



Township of Elizabethtown-Kitley

RFT PW-2026-01 ADDENDUM #1

This Addendum forms part of the Request for Tender documents package, RFT-PW-2026-01 –Asphalt Patching and Granular Shouldering of Various Roads and is to be read, interpreted, and coordinated with all other parts accordingly.

Addendum #1 contains the following revisions:

#	Revision
1	Answers to questions received

A signed copy of Addendum 1 must be enclosed with your submitted Tender package. Bidders that do not include this signed Addendum within their sealed Tender submission may be disqualified. The lowest or any bid will not necessarily be accepted.

We hereby acknowledge receipt of the amended instructions and confirm that provisions therefore have been made in our tender. Addendum 1 has been received:

Signing Officer:

Name (print): _____

Signature: _____

Date: _____



Questions

1. Tender Document shows July 31, 2026, completion date.
 - a. Can the Contact Completion Date listed in the tender documents be clarified & confirmed as we understand a change was to be made and issued via addendum?
Substantial completion has been revised to September 30, 2026, with an anticipated completion date of October 31, 2026. Please see attached revised Appendix A
2. Are Feather Joints to be provided for at all Driveway entrances & Road/Street Intersections?
Yes, the specifications for both "Tight Blading and Padding" and "Hot Mix Asphalt Paving" explicitly state that overlay paving shall be feathered out to blend to existing pavement at all entrances and intersections.
3. Is the municipality arranging for, coordinating, and paying for all Rail Protection requirements, permits, flagging, etc, directly with the Railway Owner (CNR) at Location 49 Hallecks Rd N – from CNR Tracks to Murphy Rd?
The Contractor will be responsible for coordinating and scheduling all required rail protection, permits, and flagging with the Railway Owner (CNR) at Location 4 (Hallecks Rd N – from CNR tracks to Murphy Rd). The Township will pay the direct invoiced costs associated with these services.
4. How close will project road works be occurring and completed at these tracks?
Within 10 metres.
5. Is surface sweeping only required?
Yes
6. Are there any additional preparation requirements required only the edge of pavement? *No*
 - a. Are shoulders to be rolled back by mechanical means (Grader) prior to works occurring? *Yes, this will be completed by the Township prior to construction*
 - b. What unit of measurement will be used? *N/A*
 - c. Under which item will this be paid? *N/A*
7. Can the municipality provide the square meters (m²) of Tack Coat required and to be provided under this contract?
The area requiring tack coat is approximately 2523 sqm and is for the HL-2 Modified Overlay only.



8. Location #1; Leacock Road.

a. Where are the culvert patches?

Leacock Road	At fork in the road.
Leacock Road	200m East of fork
Leacock Road	900m East of fork
Leacock Road	2.5km East of fork
Leacock Road	2.6km East of fork
Leacock Road	3.2Km East of fork
Leacock Road	4.5 Km East of fork
Leacock Road	5.8Km East of fork
Leacock Road	6.2Km East of fork

b. How many culvert patches are there on Leacock Road?

There are nine (9) culvert patch locations

9. Is Tack Coat required for Tight Blading locations?

Tack Coat is not required for tight blading. However yes, the specifications states that tack coat shall be applied following the completion of tight blading, where applicable, prior to paving the HL2 surface course. Tack coat application is only required for the HL-2 modified overlay.

10. Special Provision Ex-1001 Hot Mix HL3 and HL4 Patching, paragraph 5:

a. To what extent is asphalt removal by milling or excavation required?

Delete paragraph 5 from Special Provision EK-1001 - Hot Mix HL-3 & HL-4 Patching.

11. Will the municipality allow the use of stone dust in front of residential houses?

Yes, if Granular "M" is supplied from a quarry, the contractor must substitute crushed rock screenings on residential frontages in place of the specified material.

12. Is the Cul De Sac at the end of Coons Road to be Tight Bladed?

Yes, the Cul De Sac will require padding.

13. Will there be asphalt placement in the concrete curb areas?

Yes, at Coons Road and Cty Rd 29 intersection there will be padding required.

14. Please advise if the township will accept 19mm granular "A" as a suitable material for shouldering.

No Granular "M" is specified, the contractor must substitute crushed rock screenings on residential frontages in place of the specified material.

15. Due to the volatility of pricing for Asphalt Cement and Fuel, would the Municipality consider adding a fuel price index and a fuel price adjustment, to protect the municipality as well as the contractor?

We recognize the volatility in current commodity prices, OPSS 310- Appendix B attached shall be invoked in this contract.

APPENDIX A – FORM OF AGREEMENT

See attached sample

DRAFT

FORM OF AGREEMENT

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF ELIZABETHTOWN-KITLEY

(referred to as the “Township”)

AND:

(referred to as the “Contractor”)

In consideration of their respective agreements set out herein, the parties covenant and agree as follows:

1. Contract Documents

The contract between the parties in respect of:

Supply of granular materials as specified in Appendix C

is comprised of the following documents, which are collectively referred to as the “Contract”:

- (a) this Agreement;
- (b) the Schedule of Deliverables, Rates and Specific Provisions, attached hereto as Schedule 1;
- (c) the Standard Terms and Conditions, attached hereto as Schedule 2;
- (d) the **RFT No. PW-2026-01**, including any addenda, (the “Solicitation Document”); and
- (e) all the documentation submitted by the Contractor in response to the Solicitation Document (the “Contractor’s Submission”).

2. Interpretive Value of Contract Documents

Any ambiguity, conflict or inconsistency between or among the documents comprising the Contract will be resolved by giving precedence to the express terms of the documents in the order in which they appear above, so that a first mentioned document shall prevail notwithstanding any term or aspect of a later mentioned document.

3. Execution

This Agreement may be executed and (i) delivered by facsimile transmission or (ii) scanned and delivered by electronic transmission, and when so executed and delivered, will be deemed an original.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date written below.

THE CORPORATION OF THE TOWNSHIP OF ELIZABETHTOWN-KITLEY

Signature:

Name:

Title:

Date of Signature:

I have the authority to bind the Township.

[Insert Contractor's Full Legal Name**]**

Signature:

Name:

Title:

Date of Signature:

I have the authority to bind the Contractor.

Schedule 1 – Schedule of Deliverables, Rates and Specific Provisions

A. Description of Deliverables

The Township of Elizabethtown-Kitley is seeking Bids from qualified Respondents for the potential provision of Crushed Granular Gravel product identified in the Special Provisions of this RFT (Appendix C RFT Particulars) to be applied in 2025 to the Township roads identified within this contract and all granular materials required by the Township in accordance with this contract and the special provisions.

B. Rates and Disbursements

B.1 Adjustment to Quantities

The estimated quantities are approximate only and, in order to work within the financial capabilities of the Township, are subject to increase or decrease prior to the commencement of work.

