

NOTICE TO CONTRACTORS

It is highly recommended that a thorough review of the Tender Document be completed. Metrolinx has revised several sections of the Definitions, Instructions to Bidders, Tender Document Forms, General Conditions of the Contract and Scope of Work.

Failure to read and comply with the current Tender Document requirements may result in your Submission being declared non-compliant and disqualified.

Tender For

Tender Description: Union Station New
Emergency
Generator

Tender Number: PT-2017-CUS-345

LIST OF CONTENTS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Page 1 of 8

Title	No. of Pages
List of Contents	8
Addenda (If Applicable)	1
Bidder's Submission Checklist	1
Introduction	1
Definitions	4
Instructions to Bidders	24
Submission Evaluation and Selection Process	5
Supplementary Agreement Between Owner and Contractor	3
Form of Agreement	1
Supplementary Definitions of the Contract	6
Definitions of the Contract	1
Supplementary General Conditions of the Contract	78
General Conditions of the Contract	1
 <u>TENDER DOCUMENT FORMS</u>	
Form of Tender	4
Contract Prices	3
Bidder's Qualifications	8
Key Personnel	1
Conflict of Interest	2
Mandatory Corporate, Personnel and Technical Requirements	3
 <u>DIVISION 1 - GENERAL REQUIREMENTS</u>	
01000 General Instructions	11
01200 Mobilization and Demobilization	3
01225 Construction Schedule – Critical Path Method (CPM)	12
01300 Shop Drawings and Other Submittals	7
01400 Quality Control	3
01500 Temporary Facilities	5
01545 Railway Safety Requirements	7
01560 Environmental Protection	23
01600 Safety Requirements (Metrolinx as Constructor)	11
01700 Material and Equipment	3

01800 Project Closeout	4
------------------------------	---

DIVISION 2 – EXISTING CONDITIONS

02 20 00 Sitework	3
02 32 00 Geotechnical Information	1
02 38 00 Caissons	11
02 41 16 Non-Structural Demolition	5

DIVISION 3 - CONCRETE

03 10 00 Formwork and Falsework	6
03 20 00 Concrete Reinforcing	7
03 30 00 Cast in Place Concrete	17
03 41 11 Precast Structural Concrete	6
03 82 00 Concrete Coring	6
03 90 00 Fastening into Cast-in-Place Concrete	5

DIVISION 4 - MASONRY

04 22 00 Concrete Block Masonry	9
---------------------------------------	---

DIVISION 5 - METALS

05 12 00 Structural Steel	22
05 12 01 Steel Repair	23
05 31 00 Steel Deck	7
05 50 00 Miscellaneous and Metal Fabrications	8
05 50 01 Metal Fabrications	8
05 52 13 Pipe & Tube Railing	7

DIVISION 6 – WOOD PLASTICS AND COMPOSITES

06 10 00 Structural Rough Carpentry	5
---	---

DIVISION 7 – THERMAL AND MOISTURE PROTECTION

07 14 13 Hot Fluid-Applied Rubberized Asphalt Waterproofing	6
07 18 12 Pedestrian Traffic Coating	4

07 42 32 Aluminum Façade System	5
07 46 16 Aluminum Panel Cladding System	9
07 61 00 Metal Roofing	8
07 62 00 Flashing and Sheet Metal	4
07 81 16 Fireproofing	5
07 84 00 Firestopping and Smoke Seals	7
07 92 00 Sealants	5

DIVISION 8 - OPENINGS

08 11 13 Metal Doors and Frames	7
08 71 00 Finish Hardware	17

DIVISION 9 - FINISHES

09 91 00 Painting	11
09 96 13 High Performance Paint Coating	8
09 97 13 Exterior Steel Coatings	5

DIVISION 21 – FIRE SUPPRESSION

21 05 00 General Instructions for Mechanical Sections	8
21 05 02 As-Constructed - Mechanical	2
21 05 13 Electrical Motors	3
21 05 14 Wiring and Starters	2
21 05 29 Hangers and Supports	5
21 05 48 Vibration and Noise Control	5
21 05 53 Pipe and Ductwork Identification	2
21 05 54 Nameplates	1
21 05 63 Access Doors and Accessibility - Mechanical	2
21 05 83 Sleeves and Escutcheons	3
21 05 88 Cutting and Patching	2
21 08 00 Commissioning	2
21 08 02 Cleaning and Protection	2
21 08 03 Operating and Maintenance Instructions	4
21 25 00 Portable Fire Extinguishers	1

