

CONTRACT FORMS

1. CONTRACT

THIS Agreement made as of this _____ day of _____, 20____, by and between Her Majesty the Queen, in right of Alberta, as represented by the Minister of Transportation (hereinafter called "the Department") of the first part and **<Contractor Name>** of the City of **<City Name>** in the Province of **<Province Name>** (hereinafter called "the Contractor") of the second part.

The Minister and the Contractor agree as follows:

- 1.1 Contract means this written agreement and subsequent amendments made in accordance with the provisions of the Contract, and includes the General Specifications and Specification Amendments for Highway and Bridge Construction, Edition 16, 2019 (hereinafter called the "General Specifications and Specification Amendments for Highway and Bridge Construction" or "General Specifications"), the Tender Forms, all addenda issued related to this Tender, Contract Forms, Plans and Specifications required to complete the Project and the contract documents listed in Section 1.4 of this written agreement.
- 1.2 The Plans, Specifications, Work, and Project referred to above are defined in the Definitions portion of the General Specifications and Specification Amendments for Highway and Bridge Construction.
- 1.3 The Contractor shall perform the Work required by the Contract for:

<CONTRACT TITLE>

in strict accordance with the Plans and Specifications and to deliver the Work, complete and fully finished in every particular to the Minister on or before **<Completion Date>**.

CONTRACT FORMS**1.4 CONTRACT DOCUMENTS**

The Contractor must, as conditions precedent to this Contract, deliver to the Department within fourteen (14) calendar days after the Contract is received, and the Contract is received when opened if delivered by e-mail, or when delivered if using any other means:

- (a) Security, to the satisfaction of the Department, set out in General Specification 1.2.3, Security;
- (b) Evidence, to the satisfaction of the Department, of compliance with insurance requirements set out in General Specification 1.2.4, Insurance;

failing which, this Contract shall not come into effect and shall not create legal obligations.

The Contract also includes all of the documents listed below when submitted by the Contractor:

- Release of holdback bond
- Irrevocable letter of credit when used in lieu of holdback
- Irrevocable letter of credit when used as security for interim payment for producing and stockpiling crushed aggregate
- Statutory declaration
- Forms for Location of Contractor's Choice of Gravel Material Sources & Proposed Haul Routes and/or
- Contractor's option to Participate with the Diesel Fuel Cost Adjustment
- Insurance
- Security

Samples of Contract forms are available on-line on the Department's web site at:

<https://www.alberta.ca/construction-contract-templates.aspx>

1.5 PAYMENT

The Minister shall make payments in Canadian funds to the Contractor for the actual Work completed including materials in place at the unit prices stated in the Contractor's Tender Forms and in accordance with the payment conditions and other applicable provisions of the Contract.

1.6 COMPLIANCE

The Contractor shall comply with the provisions of all laws, now in force or in force after the signing of this Contract, that expressly or by implication apply to the Contractor in performing the Work.

1.7 GENERAL TERMS

1.7.1 Time is of the essence of this Contract.

1.7.2 This Contract contains the entire agreement of the parties concerning the subject matter of this Contract and except as expressed in this Contract, there are no other understandings or agreements, verbal or otherwise, that exist between the parties.

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- 1.7.3 Any waiver by either party of the performance by the other of an obligation under this Contract must be in writing, and such waiver does not constitute a continuing waiver of the performance of that obligation unless a contrary intention is expressed in writing.
- 1.7.4 The rights and remedies of the Minister under this Contract are cumulative and any one or more may be exercised.
- 1.7.5 The Parties may amend this Contract only by mutual written agreement signed by the parties.
- 1.7.6 This Contract shall be governed by and interpreted in accordance with the laws in force in Alberta, and the parties irrevocably attorn to the exclusive jurisdiction of courts in Alberta.
- 1.7.7 This Contract shall be for the benefit of and binds the successors and assigns of the parties.
- 1.7.8 The headings in this Contract are inserted for convenience or reference only and shall not affect the meaning or construction of this Contract.
- 1.7.9 In this Contract words in the singular include the plural and words in the plural include the singular.
- 1.7.10 This Contract may be executed by the parties in counterparts, and may be delivered by e-mail in Portable Document Format (PDF), each of which upon execution and delivery shall be deemed an original and all which taken together shall constitute one and the same agreement.

1.7.11 ADDRESSES OF PARTIES

- 1.7.11.1 Notices or communications required or desired to be given pursuant to this Contract may be given to the Minister by delivery to or by mail or e-mail addressed:

Name: _____

Title: _____

Phone: _____

E-mail: _____

- 1.7.11.2 Notices or communications required or desired to be given pursuant to this Contract may be given to the Contractor by delivery to or by mail or e-mail addressed:

Name: _____

Title: _____

Phone: _____

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E-mail: _____

1.7.11.3 Either party may change its address by advising the other party in writing. Proof of the giving of any notice not sent by registered mail shall be on the party giving the same. Notices mailed shall be deemed to have been given at the time they would be delivered in the ordinary course of mailing.