C. Payment Terms

The payment terms for the Contract are as follows:

Payments will be made subject to the provision of monthly invoices submitted to the Township accompanied by appropriate product digital receipt tickets approved by Township personnel. Payments will be made within 30 days of receipt of said invoices and material testing results. Requests for payment shall be accompanied by a current Workplace Safety Insurance Board Clearance Certificate.

D. Township and Contractor Representatives

The Township Representative and contact information for the Contract is:

Royal Metcalfe, Manager of Public Works
Phone: 613-345-7480 ext. 236; Cell: 613-803-8277
Email: rmetcalfe@ektwp.ca

The Contractor Representative and contact information for the Contract is:

E. Term of Contract

The Contract shall take effect on a date to be determined following approval by Council (the “Effective Date”). The Contract shall remain in effect until completion of the Work to the satisfaction of the Township, substantial completion date of September 30, 2026, with an anticipated completion date of October 31, 2026, unless terminated earlier in accordance with the terms of the Contract or otherwise by operation of law.

F. Specific Provisions

The Contract shall include the item specific specifications found in Appendix C.

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ARTICLE 1 – INTERPRETATION

1.01 Defined Terms

When used in the Contract, the following words or expressions have the following meanings:

“Authority” means any government authority, agency, body or department, whether federal, provincial or municipal, having or claiming jurisdiction over the Contract; and **“Authorities”** means all such authorities, agencies, bodies and departments;

“Business Day” means any working day, Monday to Friday inclusive, but excluding statutory holidays and other days on which the Township has elected to be closed for business;

“Conflict of Interest” includes, but is not limited to, any situation or circumstance where (a) in relation to the procurement process, the Contractor had an unfair advantage or engaged in conduct, directly or indirectly, that may have given it an unfair advantage, including but not limited to (i) having access to information that is confidential to the Township and not available to other Contractors or Contractors; (ii) communicating with any person with a view to influencing preferred treatment in the procurement process; or (iii) engaging in conduct that compromises or could be seen to compromise the integrity of the open and competitive procurement process; or (b) in relation to the performance of the Contract, the Contractor’s other commitments, relationships or financial interests (i) could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment; or (ii) could or could be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations;

“Township Representative” is as set out in Schedule 1 (Schedule of Deliverables, Rates and Specific Provisions);

“Township Confidential Information” means all information of the Township that is of a confidential nature, including all confidential information in the custody or control of the Township, regardless of whether it is identified as confidential or not, and whether recorded or not, and however fixed, stored, expressed or embodied, which comes into the knowledge, possession or control of the Contractor in connection with the Contract. For greater certainty, Township Confidential Information shall: (a) include: (i) all new information derived at any time from any such information whether created by the Township, the Contractor or any third-party; (ii) all information (including Personal Information) that the Township is obliged, or has the discretion, not to disclose under provincial or federal legislation or otherwise at law; but (b) not include information that: (i) is or becomes generally available to the public without fault or breach on the part of the Contractor of any duty of confidentiality owed by the Contractor to the Township or to any third-party; (ii) the Contractor can demonstrate to have been rightfully obtained by the Contractor, without any obligation of confidence, from a third-party who had the right to transfer or disclose it to the Contractor free of any obligation of confidence; (iii) the Contractor can demonstrate to have been rightfully known to or in the possession of the Contractor at the time of disclosure, free of any obligation of confidence when disclosed; or (iv) is independently developed by the Contractor; but the exclusions in this subparagraph shall in no

way limit the meaning of Personal Information or the obligations attaching thereto under the Contract or at law;

“Deliverables” means everything developed for or provided to the Township in the course of performing under the Contract or agreed to be provided to the Township under the Contract by the Contractor or its directors, officers, employees, agents, partners, affiliates, volunteers or Subcontractors, as further defined, but not limited by, Schedule 1, including but not limited to any goods or services or any and all Intellectual Property and any and all concepts, techniques, ideas, information, documentation and other materials, however recorded, developed or provided;

“Effective Date” is as set out in Schedule 1 (Schedule of Deliverables, Rates and Specific Provisions);

“Indemnified Parties” means the Township and the Township’ officials, directors, officers, agents, employees and volunteers;

“Industry Standards” include, but are not limited to (a) the provision of any and all labour, supplies, equipment and other goods or services that are necessary and can reasonably be understood or inferred to be included within the scope of the Contract or customarily furnished by Persons providing Deliverables of the type provided hereunder in similar situations in Canada and; (b) adherence to commonly accepted norms of ethical business practices, which shall include the Contractor establishing, and ensuring adherence to, precautions to prevent its employees or agents from providing or offering gifts or hospitality of greater than nominal value to any person acting on behalf of or employed by the Township;

“Intellectual Property” means any intellectual, industrial or other proprietary right of any type in any form protected or protectable under the laws of Canada, any foreign country, or any political subdivision of any country, including, without limitation, any intellectual, industrial or proprietary rights protected or protectable by legislation, by common law or at equity;

“MFIPPA” means the *Municipal Freedom of Information and Protection of Privacy Act*, Revised Statutes of Ontario 1990, Chapter M.56, as amended;

“Newly Created Intellectual Property” means any Intellectual Property created by the Contractor in the course of performance of its obligations under the Contract;

“Person” if the context allows, includes any individuals, persons, firms, partnerships or corporations or any combination thereof;

“Personal Information” means recorded information about an identifiable individual or that may identify an individual;

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding;

“Rates” means the applicable price, in Canadian funds, to be charged for the applicable Deliverables, as set out in Schedule 1 (Schedule of Deliverables, Rates and Specific Provisions);

“Record” means any recorded information, including any Personal Information, in any form: (a) provided by the Township to the Contractor, or provided by the Contractor to the Township, for the purposes of the Contract; or (b) created by the Contractor in the performance of the Contract; **“Requirements of Law”** mean all applicable requirements, laws, statutes, codes, acts, ordinances, orders, decrees, injunctions, by-laws, rules, regulations, official plans, permits, licenses, authorizations, directions, and agreements with all Authorities that now or at any time hereafter may be applicable to either the Contract or the Deliverables or any part of them;

“Contractor Representative” is as set out in Schedule 1 (Schedule of Deliverables, Rates and Specific Provisions);

“Contractor’s Intellectual Property” means Intellectual Property owned by the Contractor prior to its performance under the Contract or created by the Contractor during the Term of the Contract independently of the performance of its obligations under the Contract;

“Term” is as set out in Schedule 1 (Schedule of Deliverables, Rates and Specific Provisions); and

“Third-Party Intellectual Property” means any Intellectual Property owned by a party other than the Township or the Contractor.

ARTICLE 2 – GENERAL TERMS

2.01 No Indemnities from the Township

Notwithstanding anything else in the Contract, any express or implied reference to the Township providing an indemnity or any other form of indebtedness or contingent liability that would directly or indirectly increase the indebtedness or contingent liabilities of the Township beyond the obligation to pay the Rates in respect of Deliverables accepted by the Township, whether at the time of entering into the Contract or at any time during the Term, shall be void and of no legal effect.