DIVISION 22 - PLUMBING

22 05 76 Cleanouts	3
--------------------------	---

22 11 13 Pipes, Valves and Fittings (Plumbing System).....	3
22 13 19 Floor Drains	2
22 13 29 Sump Pumps	2

DIVISION 23 – HEATING, VENTILATING, AND AIR CONDITIONING (HVAC)

23 05 93 Testing and Balancing Air Systems	2
23 05 95 Testing and Balancing Piping Systems	2
23 09 03 Building Automation System (BAS)	5
23 09 23 Sequence of Operation for BAS	2
23 23 00 Refrigerant Pipes, Valves, Fittings + Equipment	2
23 31 13 Ductwork and Specialities	8
23 35 16 Diesel Electric Generator	2
23 37 13 Diffusers, Grilles and Registers	2
23 81 23 Emergency Power Substation AC Unit.....	4

DIVISION 26 - ELECTRICAL

26 00 01 Electrical – Project Overview	3
26 00 05 Regional Supplemental Requirements – Ontario.....	3
26 01 00 Operating and Maintenance Instructions	4
26 05 01 General Instructions – Electrical Sections	20
26 05 03 As-Constructed Drawings– Electrical.....	3
26 05 05 Mounting Heights	2
26 05 14 Power Cable and Overhead Conductors	6
26 05 21 Wires and Cables 1000V	7
26 05 26 Grounding and Bonding.....	4
26 05 29 Hangers and Supports	2
26 05 31 Splitters, Junctions, Pull Boxes and Cabinets	3
26 05 32 Outlet Boxes, Conduit Boxes and Fittings.....	3
26 05 34 Conduits, Conduit Fasteners and Fittings	6
26 05 44 Installation of cables in Trenches and in Casing Pipe and Conduits	2
26 05 53 Identification	7
26 05 63 Access Doors and Accessibility - Electrical	2
26 05 73 Electrical Power System Studies	6
26 05 83 Sleeves	2
26 05 88 Cutting and Patching.....	2
26 08 01 Technical Services Division Startup Services	10

26 12 16 Dry Type Power Transformers	10
26 12 17 Dry Type Power Transformers – 600V Primary.....	4
26 13 13 Metal Clad Switchgear.....	25
26 13 17 Metal Enclosed Switchgear.....	5
26 23 00 Secondary Switchgear.....	9
26 24 17 Panelboards – Breaker Type	4
26 27 02 Surge Protective Device.....	7
26 27 26 Wiring Devices	4
26 28 14 Fuses Low Voltage	3
26 28 21 Moulded Case Circuit Breakers	3
26 28 23 Disconnect Switches – Fused and Non-Fused	2
26 32 14 Power Generation – Diesel	26
26 36 23 Automatic Load Transfer Equipment	9
26 41 01 Surge Arresters.....	2
26 51 13 Lighting Equipment	9
26 52 01 Unit Equipment Emergency Lighting.....	3

DIVISION 28 – ELECTRONIC SAFETY AND SECURITY

28 31 02 Multiplex Fire Alarm System	13
--	----

DIVISION 31 – EARTHWORK

31 00 00 Earthwork	11
31 10 00 Site Preparation	3
31 21 00 Excavation.....	3

DIVISION 32 – EXTERIOR IMPROVEMENTS

32 21 00 Fencing and Gates	3
----------------------------------	---

DIVISION 33 - UTILITIES

33 05 23 Excavation and Backfill for Electrical Work.....	2
33 46 13 Foundation Drainage.....	3
33 71 19 Steel Casing Pipe and Manholes.....	7

