

NOVATION AGREEMENT

(To be Executed after Award of the Construction Contract)

Dated this day of , 2024

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER
(Hereinafter called the "Township")

OF THE FIRST PART

AND

(Hereinafter called the "Contractor")

OF THE SECOND PART

AND

(Hereinafter called the "Vendor")

OF THE THIRD PART

WHEREAS the Township entered into Contract _____ with the Vendor dated _____, for the design, supply, delivery, supervision of installation, commissioning, testing, training, and warranty of Equipment for the Elmvale Wastewater Treatment Plant Upgrade Project (the "Supply Contract");

AND WHEREAS it is a requirement of the Supply Contract that the Vendor enter into an Agreement with a Contractor selected by the Township, for the purpose of assigning certain of the rights, duties and obligations of the Township under the Supply Contract to the Contractor;

AND WHEREAS the Township entered into Contract _____ with Contractor dated _____, for the construction of the Elmvale Wastewater Treatment Plant Upgrade Project (the "Construction Contract") which includes, as a component, design supply, delivery, supervision of installation, commissioning, testing, training, and warranty of a Equipment as described in the Supply Contract;

AND WHEREAS it is a requirement of the Construction Contract that the Contractor enter into an Agreement with a Vendor selected by the Township for the purpose of assuming certain of the rights, duties and obligations of the Township under the Supply Contract and taking on the Vendor as a subcontractor with respect to the supply and installation component of the work under the Supply Contract;

NOW THEREFORE in consideration of the premises and the mutual agreements hereinafter contained, and for other good and valuable consideration, the parties agree as follows:

1. The Township does hereby assign and novate, transfer and convey unto the Contractor all of the interest of the Township in or under the Supply Contract, from and after the date of this Agreement. The following terms shall apply to the assignment:
 - a) The Contractor shall provide the Township with a Labour and Material Payment Bond in the amount of 50% of the Construction Contract.
 - b) The Supply Contract shall be assigned 'as is', with no new or additional terms and conditions being imposed upon the Vendor by the Contractor.
 - c) The Contractor shall not have the right to re-assign the Supply Contract, other than to re-assign it back to the Township, without the Vendor's prior approval, such approval may not be unreasonably withheld.
2. The Contractor has reviewed the Supply Contract in its entirety, and accepts the assignment set forth in paragraph 1 above, and agrees to be bound by the terms and conditions of the Supply Contract, with the Contractor assuming all rights, duties and obligations of the Township as set out therein.
3. The Vendor consents to the assignment and novation by the Township to the Contractor of all of the interest and obligations of the Township in and under the Supply Contract.
4. The Vendor shall retain all of its rights, duties and obligations as set out in the Supply Contract and henceforth accepts and consents to the assignment and novation by the Township to the Contractor of all of the interest and obligations of the Township in regards to the Supply Contract.
5. The Vendor agrees that upon execution of this Agreement it is a subcontractor to the Contractor in respect of the Construction Contract for the purpose of completing the Supply Contract.
6. The Vendor hereby releases and discharges the Township from any and all of the Township's duties and obligations under the Supply Contract and from all claims of every nature whatsoever arising therefrom, excepting only those claims, if any, which the Vendor

has already notified the Township of in writing prior to the date of this Agreement, and acknowledges that it will henceforth look only to the Contractor for the discharge of the Township's obligations thereunder and that only the Contractor may exercise the rights of the Township thereunder. By executing this Agreement, the Vendor acknowledges that as of the date hereof, the Vendor is not aware of any claims against the Township arising from the Supply Contract.

7. Henceforth, the terms and conditions of the Construction Contract insofar as they can apply to a subcontractor shall govern the relations between the Contractor and the Vendor; provided nevertheless that, if any term of the Construction Contract is inconsistent with any payment provision or special condition of the Supply Contract, the term(s) of Supply Contract shall prevail.
8. The scope of work comprising the Supply Contract is as specified in the Contract Documents for Contract No. 2024-05-PW. It is hereby agreed that the contract value of the Supply Contract as of the date hereof, is \$ _____, exclusive of HST.
9. The Vendor and Contractor covenant and agree that they shall and will, from time to time, at the request of the Township, execute such further assurances and do all such further acts as may be reasonably required for the purpose of carrying out this Agreement.
10. Within _____ Working Days of notification of the award of the Construction Contract, the Contractor will issue a purchase order to the Vendor in the amount of the Supply Contract.
11. This Agreement shall enure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties have hereunto affixed their hands and seals the _____ day of _____, 202__.

SIGNED, SEALED AND DELIVERED

THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER

Per: _____

Name:

Title:

Per: _____

Name:

Title:

CONTRACTOR

Per: _____

Name:

Title:

Per: _____

Name:

Title:

I/We have authority to bind the Corporation

VENDOR

Per: _____

Name:

Title:

Per: _____

Name:

Title:

I/We have authority to bind the Corporation