2.02 Entire Contract

The Contract embodies the entire agreement between the parties with regard to the provision of the Deliverables and supersedes any prior understanding or agreement, collateral, oral or otherwise with respect to the provision of the Deliverables, existing between the parties at the Effective Date of the Contract.

2.03 Severability

If any term or condition of the Contract, or the application thereof to the parties or to any Persons or circumstances, is to any extent invalid or unenforceable, the remainder of the Contract, and the application of such term or condition to the parties, Persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

2.04 Failure to Enforce Not a Waiver

Any failure by the Township to insist in one or more instances upon strict performance by the Contractor of any of the terms or conditions of the Contract shall not be construed as a waiver by the Township of its right to require strict performance of any such terms or conditions, and the

obligations of the Contractor with respect to such performance shall continue in full force and effect.

2.05 Changes by Written Amendment Only

Any changes to the Contract shall be by written amendment signed by the parties. No changes shall be effective or shall be carried out in the absence of such an amendment. Any such written changes shall be included in the definition of Contract.

2.06 Force Majeure

Neither party shall be liable for damages caused by delay or failure to perform its obligations under the Contract where such delay or failure is caused by an event beyond its reasonable control. The parties agree that an event shall not be considered beyond one's reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the Contract would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism but shall not include shortages or delays relating to supplies or services. If a party seeks to excuse itself from its obligations under the Contract due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) Business Days, the other party may immediately terminate the Contract by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under the Contract, at law or in equity.

2.07 Notices by Prescribed Means

Notices shall be in writing and shall be delivered by postage-prepaid envelope, personal delivery or email and shall be addressed to, respectively, the Township Representative and the Contractor Representative. Notices shall be deemed to have been given: (a) in the case of postage-prepaid envelope, five (5) Business Days after such notice is mailed; or (b) in the case of personal delivery or email one (1) Business Day after such notice is received by the other party. In the event of a postal disruption, notices must be given by personal delivery or by email. Unless the parties expressly agree in writing to additional methods of notice, notices may only be provided by the methods contemplated in this paragraph.

2.08 Governing Law

The Contract shall be governed by and construed in accordance with the laws of the Province Ontario and the federal laws of Canada applicable therein.

ARTICLE 3 – NATURE OF RELATIONSHIP BETWEEN TOWNSHIP AND CONTRACTOR

3.01 Contractor's Power to Contract

The Contractor represents and warrants that it has the full right and power to enter into the Contract and there is no agreement with any other Person which would in any way interfere with the rights of the Township under the Contract.

3.02 Representatives May Bind the Parties

The parties represent that their respective representatives have the authority to legally bind them to the extent permissible by the Requirements of Law.

3.03 Contractor Not a Partner, Agent or Employee

The Contractor shall have no power or authority to bind the Township or to assume or create any obligation or responsibility, express or implied, on behalf of the Township. The Contractor shall not hold itself out as an agent, partner or employee of the Township. Nothing in the Contract shall have the effect of creating an employment, partnership or agency relationship between the Township and the Contractor or any of the Contractor's directors, officers, employees, agents, partners, affiliates, volunteers or Subcontractors.

3.04 Non-Exclusive Contract, Work Volumes

The Contractor acknowledges that it is providing the Deliverables to the Township on a non-exclusive basis. The Township makes no representation regarding the volume of goods and services required under the Contract. The Township reserves the right to contract with other parties for the same or similar goods and services as those provided by the Contractor and reserves the right to obtain the same or similar goods and services internally.

3.05 Responsibility of Contractor

The Contractor agrees that it is liable for the acts and omissions of its directors, officers, employees, agents, partners, affiliates, volunteers and Subcontractors. This paragraph is in addition to any and all of the Contractor's liabilities under the Contract and under the general application of law. The Contractor shall advise these individuals and entities of their obligations under the Contract and shall ensure their compliance with the applicable terms of the Contract. In addition to any other liabilities of the Contractor pursuant to the Contract or otherwise at law or in equity, the Contractor shall be liable for all damages, costs, expenses, losses, claims or actions arising from any breach of the Contract resulting from the actions of the above mentioned individuals and entities This paragraph shall survive the termination or expiry of the Contract.

3.06 No Subcontracting or Assignment

The Contractor shall not subcontract or assign the whole or any part of the Contract or any monies due under it without the prior written consent of the Township. Such consent shall be in the sole discretion of the Township and subject to the terms and conditions that may be imposed by the Township. Without limiting the generality of the conditions which the Township may require prior to consenting to the Contractor's use of a subcontractor, every contract entered into by the Contractor with a subcontractor shall adopt all of the terms and conditions of the Contract as far as applicable to those parts of the Deliverables provided by the subcontractor. Nothing contained in the Contract shall create a contractual relationship between any subcontractor or its directors, officers, employees, agents, partners, affiliates or volunteers and the Township.

3.07 Duty to Disclose Change of Control

In the event that the Contractor undergoes a change in control the Contractor shall immediately disclose such change in control to the Township and shall comply with any terms and conditions subsequently prescribed by the Township resulting from the disclosure.

3.08 Conflict of Interest

The Contractor shall: (a) avoid any Conflict of Interest in the performance of its contractual obligations; (b) disclose to the Township without delay any actual or potential Conflict of Interest that arises during the performance of its contractual obligations; and (c) comply with any requirements prescribed by the Township to resolve any Conflict of Interest. In addition to all other contractual rights or rights available at law or in equity, the Township may immediately terminate the Contract upon giving notice to the Contractor where: (a) the Contractor fails to disclose an actual or potential Conflict of Interest; (b) the Contractor fails to comply with any requirements prescribed by the Township to resolve a Conflict of Interest; or (c) the Contractor's Conflict of Interest cannot be resolved to the satisfaction of the Township. This paragraph shall survive any termination or expiry of the Contract.

3.09 Contract Binding

The Contract can be enforced by and is binding upon the parties and their successors, executors, administrators and their permitted assigns.

ARTICLE 4 – PERFORMANCE BY CONTRACTOR

4.01 Commencement of Performance

The Contractor shall commence performance upon receipt of written instructions from the Township.

4.02 Deliverables Warranty

The Contractor hereby represents and warrants that the Deliverables (i) shall be provided fully and diligently in a professional and competent manner by persons qualified and skilled in their occupations; and (ii) shall be free from defects in material, workmanship and design, suitable for the purposes intended, in compliance with all applicable specifications and free from liens or encumbrance on title; and furthermore that all Deliverables shall be provided in accordance with: (a) the Contract; (b) Industry Standards; and (c) Requirements of Law. If any of the Deliverables, in the opinion of the Township, are inadequately provided or require corrections, the Contractor shall forthwith make the necessary corrections at its own expense as specified by the Township in a rectification notice.