DRAWINGS

DRAWING	TITLE	NO. OF
---------	-------	--------

NO.	PAGES
-----	-------

STRUCTURAL DRAWINGS

SA0000G -.COVER PAGE	1
SA1000G -.GENERAL NOTES.....	1
SA1001G - GENERAL NOTES.....	1
SA1002G - DESIGN NOTES.....	1
SA1003G - TYPICAL DETAILS.....	1
SA1004G - TYPICAL DETAILS.....	1
SN2000G - PART PLAN.....	1
SN2240G - BAY CONCOURSE PLAN - AREA 4.....	1
SN2340G - TRACK SLAB PART PLAN - AREA 4.....	1
SN2440G - BUSH ROOF PLAN - AREA 4	1
SN2460G - TRACK LEVEL FRAMING PART PLAN - AREA 6.....	1
SN5060G - ELEVATIONS	1
SN5061G - ELEVATIONS	1
SN7060G - SECTIONS	1
SN7061G - SECTIONS	1
SN7062G - SECTIONS	1
SN7063G - DETAILS.....	1

ARCHITECTURAL DRAWINGS.....

AA0000G - KEY PLAN AND DRAWING LIST	1
AA0000G - METROLINX COVER PAGE.....	1
AA0001G - SIGN SHEET.....	1
AA1000G - SCHEDULES AND CODE DIAGRAM.....	1
AA1001G - SURVEY.....	1
AD2040G - AREA 4 DEMO PLANS	1
AN2240G - BAY EAST TEAMWAY PLAN.....	1
AN2440G - ROOF AND PLATFORM LEVEL DETAIL PLANS	1
AN2460G - GENERATOR SITE PLAN	1
AN2461G - NEW GENERATOR SCREEN PLANS	1
AN4440G - BUILDING SECTIONS AT AREA 4.....	1
AN4460G - SECTIONS AT NEW GENERATOR SCREEN	1
AN5460G - GENERATOR NORTH AND SOUTH ELEVATIONS.....	1
AN5461G - GENERATOR EAST AND WEST ELEVATIONS.....	1

AN6440G - DETAILS AT NEW CONDUIT ENCLOSURE ON PLATFORM.....	1
AN6460G - PANEL DETAILS	1
AN6461G - PLAN DETAILS AT NEW GENERATOR SCREEN	1
AN7460G - SECTION DETAILS AT NEW GENERATOR SCREEN	1

MECHANICAL DRAWINGS.....

MA0000G - KEY PLAN AND DRAWING LIST.....	1
MA0001G - MECHANICAL LEGEND AND DETAILS	1
MT2240G - SUB-STATION LAYOUT – HVAC	1
MT2241G - SUB-STATION LAYOUT - PLUMBING & DRAINAGE	1
MT2242G - SUB-STATION LAYOUT - FIRE PROTECTION.....	1
MT6460G - RAIL CORRIDOR - EXISTING GENERATOR LAYOUT.....	1

ELECTRICAL DRAWINGS.....

EA0000G - KEY PLAN AND DRAWING LIST	1
EA0091G - ELECTRICAL LEGENDS	1
EB8091G - SINGLE LINE DIAGRAM.....	1
EB8092G - ELECTRICAL DETAILS 1	1
EB8093G - ELECTRICAL DETAILS 2	1
EC2240G - CONCOURSE LEVEL POWER AND SYSTEMS DEMOLITION AREA 4.....	1
EC2250G - CONCOURSE LEVEL POWER AND SYSTEMS DEMOLITION AREA 5.....	1
EC2460G - PLATFORM LEVEL POWER AND SYSTEMS DEMOLITION AREA 6 1	
ED2240G - CONCOURSE LEVEL LIGHTING DEMOLITION AREA 4	1
EK2240G - CONCOURSE LEVEL POWER AND SYSTEMS AREA 4	1
EK2440G - PLATFORM LEVEL POWER AND SYSTEMS AREA 4	1
EK2450G - PLATFORM LEVEL POWER AND SYSTEMS AREA 5	1
EK2460G - PLATFORM LEVEL POWER AND SYSTEMS AREA 6	1
EK2540G - ROOF LEVEL POWER AND SYSTEMS AREA 4	1
ET6240G - EMERGENCY POWER SUBSTATION DETAILS	1
ET6240G - EMERGENCY POWER SUBSTATION LAYOUT	1
ET6241G - BAY EAST TEAMWAY PART PLANS	1
ET6242G - BAY EAST TEAMWAY CONDUIT ROUTE DETAILS	1
ET6460G - GENERATOR ENCLOSURE DETAILS	1
ET6461G - RAIL CORRIDOR CASING PIPE & CONDUIT ROUTE DETAILS ..	1

