the Contractor that it has ten (10) Days to rectify the default. If the Contractor fails to rectify the default within the prescribed period, the Town will be entitled to immediately terminate the Contract. Additionally, the Town reserves the right to pursue any and all remedial actions, whether at law or in equity, in relation to the Contractor's default. Further, in the event of termination pursuant to this section, the Town shall have the right to:
- a) take possession of all the Deliverables in progress and finish the work or services by whatever means the Town may deem appropriate under the circumstances;
 - b) withhold any payments to the Contractor for any completed work; and
 - c) recover from the Contractor any losses, damage and/or expenses incurred by the Town by reason of the Contractor's default.

5. Requirements for Work on Town Assets, Town Property and Public Spaces

- 5.1 This section 5 shall only apply to the provision of Deliverables which involve work or activity on any Town owned assets, including real property, buildings, structures, facilities, sidewalks, highways, and infrastructure, or on any property managed or occupied by the Town, including any public spaces.
- 5.2 The Contractor shall, at all times throughout the Contractor's provision of the Deliverables, keep a copy of the Contract at the Place of the Work.
- 5.3 The Contractor shall coordinate the provision of all Deliverables with the Town's representative in relation to the IRFQ to ensure minimum disruption of public services and to minimize any inconvenience to occupants and visitors of any property affected by the provision of the Deliverables.
- 5.4 The Contractor shall provide and maintain, at their sole expense, temporary facilities and services as required to carry out the Deliverables. All such

temporary facilities and services shall be removed by the Contractor upon completion of the Deliverables.

- 5.5 Unless expressly authorized in writing by the Town, then the Contractor shall ensure that there is no interference with the use of and safe passage to, on, and from any Town or private lands, properties, building, or facilities, or any public lands, sidewalks, or highways. Without limiting the generality of the foregoing, materials, facilities, and services used in relation to the Deliverables shall not obstruct or be stored on any roadways, sidewalks, or passageways, and the Contractor shall not interfere with or damage privately or Town owned adjacent property.
- 5.6 The Contractor shall arrange for and provide traffic control where necessary for the delivery of materials, the removal of garbage, or any other activity related to the Deliverables, as required by applicable by-laws, laws, and regulations.
- 5.7 Prior to commencing the Deliverables in accordance with the Contract, the Contractor shall confirm the location of all existing utility lines, and shall ensure they are protected and maintained throughout the course of their provision of the Deliverables.
- 5.8 The Contractor shall keep the Place of the Work clean and hazard-free throughout the provision of the Deliverables, and shall properly store, remove, and dispose of all garbage/debris. All garbage/debris shall be transported to an authorized dump, waste treatment site, or recycling facility by the Contractor, and disposed of in accordance with applicable by-laws, laws, and regulations, all at the Contractor's expense.
- 5.9 The Contractor shall make all necessary inquiries to ascertain and acquire/initiate any required protective measures prior to proceeding with any demolition or removal of materials in relation to the Deliverables.
- 5.10 The Contractor shall protect existing structures, furnishings, and persons by providing and maintaining adequate temporary protective coverings throughout the provision of the Deliverables. The Contractor shall be responsible for all injuries to persons and for all damage to existing structures and furnishings as a result of or in relation to their Deliverables, if any. All damage stemming from the Deliverables shall be repaired or replaced by the Contractor at the Contractor's sole expense and to the satisfaction of the Town, in its sole discretion.
- 5.11 The Contractor shall comply with all Workplace Safety and Insurance Board requirements. Within ten (10) Days after award of the Contract, and at any time during the term of the Contract when requested by the Town, the Contractor shall provide evidence of compliance with the requirements of the province of Ontario with respect to the *Workplace Safety and Insurance Act, 1997*, S.O. 1997, c. 16, Sched. A, as amended (the "WSIA") and the Workplace Safety & Insurance Board,

including payments due thereunder. The Contractor hereby indicates it understands and agrees that it is not, nor is anyone hired by the Contractor, covered by the Town under the WSIA. The Contractor shall be responsible for and shall pay all dues and assessments payable under the WSIA, the *Employment Insurance Act*, S.C. 1996, c. 23, as amended, or any other legislation, whether Provincial or Federal, in respect of itself, its employees, and its operations.