4.03 Health and Safety

Without limiting the generality of section 4.02, the Contractor warrants and agrees that it has complied with and will comply with, and ensure that any Subcontractors comply with, the *Occupational Health and Safety Act*, R.S.O. 1990, c.O.1 and Regulations, as amended, as well as any other applicable occupational health and safety laws, regulations and standards in relation to the performance of the Contractor's obligations under the Contract. The Contractor shall provide the Township with evidence of the Contractor's compliance with this section upon request by the Township.

4.04 Accessibility Standards for Customer Service

The Contractor shall ensure that any of its employees and any of the Contractor's Subcontractors' employees that may provide customer service on behalf of the Township shall abide by and comply with the Township' Accessibility Policy and shall meet all applicable requirements of Ontario Regulation 191/11.

4.05 Shipment of Goods

To the extent that the Deliverables include the shipment of goods to the Township, all such goods shall be delivered F.O.B. Destination, Freight Prepaid to the Township' place of business or such other location as may be specified in the Contract. No transportation or delivery charges of any kind, including, without limitation, packing, boxing, storage, cartage or customs brokerage charges, shall be paid by the Township, unless specifically agreed by the Township in writing. The Deliverables will be suitably packed in such a manner as will ensure their safe transportation undamaged to their destination. The Deliverables will remain at the risk of the Contractor until the Deliverables are received by the Township. Receipt of the Deliverables at the Township' location does not constitute acceptance of the Deliverables by the Township. The Deliverables are subject to the Township' inspection and acceptance within a reasonable period of time after delivery. If any of the Deliverables, in the opinion of the Township, are inadequately provided or require corrections, the Contractor shall make the necessary corrections at its own expense as specified by the Township in a rectification notice.

4.06 Use and Access Restrictions

The Contractor acknowledges that unless it obtains specific written preauthorization from the Township, any access to or use of the Township property, technology or information that is not necessary for the performance of its contractual obligations with the Township is strictly prohibited. The Contractor further acknowledges that the Township may monitor the Contractor to ensure compliance with this paragraph. This paragraph is in addition to and shall not limit any other obligation or restriction placed upon the Contractor.

4.07 Notification by Contractor of Discrepancies

During the Term, the Contractor shall advise the Township promptly of: (a) any contradictions, discrepancies or errors found or noted in the Contract; (b) supplementary details, instructions or directions that do not correspond with those contained in the Contract; and (c) any omissions or other faults that become evident and should be corrected in order to provide the Deliverables in accordance with the Contract and Requirements of Law.

4.08 Contractor to Comply with Reasonable Change Requests

The Township may, in writing, request changes to the Contract, which may include altering, adding to, or deleting any of the Deliverables. The Contractor shall comply with all reasonable Township change requests and the performance of such request shall be in accordance with the terms and conditions of the Contract. If the Contractor is unable to comply with the change request, it shall promptly notify the Township and provide reasons for such non-compliance. In any event, any such change request shall not be effective until a written amendment reflecting the change has been executed by the parties.

4.09 Pricing for Requested Changes

Where a Township change request includes an increase in the scope of the previously contemplated Deliverables, the Township shall set out, in its change request, the proposed prices for the contemplated changes. Where the Rates in effect at the time of the change request (a) include pricing for the particular type of goods or services contemplated in the change request, the Contractor shall not unreasonably refuse to provide those goods or services at prices consistent with those Rates; or (b) are silent to the applicable price for the particular goods or

services contemplated in the change request, the price shall be negotiated between the Township and the Contractor within a reasonable period of time and in any event, such change request shall not become effective until a written amendment reflecting the change has been executed by the parties.

4.10 Performance by Specified Individuals Only

The Contractor agrees that to the extent that specific individuals are named in the Contract as being responsible for the provision of the Deliverables, only those individuals shall provide the Deliverables under the Contract. The Contractor shall not replace or substitute any of the individuals named in the Contract without the prior written approval of the Township, which may not arbitrarily or unreasonably be withheld. Should the Contractor require the substitution or replacement of any of the individuals named in the Contract, it is understood and agreed that any proposed replacement must possess similar or greater qualifications than the individual named in the Contract. The Contractor shall not claim fees for any replacement individual greater than the Rates established under the Contract.

4.11 Time

Time is of the essence of the Contract.

4.12 Township Rights and Remedies and Contractor Obligations Not Limited to Contract

The express rights and remedies of the Township and obligations of the Contractor set out in the Contract are in addition to and shall not limit any other rights and remedies available to the Township or any other obligations of the Contractor at law or in equity.

ARTICLE 5 – PAYMENT FOR PERFORMANCE AND AUDIT

5.01 Payment According to Contract Rates

The Township shall, subject to the Contractor's compliance with the provisions of the Contract, pay the Contractor for the Deliverables provided at the Rates established under the Contract.

5.02 Hold Back or Set Off

The Township may hold back payment or set off against payment if, in the opinion of the Township acting reasonably, the Contractor has failed to comply with any requirements of the Contract.

5.03 No Expenses or Additional Charges

There shall be no other charges payable by the Township under the Contract to the Contractor other than the Rates established under the Contract.

5.04 Payment of Taxes and Duties

Unless otherwise stated, the Contractor shall pay all applicable taxes, including excise taxes incurred by or on the Contractor's behalf with respect to the Contract.

5.05 Withholding Tax

The Township shall withhold any applicable withholding tax from amounts due and owing to the Contractor under the Contract and shall remit it to the appropriate government in accordance with applicable tax laws. This paragraph shall survive any termination or expiry of the Contract.

5.06 Interest on Late Payment

If a payment is in arrears through no fault of the Contractor, the interest charged by the Contractor, if any, for any late payment shall not exceed the Bank of Canada's prime rate, in effect on the date that the payment went into arrears.

5.07 Document Retention and Audit

For seven (7) years after the Expiry Date or any date of termination of the Contract, the Contractor shall maintain all necessary records to substantiate (a) all charges and payments under the Contract and (b) that the Deliverables were provided in accordance with the Contract and with Requirements of Law. During the Term, and for seven (7) years after the expiry or termination of the Contract, the Contractor shall permit and assist the Township in conducting audits of the operations of the Contractor to verify (a) and (b) above. The Township shall provide the Contractor with at least ten (10) Business Days prior notice of its requirement for such audit. The Contractor's obligations under this paragraph shall survive any termination or expiry of the Contract.

ARTICLE 6 – CONFIDENTIALITY

6.01 Confidentiality and Promotion Restrictions

Any publicity or publications related to the Contract shall be at the sole discretion of the Township. The Township may, in its sole discretion, acknowledge the Deliverables provided by the Contractor in any such publicity or publication. The Contractor shall not make use of its association with the Township without the prior written consent of the Township. Without limiting the generality of this paragraph, the Contractor shall not, among other things, at any time directly or indirectly communicate with the media in relation to the Contract unless it has first obtained the express written authorization to do so by the Township.