THE Contractor and Minister, as set out below, have signed this Agreement.

SIGNED BY THE CONTRACTOR IN THE PRESENCE OF:

Contractor

SIGNED AND SEALED FOR HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA AS REPRESENTED BY THE MINISTER OF TRANSPORTATION:

Director,
Procurement Strategy &
Planning

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1.8 RELEASE OF HOLDBACK BOND

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS THAT

Her Majesty the Queen in right of Alberta as represented by the Minister of Transportation, hereinafter referred to as "the Obligee", has entered into a written contract dated the _____ day of _____, 20____ with _____, hereinafter referred to as the "Principal". The said contract is known as Contract Number _____ for

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and is hereinafter referred to as the "Contract".

AND THAT the _____, a Corporation created and existing under the laws of Canada and duly authorized to transact the business of Suretyship in the Province of Alberta and hereinafter called the "Surety" is, together with the Principal, held and firmly bound unto the Obligee according to the requirements of General Specification 1.2.3 of the Contract.

WHEREAS the Obligee requires the retention by the Obligee of holdback, as specified in the contract, and WHEREAS the Principal desires to satisfy the said holdback requirements by means other than the accumulation of holdback funds.

By this Release of Holdback Bond, the Surety and the principal do hereby consent to its use and the Surety hereby undertakes to:

Pay the Obligee any sum or sums claimed by the Obligee up to and including the sum of _____ dollars (\$ _____) lawful money of Canada, being _____ percent of the tendered value of the Contract upon receipt of the Obligee's written demand or demands sent by registered mail or facsimile transmission to the Surety at

without enquiring whether the Obligee has a right between itself and the Principal to make such demands. Such payment to be made within five calendar days of the receipt of the said demand by the Surety

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The giving of the within consent by the Surety to use of this Release of Holdback Bond or the making of any payment by the Surety to the Oblige... shall not release in any way whatsoever the liability of the Principal or the Surety or either or both of them under the Contract or any amendment thereto, or under any other bonds relating to the Contract or any amendment thereto, and nothing herein contained shall affect or prejudice the rights of the Oblige... now existing or which may hereafter arise against the Principal or Surety or either or both of them either under the Contract or any amendments to the said Contract, or under the said bonds or any amendment to the said bonds, and all rights of the Oblige... under the said Contract and bonds are hereby reserved.

This Release of Holdback Bond shall remain in full force and effect from the inception date of the Contract and up to and including six months beyond the Contract completion date as evidenced by the letter of acceptance of Contract completion furnished by the Oblige... This Bond may be renewed at such time and for such period of time as the Oblige... may require.

The Surety shall not be liable for a greater sum than the amount specified in this Release of Holdback Bond. No right of action shall accrue on the Release of Holdback Bond to or for the use of any person or corporation other than the Oblige... or the heirs, executors, administrators, or successors of the Oblige... .

IN WITNESS WHEREOF, the Principal and the Surety have signed and sealed this Bond this ____ day of _____, 20__.



Principal

SIGNED, SEALED AND DELIVERED

Seal

in the presence of:

Surety

Attorney-in-fact

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1.9 SAMPLE FORM OF IRREVOCABLE LETTER OF CREDIT WHEN USED IN LIEU OF HOLDBACK

To: Her Majesty the Queen in right of Alberta as represented by the Minister of Transportation (hereinafter called "the Minister").

WHEREAS: The Minister has agreed to enter into Contract # _____ with _____ (Hereinafter called the "Company") dated _____ in the gross amount of \$_____ and the Company desires to satisfy holdback requirements specified in the Contract by means other than deduction from progress payments and:

The Minister desires to secure such holdback funds as are specified in the Contract:

_____ (hereinafter called the "Bank") hereby establishes in your favour an Irrevocable Letter of Credit No. _____ for the account of _____ for an amount or amounts not exceeding in the aggregate _____ Dollars (\$_____).

Claims hereunder must be made in writing to this office accompanied by your signed and endorsed sight draft on (Name of Bank), _____ (Branch) and must contain the reference "Letter of Credit # _____ dated _____".

We hereby undertake that such drafts will be duly honoured on presentation, without enquiring whether you have a right between yourselves and the Company to make such presentation and without recognizing any claim of the Company provided that the terms and conditions of this Credit are complied with.

It is understood the Bank is obligated under this Credit for the payment of monies only.

The expiry date for presentation of any claims at our counters is _____ and the Bank's liability will be extinguished for any claims thereafter.

Except as otherwise stated therein, this Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce, Publication 600.