ATTACHMENTS

Q and A Form	1
Sample Letter of Credit.....	1
Sample Parental Guarantee	1
Sample Reference Check Questionnaire.....	1
Sample Agreement to Bond.....	1
Metrolinx MERX Portal – General Information.....	1
New/Update Vendor Request	1
Contract Performance Appraisal.....	1
Attachment A Panel Schedule	4
Attachment B Luminaire Schedule	2
Attachment C Fire Alarm Schedule.....	1
Metrolinx Capital Projects Group (CPG) Construction Safety Management Program (CSMP)	220
Contractor Monthly OHS Performance Reports	1
Metrolinx General Guidelines for Design of Railway Bridges and Structures	167
Release of Liability and Permit.....	1

ADDENDA (IF APPLICABLE)

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 1 of 1

Any Addenda/Addendum issued hereto shall form part of this Tender Document and any resultant Contract(s) for the Work.

Addenda, if applicable, are as follows:

Addendum No.	Date Issued	No. of Pages
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BIDDER'S SUBMISSION CHECKLIST

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Page 1 of 1

1.0 Submission Checklist

The following checklist provides the Bidder with a consolidated listing of the requirements for the Submission. Bidders should review the checklist prior to submitting the Submission to ensure compliance.

Requirement
The Bidder has read through all the Tender Documents including any Addenda that have been issued and these have all been considered in your Submission.
The Bidder has reviewed the mandatory requirements and acknowledges that it meets all mandatory requirements in order for their Submission to be considered further.
The Bidder has reviewed the Tender Timetable and understands all the dates and timelines associated with this Tender Process
Contact information for the individual responsible for the Submission has been included in "Tender Document Form: Form of Tender".
The Bidder shall comply with the Submission requirements.
The Bidder understands the requirements for Electronic Bid Submission and shall comply with the Submission requirements.
The Bidder's Submission has been prepared in accordance with the Instructions to Bidders (i.e. mandatory formats, templates and requirements) as outlined in the Tender Documents.
The Bidder's Price Submission has been completed in full and included with the Submission.
The Bidder has attended the Mandatory Site / Information Meeting, if applicable.
The Bidder has not included any qualifying statements in its Submission.
If a Joint Venture, a copy of the Joint Venture agreement electing the Participant-in-Charge is attached.
The Bidder has completed and included all Tender Document Forms with its Submission

INTRODUCTION

1.0 General

- 1.1 Metrolinx is issuing this call for Tenders to retain the services of a Contractor to provide the goods and/or services described herein. Metrolinx intends to notify a Bidder of acceptance of its Submission and enter into a Contract through an open, fair and competitive process.
- 1.2 You are invited to submit your Submission for PT-2017-CUS-345, as more particularly described in this Tender Document as required by Metrolinx for the Union Station New Emergency Generator
- 1.3 The Work includes, but shall not be limited to:
 - (a) The installation of a new generator to be located adjacent to the existing Scott Street Signal Tower, a new electrical substation located adjacent to the Bay East Teamway at the concourse level (complete with small additional works above at the platform and trainshed east roof levels) and an underground casing pipe connecting them located south of the tracks within the rail corridor east of the Yonge St. Bridge, and exposed conduit mounted on the south crash wall west of the Yonge St. Bridge and east of the Bay East Teamway.
 - (b) The new generator will be supported on drilled caissons and a structural steel framework. A screen system is also to be constructed as indicated on the contract documents.
 - (c) Feed from the generator is to be routed in an underground duct bank and exposed conduits through the rail coordinator and along the south crash wall and eventually through the Bay East Teamway within a fire-rated bulkhead where a new Emergency Power Substation will be located north of the existing south Electrical Substation.