6.02 Township Confidential Information

During and following the Term, the Contractor shall: (a) keep all Township Confidential Information confidential and secure; (b) limit the disclosure of Township Confidential Information to only those of its directors, officers, employees, agents, partners, affiliates, volunteers or Subcontractors who have a need to know it for the purpose of providing the Deliverables and who have been specifically authorized to have such disclosure; (c) not directly or indirectly disclose, destroy, exploit or use any Township Confidential Information (except for the purpose of providing the Deliverables, or except if required by order of a court or tribunal), without first obtaining: (i) the written consent of the Township and (ii) in respect of any Township Confidential Information about any third-party, the written consent of such third-party; (d) provide Township Confidential Information to the Township on demand; and © return all Township Confidential Information to the Township on or before the expiry or termination of the Contract, with no copy or portion kept by the Contractor.

6.03 Restrictions on Copying

The Contractor shall not copy any Township Confidential Information, in whole or in part, unless copying is essential for the provision of the Deliverables. On each copy made by the Contractor, the Contractor must reproduce all notices which appear on the original.

6.04 Notice of Breach

The Contractor shall notify the Township promptly upon the discovery of loss, unauthorized disclosure, unauthorized access or unauthorized use of Township Confidential Information.

6.05 Injunctive and Other Relief

The Contractor acknowledges that breach of any provisions of this Article may cause irreparable harm to the Township or to any third-party to whom the Township owes a duty of confidence, and that the injury to the Township or to any third-party may be difficult to calculate and inadequately compensable in damages. The Contractor agrees that the Township is entitled to obtain injunctive relief (without proving any damage sustained by it or by any third-party) or any other remedy against any actual or potential breach of the provisions of this Article.

6.06 Notice and Protective Order

If the Contractor or any of its directors, officers, employees, agents, partners, affiliates, volunteers or Subcontractors become legally compelled to disclose any Township Confidential Information, the Contractor will provide the Township with prompt notice to that effect in order to allow the Township to seek one or more protective orders or other appropriate remedies to prevent or limit such disclosure, and it shall co-operate with the Township and its legal counsel to the fullest extent. If such protective orders or other remedies are not obtained, the Contractor will disclose only that portion of Township Confidential Information which the Contractor is legally compelled to disclose, only to such person or persons to which the Contractor is legally compelled to disclose, and the Contractor shall provide notice to each such recipient (in co-operation with legal counsel for the Township) that such Township Confidential Information is confidential and subject to non-disclosure on terms and conditions equal to those contained in the Contract and, if possible, shall obtain each recipient's written agreement to receive and use such Township Confidential Information subject to those terms and conditions.

6.07 MFIPPA Records and Compliance

The Contractor and the Township acknowledge and agree that MFIPPA applies to and governs all Records and may require the disclosure of such Records to third parties. Furthermore, the Contractor agrees (a) to keep Records secure; (b) to provide Records to the Township within seven (7) calendar days of being directed to do so by the Township for any reason including an access request or privacy issue; (c) not to access any Personal Information unless the Township determines, in its sole discretion, that access is permitted under MFIPPA and is necessary in order to provide the Deliverables; (d) not to directly or indirectly use, collect, disclose or destroy any Personal Information for any purposes that are not authorized by the Township; (e) to ensure the security and integrity of Personal Information and keep it in a physically secure and separate location safe from loss, alteration, destruction or intermingling with other records and databases and to implement, use and maintain the most appropriate products, tools, measures and procedures to do so; (f) to restrict access to Personal Information to those of its directors, officers, employees, agents, partners, affiliates, volunteers or Subcontractors who have a need to know it for the purpose of providing the Deliverables and who have been specifically authorized by a Township representative to have such access for the purpose of providing the Deliverables; (g) to implement other specific security measures that in the reasonable opinion of the Township would improve the adequacy and effectiveness of the Supplier's measures to ensure the security and integrity of Personal Information and Records generally; and (h) that any confidential information

supplied to the Township may be disclosed by the Township where it is obligated to do so under MFIPPA, by an order of a court or tribunal or pursuant to a legal proceeding and the provisions of this paragraph shall prevail over any inconsistent provisions in the Contract.

6.08 Survival

The provisions of this Article shall survive any termination or expiry of the Contract.

ARTICLE 7 – INTELLECTUAL PROPERTY

7.01 Township Intellectual Property

The Contractor agrees that all Intellectual Property and every other right, title and interest in and to all concepts, techniques, ideas, information and materials, however recorded, (including images and data) provided by the Township to the Contractor shall remain the sole property of the Township at all times.

7.02 No Use of the Township Insignia

The Contractor shall not use any insignia or logo of the Township except where required to provide the Deliverables, and only if it has received the prior written permission of the Township to do so.

7.03 Township of Intellectual Property

The Township shall be the sole Township of any Newly Created Intellectual Property. The Contractor irrevocably assigns to and in favour of the Township and the Township accepts every right, title and interest in and to all Newly Created Intellectual Property in the Deliverables, immediately following the creation thereof, for all time and irrevocably waives in favour of the Township all rights of integrity and other moral rights to all Newly Created Intellectual Property in the Deliverables, immediately following the creation thereof, for all time. To the extent that any of the Deliverables include, in whole or in part, the Contractor's Intellectual Property, the Contractor grants to the Township a licence to use that Contractor Intellectual Property in the manner contemplated in this Article, the total consideration for which shall be payment of the Rates to the Contractor by the Township.

7.04 Contractor's Grant of License

For those parts of the Deliverables that are Contractor Intellectual Property, the Contractor grants to the Township a perpetual, world-wide, non-exclusive, irrevocable, transferable, royalty free, fully paid up right and license: (a) to use, modify, reproduce and distribute, in any form, those Deliverables; and (b) to authorize other Persons, including agents, contractors or sub-contractors, to do any of the former on behalf of the Township.

7.05 No Restrictive Material in Deliverables

The Contractor shall not incorporate into any Deliverables anything that would restrict the right of the Township to modify, further develop or otherwise use the Deliverables in any way that the Township deems necessary, or that would prevent the Township from entering into any contract with any contractor other than the Contractor for the modification, further development of or other use of the Deliverables.

7.06 Contractor Representation and Warranty Regarding Third-Party Intellectual Property

The Contractor represents and warrants that the provision of the Deliverables shall not infringe or induce the infringement of any Third-Party Intellectual Property rights. The Contractor further represents and warrants that it has obtained assurances with respect to any Contractor Intellectual Property and Third-Party Intellectual Property that any rights of integrity or any other moral rights associated therewith have been waived.

7.07 Survival

The obligations contained in this Article shall survive the termination or expiry of the Contract.

ARTICLE 8 – INDEMNITIES AND INSURANCE

8.01 Contractor Indemnity

The Contractor hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, (collectively, "Claims"), by whomever made, sustained, incurred, brought or prosecuted, including for breaches of confidentiality or privacy or Intellectual Property rights or for third party bodily injury (including death), personal injury and property damage, in any way based upon, occasioned by or attributable to anything done or omitted to be done by the Contractor, its Subcontractors or respective directors, officers, agents, employees, partners, affiliates, volunteers or independent contractors in the course of performance of the Contractor's obligations under, or otherwise in connection with, the Contract. The Contractor further agrees to indemnify and hold harmless the Indemnified Parties for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, by any person, entity or organization, including, without limitation, the Township, claimed or resulting from such Claims. The obligations contained in this paragraph shall survive the termination or expiry of the Contract.