- 5.12 The Contractor shall provide and maintain adequate fire protection in accordance with all applicable laws and regulations throughout the course of its provision of the Deliverables.
- 5.13 The Contractor shall take all necessary steps to keep dust, dirt, and noise resulting from the Deliverables to an acceptable level, as directed by the Town or as required by applicable by-laws, laws, and regulations.
- 5.14 The Contractor shall provide suitable protection against dust, dirt, water, and fumes for all entry and exit ways of all buildings, all fresh air intakes, elevators shafts, plumbing, and all telephone, hydro, and mechanical rooms.
- 5.15 The Contractor shall provide and install canvas tarps from the ground to the roof at all entry and exit ways, and on all floors, walls, and all standing fixtures, to protect against any spillage of materials and/or damage during the provision of the Deliverables, as applicable.
- 5.16 The Contractor shall not store materials or use a vehicle or other equipment in a manner which would load the structure beyond its design capacity.
- 5.17 The Contractor shall ensure that they and all persons employed or engaged by the Contractor to provide the Deliverables use designated existing sanitary facilities and that they do not undress, use profane language, or make coarse gestures.
- 5.18 The Contractor shall be responsible for and shall take every precaution reasonable in the circumstances for the protection of all workers and persons associated with or in proximity to the Deliverables. The Contractor shall ensure that all persons employed or engaged by the Contractor to perform the Deliverables are supervised by a competent person and trained and qualified to perform the specific tasks of their jobs in a healthy and safe manner, and that such qualifications remain current through to the completion of the Deliverables.
- 5.19 The Contractor shall ensure that all tools, equipment, and machinery brought to the Place of the Work shall be used, stored, transported, and maintained properly in accordance with all applicable laws, regulations, and industry standards.
- 5.20 The Contractor shall ensure that all materials brought to the Place of the Work shall be used, stored, handled, transported, and disposed of properly in

accordance with all applicable laws, regulations, and industry standards, including that they be accompanied by any applicable Material Safety Data Sheets in accordance with the Workplace Hazardous Material Information Systems ("WHMIS") regulations in the Province of Ontario. Applicable Material Safety Data Sheets shall be available for inspection by the Town at the Place of the Work at all times while such materials are present.

- 5.21 The Contractor shall notify the Town of all hazardous materials brought onto the Place of the Work or used in conjunction with the Deliverables, including, without limitation, all products controlled federally and/or provincially under WHMIS or the Transportation of Dangerous Goods regulations, and all designated substances as defined in the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, and its regulations.
- 5.22 The Contractor acknowledges that it is aware of the provisions of the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, the *Environmental Protection Act*, R.S.O. 1990, c. O.1, the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40, and the *Fisheries Act*, R.S. 1985, c. F-14, all as amended, and the regulations, policies, and guidelines operating under each, and agrees to comply with, fulfil, and cause to be complied with, the provisions of such statutes, regulations, policies, and guidelines, including, without limiting the generality of the foregoing, all of the obligations of the employer and the constructor, with respect to any construction work that makes up the Deliverables, under the *Occupational Health and Safety Act* and its regulations, as applicable, and any obligation to obtain any approvals or permits required under the *Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Fisheries Act* (Canada), or their regulations, policies, and guidelines, with respect to the Deliverables, and shall handle and dispose of all materials in accordance with such legislation.
- 5.23 Without limiting anything else, by entering into the Contract, the Contractor represents and acknowledges that it is qualified and, as between the Town and the Contractor, is the subject matter expert with respect to matters of health and safety relating to the Deliverables, and the requirements, obligations, and compliance with the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, as amended, and its applicable regulations, policies, and guidelines ("OHS Requirements"). The Town is entering into the Contract based on this representation and, notwithstanding any other rights and requirements set out in the Contract or any actions of the Town, the Town shall continue to rely on the Contractor's expertise with health, safety, and OHS Requirements throughout the Contractor's provision of the Deliverables.

6. Terms and Conditions for Construction Related Deliverables Only

- 6.1 This Section 6 shall only apply to the provision of Deliverables that are subject to the application of any provisions of the *Construction Act*, R.S.O. 1990, c. C.30, as

amended (the "Construction Act"). The provisions of this Section 6 shall override and supersede any other provisions of these General Terms and Conditions.

6.2 For the purposes of this Section 6, the following shall have the meaning ascribed below:

- a) "Payment Draw Estimate" means a written summary that outlines work conducted, or estimated to be conducted, in a given Payment Period, and contains information to identify the project to which it relates, a date of the estimate, and a general description of the Deliverables provided or done, or estimated, during the associated Payment Period, including quantities, and the amount payable for such Deliverables;
- b) "Payment Period" means the interval established for the provision of invoices, which shall fall at the conclusion of each calendar month in which Deliverables have been provided, unless otherwise agreed upon by the parties in writing.

6.3 Notwithstanding anything else, any written bill or other request for payment for the Deliverables pursuant to the IRFQ and the Contract shall contain the following information:

- a) the Contractor's name and address;
- b) the date of the request for payment and the period during which the Deliverables were supplied;
- c) information identifying the Contract under which the Deliverables were provided, including the applicable purchase order number of the Town;
- d) a description, including quantity where appropriate, of the Deliverables that were supplied;
- e) the amount payable for the Deliverables that were supplied, the applicable HST, and the payment terms;
- f) the amount of the holdback being held and, if applicable, the amount of holdback payable;
- g) the name, title, telephone number, and mailing address of the person to whom the payment is to be sent;
- h) if requested by the Town, a valid WSIB certificate;
- i) if requested by the Town, a completed statutory declaration of progress payment distribution by the Contractor; and

- j) record of Payment Draw Estimate and, if applicable, of the payment review that includes, at a minimum, the date of such a meeting for the applicable billing period

(altogether, the "Proper Invoice").

