



# The Municipal Corporation of the Town of Fort Erie

## BY-LAW NO. 2-04

### BEING A BY-LAW TO AWARD A TENDER FOR THE ROXBOROUGH AVENUE SANITARY SEWER AND ROAD RESTORATION – CONTRACT NO. PW.03ROXB – ALFRED BEAM EXCAVATING LTD.

(360201-11)

**WHEREAS** Tenders were advertised and publicly opened December 19, 2003 at 2:00 p.m. EST for Roxborough Avenue Sanitary Sewer and Road Restoration -Contract No. PW.03ROXB the results of which are as follows:

Contractor	Tender Price (including 7% G.S.T.)	*Corrected Tender Price (including 7% G.S.T.)
Alfred Beam Excavating Ltd.	\$335,664.35	
Provincial Construction (Niagara Falls) Ltd.	\$343,558.10	\$343,550.21
Nexterra Substructures Inc.	\$348,213.84	
Alfidome Construction Limited	\$368,342.15	
Fine Grade Construction Inc.	\$371,215.10	
DeRose Bros. Construction General Contracting Ltd.	\$398,721.75	
DeMar	\$428,371.20	

*\* Arithmetically corrected*

**WHEREAS** at the Council-in-Committee meeting of January 5, 2004, Report No. PW-02-2004 was accepted and approved authorizing the awarding of the tender for the Roxborough Avenue Sanitary Sewer and Road Restoration -Contract No. PW.03ROXB to Alfred Beam Excavating Ltd., of Fort Erie, Ontario in the tender amount of \$335,664.35, including 7% GST, and

**WHEREAS** it is deemed desirable to accept the tendered amount from Alfred Beam Excavating Ltd.,

**NOW THEREFORE** the Municipal Council of The Corporation of the Town of Fort Erie hereby enacts as follows:

- 1) **THAT** the tender for the Roxborough Avenue Sanitary Sewer and Road Restoration -Contract No. PW.03ROXB to Alfred Beam Excavating Ltd., of Fort Erie, Ontario in the tender amount of \$335,664.35, including 7% g.s.t. be and it is hereby accepted and approved.
- 2) **THAT** the entry into an Agreement with Alfred Beam Excavating Ltd. of Fort Erie, Ontario for the Roxborough Avenue Sanitary Sewer and Road Restoration -Contract No. PW.03ROXB in the form of Schedule "A" annexed hereto in this by-law, be and it is hereby authorized and approved.

- 3) **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute the Agreement annexed hereto as Schedule "A" to this by-law and to affix the corporate seal thereto.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 12<sup>TH</sup> DAY OF JANUARY, 2004.**

**MAYOR**

A handwritten signature in cursive script, appearing to read "M. Kett", is written over a horizontal line.

**CLERK**

I, the Clerk, Carolyn J. Kett, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 2-04 of the said Town. Given under my hand and the seal of the said Corporation this \_\_\_\_\_ day of 2 \_\_\_\_\_.

**Schedule "A" to By-law 2-04**

**AGREEMENT BETWEEN OWNER AND CONTRACTOR**

**This Agreement** made on the \_\_\_\_\_ day of \_\_\_\_\_ in the year two thousand and four.

**by and between**

The Corporation of the Town of Fort Erie

**hereinafter called the "Owner"**

**and**

Alfred Beam Excavating Ltd.

**hereinafter called the "Contractor"**

**witnesses:** that the parties agree as follows

**ARTICLE A-1 THE WORK**

The Contractor shall:

- (a) perform the Work required by the Contract Documents for the Roxborough Avenue Sanitary Sewer and Road Restoration (Ridgeway Road to Ridge Road South), Contract No. PW.03ROXB which have been signed by the parties, and which were prepared by The Corporation of The Town of Fort Erie – Director of Public Works acting as hereinafter called the Engineer.
- (b) do and fulfill everything indicated by this Agreement, and
- (c) commence the Work by the \_\_\_\_\_ day of \_\_\_\_\_ 2004 and attain completion of the Work, as certified by the Contract Administrator,

## ARTICLE A-2 CONTRACT DOCUMENTS

The following is an exact list of the Contract Documents referred to in Article A-1 of this Agreement. This list is subject to subsequent amendments in accordance with the provisions of the Contract and agreed upon between the parties. (List Contract Documents Below).