Yours truly,

**IF PRESENTED FOR PAYMENT, THE
CHEQUE OR DRAFT WILL BE
PAYABLE TO THE
MINISTER OF FINANCE**

SIGNATURE (Manager)

SIGNATURE (Witness)

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1.10 SAMPLE FORM OF IRREVOCABLE LETTER OF CREDIT WHEN USED AS SECURITY FOR INTERIM PAYMENT FOR PRODUCING AND STOCKPILING CRUSHED AGGREGATE

To: Her Majesty the Queen in right of Alberta as represented by the Minister of Transportation (hereinafter called "the Minister")

WHEREAS: The Minister has agreed to accept the tender of _____ (Hereinafter called the "Company") for Contract # _____ in the gross amount of \$ _____ and the Company desires to satisfy security requirements for interim payment for producing and stockpiling crushed aggregate specified in the Contract by means other than Surety's consent and:

The Minister desires to secure such security as specified in the Contract: _____ (hereinafter called the "Bank") hereby establishes in your favour an Irrevocable Letter of Credit No. _____ dated _____ for the account of _____ for an amount or amounts not exceeding in the aggregate _____ Dollars (\$ _____).

Claims hereunder must be made in writing to this office accompanied by your signed and endorsed sight draft on _____ (Name of Bank), _____ (Branch) and must contain the reference "Letter of Credit # _____ dated _____".

We hereby undertake that such drafts will be duly honoured on presentation, without enquiring whether you have a right between yourselves and the Company to make such presentation and without recognizing any claim of the Company provided that the terms and conditions of this Credit are complied with.

It is understood the Bank is obligated under this Credit for the payment of monies only.

The expiry date for presentation of any claims at our counters is _____ and the Bank's liability will be extinguished for any claims thereafter.

Except as otherwise stated therein, this Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce, Publication 600.

Yours truly,

IF PRESENTED FOR PAYMENT, THE CHEQUE OR DRAFT WILL BE PAYABLE TO THE MINISTER OF FINANCE

SIGNATURE (Manager)

SIGNATURE (Witness)

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1.11 SAMPLE FORM OF STATUTORY DECLARATION

IN THE MATTER OF a Contract bearing No _____

CANADA
PROVINCE OF ALBERTA

Between Her Majesty the Queen in right of Alberta as
represented by

the Minister of Transportation and

(hereinafter referred to as the "Contractor")

I, _____ the undersigned, solemnly declare that, I am an authorized signing officer or partner of the Contractor named in the Contract identified above, and as such have authority to bind the Contractor, and further declare that:

1. All the Contractor's lawful obligations, in respect of workers and in respect of labour and material contracted for and performed or provided, are fully discharged, except for holdback monies properly retained payments deferred by lawful agreement, or amounts withheld by legitimate dispute as clearly identified to the party to whom the funds have been withheld;
2. All payments required to be made by the Contractor have been made in full including payment to all creditors, suppliers, subcontractors and the Worker's Compensation Board.
3. The Contractor has received from its subcontractors a declaration consistent with this declaration; and
4. I have personal knowledge of the contract identified and truly believe the facts stated in this Statutory Declaration to be true.

I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

DECLARED before me _____

at _____

This _____ day of _____ 20_____

Signature of Declarant

Making a false or fraudulent declaration is a contravention of the Criminal Code of Canada, and could carry, upon conviction, penalties including fines, imprisonment, or both

A Commissioner for Oaths in and for the Province of Alberta

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1.12 CONTRACTOR'S OPTION TO PARTICIPATE WITH DIESEL FUEL COST ADJUSTMENT

In accordance with Specification Amendment AMC_C230, Diesel Fuel Cost Adjustment, the Contractor has the option to participate or opt-out of the Department's diesel fuel cost adjustment process for this project. The Contractor's decision to participate or opt-out will apply to the entire Work and no consideration will be given to diesel fuel cost adjustments for individual components of the Work.

If the Contractor wishes to opt-out of the Department's diesel fuel cost adjustment process, the Contractor shall state their intent in writing to the Department prior to execution of the Contract.

If the Contractor does not state his intent in writing to the Department prior to execution of the Contract, the Department will deem that the Contractor's intent was to participate in the diesel fuel cost adjustment process and no further changes will be considered.

The Contractor will not be permitted to either opt-in or opt-out of the diesel fuel cost adjustment process after the execution of the Contract.

For this project, the Contractor elects to opt-out of the Department's diesel fuel cost adjustment process:

(Note: The Contractor shall mark the above box with "x" if he elects to opt-out of the Department's diesel fuel cost adjustment process)

Contractor's Name (Company Name)

Authorized Signature

Signature Printed

Date

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1.13 LOCATION OF CONTRACTOR'S CHOICE OF GRAVEL MATERIAL SOURCES & PROPOSED HAUL ROUTES

The Contractor shall supply a copy of the Land Title search for titled land or a copy of the Public Land Standing for crown land with this completed form unless the gravel material source is a Department source specified in the Contract.

GRAVEL MATERIAL SOURCE(S)

1/4 SECTION	SECTION	TOWNSHIP	RANGE	W. OF MERIDIAN

OTHER DESCRIPTION

Supplier's name (where applicable) _____

Address _____

DESCRIPTION OF HAUL ROUTE(S) FROM SOURCE(S) TO PROJECT

Note: This information is for statistical purposes only and acceptance of the tender does not imply approval of the route(s) or material source(s)

Contractor's Signature

Date