DEFINITIONS

1.0 In this Tender Document,

- 1.1 **“Addenda”/“Addendum”** is the formal written release of additions, deletions, revisions, clarifications to this Tender Document, via the Metrolinx MERX Portal, that form a part of the Tender Document and subsequently the Contract as specified in Section 4.0 of Instructions to Bidders.
- 1.2 **“Bid Deposit”** shall have the meaning ascribed to it in Section 12.0, Bid Deposit, of Instructions to Bidders.
- 1.3 **“Bidder”** means the entity that submits a Submission in response to this Tender Document and who, if notified of acceptance of its Submission by Metrolinx, shall execute the Contract with Metrolinx for provision of the Work.
- 1.4 **“Business Day”** means any day other than: (a) a Saturday or Sunday and (b) any other day on which Metrolinx Head Office is not open for business. Each Business Day will end at 4:00 p.m. on that day.
- 1.5 **“CCDC”** means Canadian Construction Documents Committee.
- 1.6 **“Closing”** means the deadline for Metrolinx to receive Submissions as specified in “Closing” of Section 1.2, Tender Timetable, of Instructions to Bidders.
- 1.7 **“Conflict of Interest”** means:
 - (a) in relation to this Tender Process, the Bidder has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to (i) having, or having access to, confidential information of Metrolinx in the preparation of its Submission that is not available to other Bidders, (ii) communicating with any person with a view to influencing preferred treatment in this Tender Process (including but not limited to the lobbying of decision makers involved in this Tender Process), or (iii) engaging in conduct that compromises, or could be seen to compromise, the integrity of this Tender Process; or
 - (b) in relation to the performance of its contractual obligations contemplated in the Contract that is the subject of this procurement, the Bidder’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 judgement, or (ii) could, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.

DEFINITIONS

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Page 2 of 4

- 1.8 "Consultant" is Entuitive Corporation and shall have the same meaning ascribed in Supplementary Definitions of the Contract.
- 1.9 "Contract" shall have the same meaning ascribed in Definitions of the Contract.
- 1.10 "Contract Documents" shall have the same meaning ascribed in Definitions of the Contract.
- 1.11 "Contract Price" means the Contract Price set out in "Tender Document Form: Contract Prices" both Word file and Excel spreadsheet.
- 1.12 "Contractor" shall have the same meaning ascribed in Definitions of the Contract.
- 1.13 "Drawings" shall have the meaning ascribed in Definitions of the Contract.
- 1.14 "EBS" means Electronic Bid Submission.
- 1.15 "E-Bid Authorized Signer" is the designated individual the Bidder's has the authority to bind the Bidder's organization to each and every term, condition, article and obligation of the Tender Document and any resultant Contract.
- 1.16 "E-Bid Confirmation Number" is the receipt received by a Bidder from the Metrolinx MERX Portal indicating that the Submission was uploaded successfully.
- 1.17 "FIPPA" means the Freedom of Information and Protection of Privacy Act, and any amendments or successor legislation. FIPPA is Provincial legislation regulating the collection, retention, access, use and disclosure of "Personal Information" by or on behalf of Metrolinx, and shall be applicable to the Contract including all Work provided pursuant to the Contract.
- 1.18 "Joint Venture" means a business arrangement of two or more parties proposed for this Tender Process further described in Section 21.0 of Instructions to Bidders.
- 1.19 "Key Personnel" mean the individuals identified by name in "Tender Document Form: Contractor Personnel".
- 1.20 "Metrolinx" is a provincial crown agency continued under Metrolinx Act, S.O. 2006, Chapter 16, and its successors and assigns and shall have the same meaning ascribed to "Metrolinx" in Schedule A - Definitions of General Conditions of the Contract.