8.02 Insurance

The Contractor hereby agrees to put in effect and maintain insurance for the Term, at its own cost and expense, with insurers having a secure A.M. Best rating of B + or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person in the business of the Contractor would maintain including, but not limited to, the following;

A. Commercial General Liability Insurance

Commercial General Liability Insurance issued on an occurrence basis for an amount of not less than \$5,000,000.00 per occurrence / aggregate for any negligent acts or omissions relating to their obligations under this Agreement. Such insurance shall include, but is not limited to bodily injury and property damage including loss of use; personal injury; contractual liability; premises, property & operations; non-owned automobile; broad form property damage; broad form completed operations; Townships & Contractors Protective; occurrence property damage; products; employees as Additional Insured(s); contingent employers' liability; tenants' legal liability; cross liability and severability of interest clause.

Such insurance shall add the Township of Elizabethtown-Kitley as Additional Insured with respect to the operations of the Successful Contractor. This insurance shall be non-contributing with and apply as primary and not as excess of any insurance available to the Township.

B. Automobile Liability Insurance

Automobile liability insurance with respect to owned or leased vehicles used directly or indirectly in the performance of the services covering liability for bodily injury, death and damage to property with a limit of not less than \$2,000,000.00 inclusive for each and every loss.

C. Professional Liability Insurance – Consulting & Inspection Services

Professional liability (errors and omissions) insurance coverage shall be obtained by any contractor providing consulting or inspection services to a limit of not less than \$1,000,000.00. If such insurance is written on a claim made basis, coverage shall include a 24-month extended reporting period or be maintained for a period of two years subsequent to conclusion of services provided under this Agreement.

D. Environmental Impairment Liability – If Applicable

Environmental Impairment Liability with a limit of not less than \$2,000,000.00. Per Incident /Annual Aggregate. Coverage shall include Third Party Bodily Injury and Property Damage including restoration clause. If such insurance is issued on a claims made basis, coverage shall contain a 24-month extended reporting period or be maintained for a period of two years subsequent to conclusion of services provided under this Agreement.

8.03 Proof of Insurance

The Contractor shall provide the Township with proof of the insurance required by the Contract in the form of valid certificates of insurance that reference the Contract and confirm the required coverage. The Contractor shall provide the Township with renewal replacements on or before the expiry of any such insurance. Upon the request of the Township, a copy of each insurance policy shall be made available to it. The Contractor shall ensure that each of its Subcontractors obtains all the necessary and appropriate insurance that a prudent person in the business of the subcontractor would maintain and that the Township and Indemnified Parties are named as additional insured with respect to any liability arising in the course of performance of the Subcontractors obligations under the subcontract for the provision of the Deliverables.

8.04 Workplace Safety and Insurance

The Contractor warrants and agrees that it has complied and will comply with all applicable workplace safety and insurance laws and regulations and, if applicable will provide proof of valid coverage by means of a current clearance certificate to the Township upon request. The Contractor covenants and agrees to pay when due, and to ensure that each of its Subcontractors pays when due, all amounts required to be paid by it and its Subcontractors under all applicable workplace safety and insurance laws and regulations during the Term. The Contractor further agrees to indemnify the Township for any and all liability, loss, costs, damages and expenses (including legal fees) or other charges in connection with the Contractor's failure to comply with any applicable workplace safety and insurance laws or related to the Contractor's status with any workplace safety and insurance board or body.

ARTICLE 9 – TERMINATION, EXPIRY AND EXTENSION

9.01 Immediate Termination of Contract

The Township may immediately terminate the Contract upon giving notice to the Contractor where (a) the Contractor is adjudged bankrupt, makes a general assignment for the benefit of its creditors or a receiver is appointed on account of the Contractor's insolvency; (b) the Contractor breaches any provision in Article 6 (Confidentiality); (c) the Contractor breaches the Conflict of Interest paragraph in Article 3 (Nature of Relationship Between Township and Contractor); (d) the Contractor, prior to or after entering into the Contract, makes a material misrepresentation or omission or provides materially inaccurate information to the Township; (e) the Contractor undergoes a change in control which adversely affects the Contractor's ability to satisfy some or all of its obligations under the Contract; (f) the Contractor subcontracts for the provision of part or all of the Deliverables or assigns the Contract without first obtaining the written approval of the Township; or (g) the Contractor's acts or omissions constitute a substantial failure of performance and the above rights of termination are in addition to all other rights of termination available at law, or events of termination by operation of law.

9.02 Dispute Resolution by Rectification Notice

Subject to the above paragraph, where the Contractor fails to comply with any of its obligations under the Contract, the Township may issue a rectification notice to the Contractor setting out the manner and timeframe for rectification. Within seven (7) Business Days of receipt of that notice, the Contractor shall either: (a) comply with that rectification notice; or (b) provide a rectification plan satisfactory to the Township. If the Contractor fails to either comply with that rectification notice or provide a satisfactory rectification plan, the Township may immediately terminate the Contract. Where the Contractor has been given a prior rectification notice, the same subsequent type of non-compliance by the Contractor shall allow the Township to immediately terminate the Contract.

9.03 Termination on Notice

The Township reserves the right to terminate the Contract, without cause, upon thirty (30) calendar days prior notice to the Contractor.

9.04 Contractor's Obligations on Termination

On termination of the Contract, the Contractor shall, in addition to its other obligations under the Contract and at law (a) at the request of the Township, provide the Township with any completed or partially completed Deliverables; (b) provide the Township with a report detailing: (i) the current state of the provision of Deliverables by the Contractor at the date of termination; and (ii) any other information requested by the Township pertaining to the provision of the Deliverables and performance of the Contract; (c) execute such documentation as may be required by the Township to give effect to the termination of the Contract; and (d) comply with any other instructions provided by the Township, including but not limited to instructions for facilitating the transfer of its obligations to another Person. This paragraph shall survive any termination of the Contract.

9.05 Contractor's Payment Upon Termination

On termination of the Contract, the Township shall only be responsible for the payment of the Deliverables provided under the Contract up to and including the effective date of any

termination. Termination shall not relieve the Contractor of its warranties and other responsibilities relating to the Deliverables performed or money paid. In addition to its other rights of hold back or set off, the Township may hold back payment or set off against any payments owed if the Contractor fails to comply with its obligations on termination.

9.06 Termination in Addition to Other Rights

The express rights of termination in the Contract are in addition to and shall in no way limit any rights or remedies of the Township under the Contract, at law or in equity.

9.07 Expiry and Extension of Contract

The Contract shall expire on the original Expiry Date, unless the Township exercises its option to extend the Contract, such extension to be upon the same terms (including the Rates in effect at the time of extension), conditions and covenants contained in the Contract. The option shall be exercisable by the Township giving notice to the Contractor not less than thirty (30) days prior to the original Expiry Date. The notice shall set forth the precise duration of the extension.

