

The Corporation of the Town of Tecumseh

By-Law Number 2022-090

Being a by-law to authorize the execution of an Agreement between The Corporation of the Town of Tecumseh and Rudak Excavating Inc for the improvements to the Lesperance Road and VIA Rail At-Grade Crossing

Whereas Rudak Excavating Inc, was awarded the tender for the improvement to the Lesperance Road and VIA Rail At-Grade Crossing;

And whereas The Corporation of the Town of Tecumseh is desirous of entering into an Agreement with Rudak Excavating Inc. for the improvement to the Lesperance Road and VIA Rail At Grade Crossing;

And whereas under Section 5 of the *Municipal Act 2001*, S.O. 2001 c.M.25, the powers of a municipality shall be exercised by its Council by by-law.

Now Therefore the Council of The Corporation of The Town of Tecumseh enacts as follows:

1. **That** the Mayor and the Clerk be and they are hereby authorized and empowered on behalf of The Corporation of the Town of Tecumseh, to execute an Agreement between The Corporation of the Town of Tecumseh and Rudak Excavating Inc. dated the 13th day of December, 2022, and to do such further and other acts which may be necessary to implement the said Agreement.
2. **That** this by-law shall come into force and take effect upon on the date of the third and final reading thereof.

Read a first, second, third time and finally passed this 22nd day of December, 2022.

Gary McNamara, Mayor

Jennifer Alexander, Acting Clerk

FORM OF AGREEMENT

FOR

**RE-TENDER FOR LESPERANCE ROAD AND VIA RAIL
AT-GRADE CROSSING IMPROVEMENTS**

THIS AGREEMENT made (in triplicate) this **13th** day of **December** A.D. **2022**

BETWEEN:

CORPORATION OF THE TOWN OF TECUMSEH
hereinafter called the "**OWNER**"

Of the First Part;

- and -

RUDAK EXCAVATING INC.
hereinafter called the "**CONTRACTOR**"

Of the Second Part.

WHEREAS the tender of the Contractor respecting the construction work, hereinafter referred to and described, was accepted by the **Corporation of the Town of Tecumseh** on the **13th** day of **December 2022**.

THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the covenants hereinafter contained, the Parties hereto agree as follows:

1. The Contractor hereby covenants and agrees to provide and supply at its expense, all and every kind of labour, machinery, equipment and materials for and to undertake and complete in strict accordance with its tender dated the **17th day of November 2022** and the contract documents, including the general conditions of the contract, the plans and drawings and specifications prepared by DILLON CONSULTING LIMITED AND DIALOG all of which said documents are annexed hereto and form part of this agreement to the same extent as if fully embodied herein, for the **Re-Tender for Lesperance Road and VIA Rail At-Grade Crossing Improvements** and for the price or sum of **TWO MILLION, NINE HUNDRED AND SIXTY ONE THOUSAND, TWO HUNDRED AND NINETEEN THOUSAND DOLLARS AND FORTY-EIGHT CENTS** (H.S.T. Included) (**\$2,961,219.48**).

2. The Contractor further covenants and agrees to undertake and complete the said work in a proper workmanlike manner within the period of time specified in the said tender.

3. The Contractor further covenants and agrees that it will at all times indemnify and save harmless the Owner, its officers, servants and agents, from and against all loss or damage, and from and against all actions, suits, claims and demands whatsoever which may be made or brought against the Owner, its officers, servants and agents by reason or in consequence of the execution and performance or maintenance of the said work by the Contractor, its servants, agents or employees. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Contractor in accordance with this Agreement and shall survive this Agreement.

4. The Contractor further covenants and agrees to furnish in accordance with the above specifications a Performance Bond and a Labour and Material Payment Bond each in the amount equivalent to one hundred percent (100%) of the Total Tender Price, in such form and issued by such surety as may be approved by the Owner's Solicitor, guaranteeing the faithful performance of the said work, in accordance with the terms of this agreement.

5. It is understood and agreed that the Contractor will not commence or proceed with the construction work herein before described or any part thereof, unless and until the Contractor has been instructed in writing to do so.

6. The Owner hereby covenants and agrees that if the said work shall be duly and properly executed and materials provided as aforesaid, and if the Contractor shall carry out, perform and observe all of the requirements and conditions of this agreement, the Owner will pay to the Contractor the contract price herein set forth in its tender, such payment or payments to be made in accordance with the provisions of the general conditions of the contract referred to above.

7. This agreement and everything herein contained shall enure to the benefit of and be binding upon the Parties hereto, their successors and assigns, respectively.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their corporate seals duly attested by the hands of their proper Officers in that behalf, respectively.

OWNER'S SEAL

CORPORATION OF THE TOWN OF TECUMSEH

Owner

GARY MCNAMARA, MAYOR

JENNIFER ALEXANDER, ACTING CLERK

Date

CONTRACTOR'S SEAL

RUDAK EXCAVATING INC.

Contractor

Contractor's Signature

Contractor's Signature

Date

P.O. Box 10, South Woodslee, Ontario N0R 1V0

Contractor's Address