DEFINITIONS

- 1.21 **"Metrolinx MERX Portal"** is the electronic bid solicitation and Bidder Submission website (www.metrolinx.merx.com) that facilitates Metrolinx and Bidder interaction as it directly relates to the download by a Bidder of Metrolinx Tender Documents including Addenda from and upload by a Bidder of a Submission to Metrolinx in response to this Tender Process.
- 1.22 **"Option"** means a component of the Work that is to be exercised at the sole discretion of Metrolinx.
- 1.23 **"Owner"** shall have the same meaning ascribed in the Definition of the Contract and is also known as Metrolinx.
- 1.24 **"PDF"** means Portable Document Format.
- 1.25 **"Participant in Charge"** shall have the same meaning ascribed in Section 21.3 of Instructions to Bidders.
- 1.26 **"Parties"** means both Metrolinx and the Bidder and a "Party" means either one.
- 1.27 **"Place of the Work"** is the designated site or location of the Work.
- 1.28 **"Procurement Office"** means Metrolinx Procurement Services office located at 277 Front Street West, 4th Floor, Mail Room, Toronto, Ontario, Canada, M5V 2X4.
- 1.29 **"Procurement Representative"** means the following individual in the Procurement Services Department:

Nancy Buttu, Procurement Officer	
Telephone number	(416) 202-5586
Email	Nancy.Buttu@metrolinx.com

- 1.30 **"Submission"** means all documentation which the Bidder shall be bound to and other materials and information submitted electronically by the Bidder's E-Bid Authorized Signer through the Metrolinx MERX Portal in response to this Tender Document or in respect of this Tender Process.
- 1.31 **"Subcontractor"** shall have the meaning ascribed in Definitions of the Contract.
- 1.32 **"Substantial Performance of the Work"** shall have the same meaning ascribed in Definitions of the Contract.

DEFINITIONS

- 1.33 **"Supplier"** shall have the same meaning ascribed in Definitions of the Contract.
- 1.34 **"Specifications"** shall have the same meaning ascribed in Definitions of the Contract.
- 1.35 **"Tender Document"** means this Tender document comprised of sections listed in the List of Contents, issued by Metrolinx for the Work to be provided, and any Addenda thereto.
- 1.36 **"Tender Document Form(s)"** means any sections of this Tender Document which require completion and must be included with the Submission.
- 1.37 **"Tender Process"** means the procurement process for this Tender as set out in the Tender Document herein.
- 1.38 **"Total Performance of the Work"** shall have the same meaning ascribed in Supplementary Definitions of the Contract.
- 1.39 **"Vendor Performance Management (VPM)"** shall have the meaning ascribed in Section 31.0 of Instructions to Bidders.
- 1.40 **"Vendor Performance Rating (VPR)"** is the average of a vendor's performance evaluation scores in a particular category (as assessed by or on behalf of Metrolinx) for a thirty-six (36) month period preceding the Closing. If a Bidder has not completed any work for Metrolinx in the three (3) years preceding the Closing, for the purpose of evaluating the Submission, the Bidder will be assigned a VPR which is the straight average of all the VPR's of all vendors in a particular category who have performed services for Metrolinx during the prior fiscal year.. **"Work"** means all, services, goods, equipment, matters and things required to be done under the Contract, including all of the work, labour, services, goods, equipment, if applicable, described in the General Requirements, Specifications and Drawings.
- 1.41 **"Working Day"** shall have the meaning ascribed in Section 3.0, Hours of Work, of Section 01000 - General Requirements: General Instructions.

INSTRUCTIONS TO BIDDERS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Page 1 of 24

1.0 General

1.1 The Bidder's Submission will be evaluated in accordance with the "Submission Evaluation and Selection Process" section of this Tender Document.

1.2 Tender Timetable

Milestone	Date
Issuance of Tender Document	August 29, 2018
Mandatory Site Meeting	Thursday September 6, 2018
Deadline To Propose Alternate Products and Materials	September 14, 2018
Deadline to Submit Questions	September 14, 2018
Last Day for Issuance of Addenda	September 19, 2018
Closing	Thursday September 27, 2018 @ 3:00 p.m. Toronto, Ontario time
Deadline to Submit Bid Deposit and Agreement to Bond or Alternative (if Applicable)	October 2, 2018@ 3:00 p.m. Toronto, Ontario time
Estimated Commencement Date of Work	December 10, 2018

Metrolinx may, without liability, cost or penalty and in its sole discretion amend the Tender Timetable.