9.08 Evaluation of Performance

The Contractor will be subject to a performance evaluation during the course of, and/or at the conclusion of the assignment.

In the event that the Contractor fails to perform its obligations under the Contract, the Township may, in addition to any and all legal and equitable remedies available to it, place the Contractor on probation or suspend the Contractor from participating in future procurement opportunities in accordance with the Township' Procurement Policy.

Appendix 310-B, November 2017

FOR USE IN MUNICIPAL CONTRACTS, WHEN REFERENCED IN THE CONTRACT DOCUMENTS

Note: This is a non-mandatory Additional Information Appendix intended to provide supplementary requirements for the OPS specification in a municipal contract, when the appendix is invoked by the Owner. It is written in mandatory language to permit invoking it by reference in the Contract Documents. If the appendix has not been invoked by reference in the Contract Documents, it does not apply.

Supplemental Requirements for Using the MTO Performance Graded Asphalt Cement (PGAC) Price Index in Municipal Contracts

OPSS 310, Hot Mix Asphalt, is amended as follows:

310.02 REFERENCES

Section 310.02 is modified by the addition of the following to the Ontario Ministry of Transportation Publications:

Contract Bulletin:
Asphalt Price Index

310.10 BASIS OF PAYMENT

Section 310.10 is amended by the addition of the following:

310.10.04 Payment Adjustment for Changes in the MTO Performance Graded Asphalt Cement Price Index

Payment to the Contractor shall be adjusted based on changes to the MTO PGAC price index. The MTO PGAC price index shall be published monthly in the Contract Bulletin. The MTO PGAC price index shall be used to calculate the amount of the payment adjustment per tonne of new asphalt cement accepted into the Work.

The MTO PGAC price index is based on the price, excluding taxes, f.o.b. (free on board) the depots in the Toronto area, of asphalt cement grade PG 58-28 or equivalent. One MTO PGAC price index shall be used to establish and calculate the payment adjustment for all grades. The MTO PGAC price index is published on the last day of the month and shall be applied to the hot mix asphalt placed in the same month.

A payment adjustment per tonne of new asphalt cement shall be established for each month in which paving occurs when the MTO PGAC price index for the month differs by more than 5% from the MTO PGAC price index for the month prior to tender opening. When the MTO PGAC price index differential is less than 5%, there shall be no payment adjustment established for that month. Payment adjustments due to changes in the MTO PGAC price index are independent of any other payment adjustments made to the hot mix asphalt tender items.

The payment adjustment per tonne shall apply to the quantity of new asphalt cement in the hot mix asphalt accepted into the Work during the month for which the payment adjustment is established. A payment adjustment for paving work done after the approved time for completion of the Contract has expired, including the expiration of any extensions of time that have been granted, shall be the lesser of the MTO PGAC price index in the last month of the Contract or the month in which the paving is completed.

Appendix 310-B

The payment adjustment for the month shall be calculated from one of the following formula:

- a) When I_p is greater than $1.05 I_{TO}$, the payment adjustment per tonne of asphalt cement shall be $(I_p - 1.05 I_{TO})$ and the Contractor shall receive additional compensation of:

$$PA = (I_p - 1.05 I_{TO}) \times \text{quantity of new asphalt cement in tonnes}$$

- b) When I_p is less than $.95 I_{TO}$, the payment adjustment per tonne of asphalt cement is $(.95 I_{TO} - I_p)$ and the Owner receives a rebate of:

$$PA = (.95 I_{TO} - I_p) \times \text{quantity of new asphalt cement in tonnes}$$

where:

- PA = payment adjustment for new asphalt cement, in dollars
 I_{TO} = MTO PGAC price index published for the month prior to Tender opening
 I_p = MTO PGAC price index published for the month in which paving occurs

The quantity of new asphalt cement includes all grades of asphalt cement supplied by the Contractor with and without polymer modifiers. For each month in which a payment adjustment has been established, the quantity shall be calculated using the hot mix quantity accepted into the Work and its corresponding asphalt cement content as required by the job mix formula except for mixes that contain reclaimed asphalt pavement (RAP).

For mixes that contain RAP, the quantity of new asphalt cement shall be determined from the difference between the asphalt cement content required by the job mix formula and the asphalt cement content of the RAP incorporated into the hot mix, as calculated by the Owner.

For mixes containing a liquid anti-stripping additive, the quantity of anti-stripping additive shall be deducted from the quantity of new asphalt cement. No other deductions shall be made for any other additives.

For progress payment purposes, payment adjustments shall be made on the monthly progress payment certificate for the months in which hot mix paving occurs.



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MTO AC Price Index

[View Historical MTO AC Price Index Graph](#)

(http://www.onasphalt.org/mtopriceindex/price_index_graph.h)

[MTO AC Price Index 2001 - 2008](#)

(<http://www.onasphalt.org/mtopriceindex/mto-ac-price-index-2001---2008.html>)

[Contract Language](#)

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[AUG 17, 2015: PLEASE CLICK HERE TO VIEW THE QUALITY OF ASPHALT PAVEMENT TASK FORCE'S SPECIAL BULLETIN #4](#)

(<http://www.onasphalt.org/qaptf---bulletin-4.html>)

MTO AC Price Index

	2018	2019
Jan	\$588.60	\$809.80
Feb	\$588.60	\$809.80
Mar	\$657.00	
Apr	\$689.50	

May	\$713.75
Jun	\$761.80
Jul	\$828.50
Aug	\$873.60
Sep	\$880.50
Oct	\$870.00
Nov	\$809.80
Dec	\$809.80

MTO AC Price Index Continued....

	2017	2016	2015	2014	2013	2012	2011	2010
Jan	\$481.55	\$648.75	\$832.75	\$679.50	\$723.75	\$615.95	\$624.25	\$540.75
Feb	\$481.55	\$648.75	\$832.75	\$679.50	\$723.75	\$615.95	\$624.25	\$540.75
Mar	\$619.70	\$624.40	\$810.00	\$747.00	\$723.75	\$615.95	\$624.25	\$540.75
Apr	\$638.55	\$598.00	\$795.50	\$759.75	\$731.55	\$762.50	\$685.50	\$751.75
May	\$644.15	\$574.05	\$767.60	\$769.60	\$731.25	\$782.50	\$693.13	\$747.05
Jun	\$648.80	\$559.05	\$739.05	\$788.50	\$731.25	\$779.75	\$688.75	\$678.30
Jul	\$636.25	\$555.00	\$732.35	\$811.75	\$707.50	\$753.75	\$679.25	\$656.80
Aug	\$619.70	\$537.80	\$729.90	\$834.20	\$699.50	\$748.75	\$665.95	\$624.30
Sep	\$606.65	\$508.75	\$711.25	\$850.50	\$709.55	\$733.15	\$641.50	\$615.50
Oct	\$594.05	\$495.65	\$682.80	\$857.40	\$693.15	\$723.75	\$618.15	\$626.25
Nov	\$588.60	\$481.55	\$648.75	\$832.75	\$679.50	\$723.75	\$615.95	\$624.25
Dec	\$588.60	\$481.55	\$648.75	\$832.75	\$679.50	\$723.75	\$615.95	\$624.25

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The quantity of new asphalt cement includes all grades of asphalt cement supplied by the Contractor with and without polymer modifiers. For each month in which a payment adjustment has been established, the quantity will be calculated using the hot mix quantity accepted into the Work and its corresponding asphalt cement content as required by the job mix formula except for mixes which contain reclaimed asphalt pavement.