6.4 Upon conclusion of any Payment Period, the Contractor shall provide the Town with a Payment Draw Estimate and, if requested by the Town, meet with a Town representative to review the Payment Draw Estimate. The Payment Draw Estimate shall be provided as directed by the Town but shall not be sent to contractorinvoices@aurora.ca.

6.5 All Proper Invoices pursuant to the IRFQ or the Contract shall:

- a) be delivered to the Town by e-mail directly to the Town's Accounts Payable, at contractorinvoices@aurora.ca, and in accordance with the service requirements set out in the IRFQ and Contract;
- b) Proper Invoices may only be sent to the Town by the Contractor seven (7) Days after a Payment Draw Estimate has been provided to the Town with respect to the Deliverables subject to the Payment Draw Estimate. In a case where the Payment Draw Estimate has not been provided or where a Proper Invoice is provided earlier than seven (7) Days after the provision of the Payment Draw Estimate, any such proposed invoice provided to the Town shall be deemed to have been received by the Town seven (7) Days following its actual provision to the Town;
- c) Proper Invoices shall not be given, submitted, or received by the Town between December 10 and January 4 of any year. Any invoices sent to the Town between December 10 and January 4, inclusive, shall be deemed to have been received by the Town on January 5. In the case of an invoice that is deemed to have been received seven (7) Days following its submission to the Town pursuant to subsection (b), and if the seventh (7th) Day falls between December 10 and January 4, inclusive, such invoice shall be deemed to have been received on January 5.

6.6 Any invoice provided to the Town that does not meet all the requirements of the Town, or which is not sent to the Town in accordance with the requirements set out in this section, shall not be considered a Proper Invoice received by the Town until such time as it satisfies all the requirements of a Proper Invoice and is properly served on the Town. Any such noncompliant invoice or application for payment shall not result in payment.

6.7 The Town shall pay any Proper Invoices received by the Town in accordance with the provisions of the Contract and the Construction Act, subject to any holdback provisions of the Contract or the Construction Act.

- 6.8 A ten percent (10%) Construction Act holdback will be calculated based on the value of Deliverables performed and deducted from payments. The Contractor shall be deemed to have made due allowance for executing the requirements of the Construction Act.
- 6.9 The Contractor shall be responsible for ensuring that all excavated soil material is assessed, characterized, designated, tested, processed, handled, documented, reported, removed, transported, hauled, and disposed of in full compliance with all legislation applicable to such activities, including but not limited to the *Environmental Protection Act*, R.S.O. 1990, c. E.19 and its regulations, including O. Reg. 406/19: On-Site and Excess Soil Management, O. Reg. 347: General – Waste Management, all as amended (collectively, the “Soil Disposal Laws”).
- 6.10 The Contractor shall be responsible for determining the obligations and requirements that are applicable to the Deliverables and the associated disposal of soil material, including any requirements or obligations of the project leader (the “Soil Disposal Obligations”), and the Contractor shall ensure that all such Soil Disposal Obligations are fulfilled in compliance with all applicable laws, including the Soil Disposal Laws (collectively, the Soil Disposal Laws and Soil Disposal Obligations being the “Soil Disposal Requirements”).

The Contractor shall retain any consultant, or subconsultant, necessary, to fulfil the Soil Disposal Requirements, including retaining a qualified person as required under O. Reg 406/19, or under any other applicable laws or regulations.

- 6.11 Without limiting the generality of the foregoing, the Contractor shall, prior to the removal of any soil material from the Place of the Work, provide to the Town documentation and information to demonstrate, to the satisfaction of the Town, that all necessary permits, authorizations, and approvals for the entire quantity of material intended to be removed, transported, and deposited at the destination site, are in place and are in compliance with the Soil Disposal Requirements and in accordance with the Contract. The Contractor shall not remove, transport, or dispose of any soil material from the Place of the Work prior to obtaining the necessary permits, authorizations, and approvals for same, and the Contractor shall only remove the quantity of the soil material for which approvals have been obtained.

The Contractor shall only be entitled to payment for quantities of disposed soil material that is properly accounted for, verified, and documented, in accordance with the Soil Disposal Requirements and the Contract, to the satisfaction of the Director.

- 6.12 The Contractor shall not be entitled to claim any delays or associated costs for performing any activities, obligations, tasks, or services related to soil assessment, characterization, designation, testing, processing, documentation,

reporting, removal, transportation, hauling, or disposal, as required under the Contract or applicable Soil Disposal Laws, regardless of whether such activities were unforeseen or outside the original scope of the Deliverables.

- 6.13 The Contractor shall be deemed liable for and fully indemnify and hold harmless the Town for any penalties, damages, or other losses incurred due to non-compliance of the Contractor, its employees, subcontractors, consultants, subconsultants, or other agents of the Contractor, with respect to any Soil Disposal Requirements. The Town reserves the right to withhold any payments to the Contractor in the event of non-compliance with any Soil Disposal Requirements. The Town reserves the right to deduct, from any monies owed or due to the Contractor, any amount necessary to remedy any non-compliance with Soil Disposal Requirements.
- 6.14 Any location proposed to be used by the Contractor for the disposal of excavated soil material which is within the geographic limits of the Town must be approved in writing by an Authorized individual of the Town prior to its use.