Contract Documents as listed in Table of Contents – **Attached as Schedule A to this Agreement**

Contract Drawings as listed in Schedule of Drawings - **Attached as Schedule B to this Agreement**

## ARTICLE A-3 CONTRACT PRICE

- (a) The quantities shown in the Schedule of Contract Unit Prices are estimated. The Tender Price shall be the final sum of the products of the actual quantities that are incorporated in, or made necessary by the Work, as confirmed by count and measurement, and the appropriate Tender Unit Prices, together with any adjustments that are made in accordance with the provisions of the Contract Documents.
- (b) The Estimated Tender Price shall be the sum of the products of the estimated quantities and the appropriate Tender Unit Prices in the Schedule.
- (c) Schedule of Tender Unit Prices, as per pages FT 4 to FT 7, included as part of this contract,
- (d) Based on the Schedule of Unit Prices, refer to in article A-3 (c) the tender price is

\$335,664.35, Three Hundred Thirty Five Thousand Six Hundred Sixty Four Dollars and Thirty Five Cents in Canadian Funds Including GST



#### **ARTICLE A-4 PAYMENT**

- (a) The Owner shall pay the Contractor in Canadian funds for the performance of the Contract, the amounts being determined by actual measured quantities of the individual work items contained in the Schedule of Tender Unit Prices in Article A-3 (c) of this Agreement, and measured in accordance with the methods of measurement given in the specifications.
- (b) Subject to applicable legislation and the provisions of the Contract Documents, and in accordance with legislation and statutory regulations respecting holdback percentages and, where such legislation or regulations do not exist or apply, subject to a holdback fifteen percent (15%), the Owner shall:
  - (1) make monthly payments to the Contractor on account of the work performed as certified by the Contract Administrator, and
  - (2) upon completion of the Work as certified by the Contract Administrator pay to the Contractor the unpaid balance of holdback monies then due, and
- (d) If the Owner fails to make payments to the Contractor as they become due under the terms of this Contract or in an award by arbitration or court, interest of six percent (6%) per annum on such unpaid amounts shall also become due and payable until payment. Such interest shall be calculated and added to any unpaid amounts monthly.

#### **ARTICLE A-5 RIGHTS AND REMEDIES**

- (a) The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- (b) No action or failure to act by the Owner, Contract Administrator or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## **ARTICLE A-6 RECEIPT OF AND ADDRESSES FOR NOTICES**

Communications in writing between the parties or between them and the Contract Administrator shall be considered to have been received by the addressee on the date of delivery if delivered by hand 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 fax, to have been delivered within five (5) working days of the date of mailing, or dispatch when addressed as follows:

The Owner at:

The Corporation of the Town of Fort Erie

Municipal Centre, Fort Erie, Ontario, L2A 2S6

The Contractor at:

1219 Sunset Drive,

Fort Erie, Ontario, L2A 5M4

The Contract Administrator at:

The Corporation of the Town of Fort Erie

Municipal Centre, Fort Erie, Ontario, L2A 2S6

## **ARTICLE A-7 LAW OF THE CONTRACT**

The law of the Place of the Work shall govern the interpretation of the Contract.

## **ARTICLE A-8 LANGUAGE OF THE CONTRACT**

This Agreement is drawn in English at the request of all parties hereto.

## ARTICLE A-9 SUCCESSION

The General Conditions of the Unit Price Contract hereto annexed, and the other aforesaid Contract Documents, are 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 ensure 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 thereunto duly authorized.

SIGNED, SEALED AND DELIVERED  
in the presence of:

### OWNER

The Corporation of the Town of Fort Erie  
Name

\_\_\_\_\_  
Signature

Wayne H. Redekop - Mayor  
Name and title

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and title

Carolyn J. Kett, - Town Clerk  
Name and title

### CONTRACTOR

Alfred Beam Excavating Ltd.

Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name and title

\_\_\_\_\_  
Name and title

## **Schedule “A”**

### **TABLE OF CONTENTS**

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#### Special Instructions to Bidders

Instructions to Bidders

Form of Tender

- Form of Tender Declaration
- Schedule of Quantities
- Statement A - List of Sub-Contractors
- Statement B - Tenderer's Experience in Similar Work
- Statement C - Federal Goods and Services Tax

Agreement to Bond

Form of Contract Agreement

Schedule of Drawings – N/A

Certificate of Insurance

Special Provisions – General

(Refer to Niagara Peninsula Standard Contract Document)

Special Provisions – General Supplementary

Special Provisions - Contract Items (Refer to Niagara Peninsula Standard Contract Document)

Special Provisions – Contract Items - Supplementary

Special Provisions - Labour Conditions and Fair Wage Schedule (If Applicable)

(Refer to Niagara Peninsula Standard Contract Document)

Standard Drawings

Supplementary General Conditions of Contract –

(Refer to Niagara Peninsula Standard Contract Document)

OPS General Conditions of Contract



## **Schedule "B"**

### **Schedule of Drawings**

1. Contract Drawings

Roxborough Avenue Reconstruction Project 1 of 4  
Roxborough Avenue Reconstruction Project 2 of 4  
Roxborough Avenue Reconstruction Project 3 of 4  
Roxborough Avenue Reconstruction Project 4 of 4

2. O.P.S.D. (Not included in Contract Drawings)

310.010  
310.030  
350.010  
351.010  
400.020  
600.040  
701.010  
701.020  
705.010

3. Standard Drawings

Temporary Support of Gas Pipelines Crossing Excavations  
Influence Lines for Gas Mains Adjacent to Excavations  
Anode Test Station Installation  
Cathodic Protection