When the unit of measurement is "square metres", the quantity of new asphalt cement in the hot mix shall be determined using the theoretical tonnage of hot mix asphalt, TT_{MIX} accepted into the work during the month for which the payment adjustment was calculated. TT_{MIX} shall be calculated by the Contract Administrator using the actual square metres placed and mean of the actual production MRD rounded to one decimal according to LS-100 as follows:

$$TT_{MIX} = (0.93) \times (A_{MIX}) \times (MRD_{MAP})$$

where:

A_{MIX} is the product of the actual lift thickness measured and the pavement surface area paved.

MRD_{MAP} is the mean of the actual production MRD as determined from testing of the plate samples or the compaction cores.

For mixes which contain reclaimed asphalt pavement, or roof shingle tabs or both, the quantity of new asphalt cement will be determined from the difference between the asphalt cement content required by the job mix formula and the asphalt cement content of the reclaimed asphalt pavement, or the roof shingle tabs or both incorporated into the hot mix, as calculated by the Contract Administrator.

For mixes containing a liquid anti-stripping additive, the quantity of anti-stripping additive will be deducted from the quantity of new asphalt cement. No other deductions will be made for any other additives.

For progress payment purposes, payment adjustments will be made on the monthly progress payment certificate for the months in which hot mix paving occurs.

WARRANT: All contracts when Performance Graded Asphalt Cement is specified.

PAYMENT ADJUSTMENT FOR CHANGES IN THE MINISTRY OF TRANSPORTATION'S PERFORMANCE GRADED ASPHALT CEMENT PRICE INDEX

Special Provision No. 103S20

August 2009

The Ministry of Transportation will adjust the payment to the Contractor based on changes to the Ministry's performance graded asphalt cement price index unless the Contractor opts out by notifying the Ministry in writing within 5 business days of receiving permission to start work. Once the Contractor has opted out of payment adjustments based on the index, the Contractor will not be permitted to opt back in. The price index will be published monthly in the Contract Bulletin. The price index will be used to calculate the amount of the payment adjustment per tonne of new asphalt cement accepted into the Work.

The price index will be based on the price, excluding taxes, FOB the depots in the Toronto area, of asphalt cement grade PG 58-28 or equivalent. One index will be used to establish and calculate the payment adjustment for all grades.

A payment adjustment per tonne of new asphalt cement will be established for each month in which paving occurs when the price index for the month differs by more than 5% from the price index for the month prior to Tender Opening. When the price index differential is less than 5%, there will be no payment adjustment established for that month. Payment adjustments due to changes in the price index are independent of any other payment adjustments made to the hot mix tender items.

The payment adjustment per tonne will apply to the quantity of new asphalt cement in the hot mix accepted into the Work during the month for which it is established.

The payment adjustment for the month will be calculated from the following formulae:

Asphalt Cement Price Adjustment, PA		
I_p	Paving Within Approved Contract Time	Paving Beyond Approved Contract Time
$I_p > 1.05I_{TO}$	$PA = (I_p - 1.05I_{TO}) \times (1 + PST) \times T_{AC}$	$PA = (I_{AT} - I_{TO}) \times (1 + PST) \times T_{AC}$
$I_p < 0.95I_{TO}$	$PA = (0.95I_{TO} - I_p) \times (1 + PST) \times T_{AC}$	

Where:

- PA = payment adjustment for new asphalt cement, in dollars
- I_{TO} = performance graded asphalt cement price index for the month prior to Tender Opening
- I_p = performance graded asphalt cement price index for the month in which paving occurs
- I_{AT} = performance graded asphalt cement price index for the month of expiry of approved Contract Time
- T_{AC} = quantity of new asphalt cement in tonnes
- PST = Provincial Sales Tax effective on Tender Opening Date

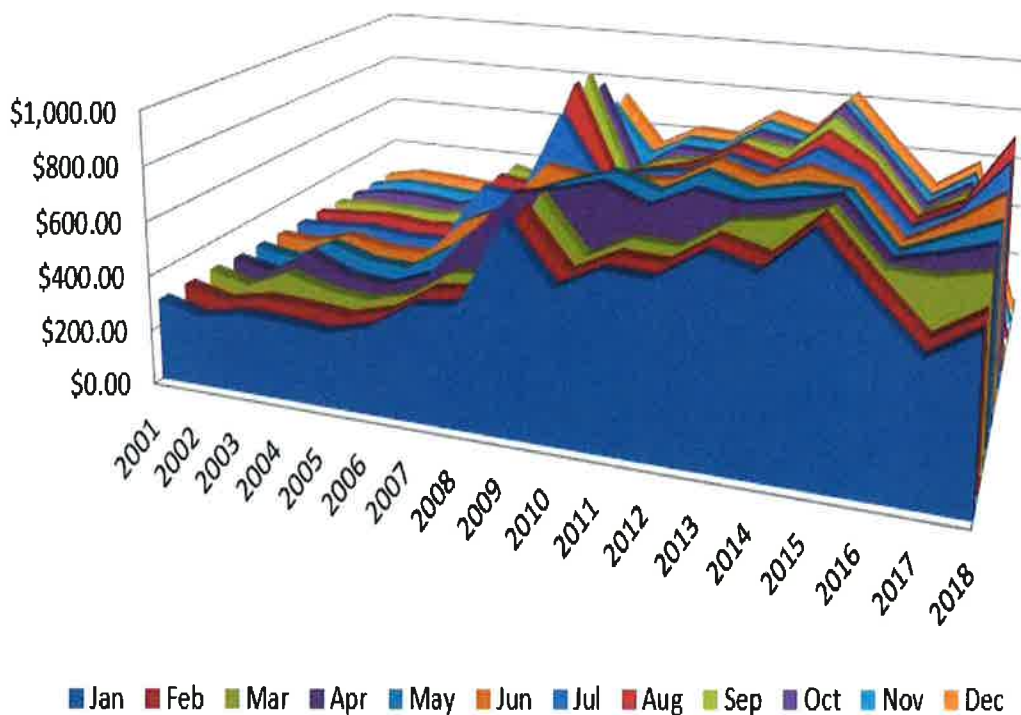
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Historical MTO AC Price Index

Historical MTO AC Price Index



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