2.0 Tender Enquiries and Requests for Clarifications, Changes or Revisions

- 2.1 All written enquiries and other communications prior to full Contract execution are to be directed solely to the Procurement Representative.
- 2.2 Information communicated by anyone else shall be considered informal and Metrolinx shall not be bound by any information given in such a manner.
- 2.3 Any questions concerning this Tender Document, the contents herein, including General Conditions of the Contract, or the Work contemplated herein are to be directed, in writing, to the Procurement Representative prior to the deadline for

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 2 of 24

submitting questions. No questions or requests for clarifications, changes or amendments of this Tender Document, including the General Conditions of the Contract, shall be entertained after this time regardless of the reason. To allow for dialogue on any questions or requests, Metrolinx encourages Bidders to submit their questions or requests early in the question and answer (referred to as “Q and A”) process. When seeking changes or amendments to any of the terms and conditions of this Tender Process, including the terms contained in General Conditions of the Contract, the Bidder should provide sufficient detail to provide Metrolinx with an understanding of the rationale for the change or amendment and, if applicable, the Bidder should propose the language that would address its concern(s).

- 2.4 All questions/requests for clarification, change or amendment related to this Tender Document are to be submitted via e-mail to the attention of the Procurement Representative using the question and answer form attached separately as:

“Q and A Form”

In the table provided in the Q and A Form, indicate the document section related to each question being submitted as well as page, document title, drawing no., section number and details of the specific question/request. For each set of questions submitted by the Bidder, a new copy of the above referenced Q and A Form should be submitted.

- 2.5 When necessary, revisions to, or clarifications of the Tender Documents will be incorporated into a written Addendum issued by the Procurement Representative identified herein. Information regarding this Tender Document or the Work, whether provided by the Procurement Representative identified herein, or from any other source, whether verbally or in writing, shall be considered informal and Metrolinx shall not be bound by, or liable for, any such information unless incorporated into a written Addendum.

3.0 Mandatory Site/Information Meeting

- 3.1 Bidders shall attend a mandatory site/information meeting as follows:

Date and Time	Refer to Section 1.2, Tender Timetable herein.
Location	Union Station Bus Terminal, 141 Bay Street Toronto
Directions	Southeast side of Front Street and Bay Street (no parking available at the bus terminal)

INSTRUCTIONS TO BIDDERS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Page 3 of 24

Instructions From the Union Station Bus Terminal, proceed south into the Bay Street East Teamway. Contractors are to meet at the bottom of the stairs leading to track 10.

- 3.2 Attendance at the mandatory site/information meeting includes registration and attendance at the entire meeting from the time the meeting is called to order until the meeting is adjourned by Metrolinx. Failure of a Bidder to attend the mandatory site/information meeting in accordance with the aforementioned shall automatically result in the suspension of the Bidder's eligibility to submit a Submission for the Work. Submissions by such Bidders shall be found non-compliant and disqualified.
- (a) If the Bidder is a Joint Venture, any Joint Venture participant may attend the mandatory site/information meeting on behalf of the Joint Venture.
- 3.3 The scope and nature of the Work will be reviewed and a formal tour of the Place of Work shall be conducted as appropriate.
- 3.4 All Bidders, their employees, agents, Subcontractors and Suppliers, shall wear appropriate safety wear at all times while they are on the site including hardhats, safety vests, safety shoes and protective eyewear. Failure to comply shall result in exclusion from the site resulting in the consequences stated in Section 3.2 herein.
- (a) Bidders shall supply their own safety wear. Metrolinx shall not supply any safety wear.
- 3.5 All Bidders, their employees, agents, Subcontractors and Suppliers, shall execute a release of liability form and return it to the Procurement Representative prior to the commencement of the mandatory site/information meeting in order to access the site. Failure to comply shall result in exclusion from the site resulting in the consequences stated in Section 3.2 herein.

4.0 Addenda / Changes to the Tender Documents

- 4.1 In the event that Metrolinx determines in its sole discretion that clarifications and/or revisions to this Tender Document are required, Metrolinx shall issue an Addendum. Information concerning Addenda can be found through the Metrolinx MERX Portal for this Tender Process. Bidders are urged to select automatic notification of Addenda issuance when registering on the Metrolinx MERX Portal.

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 4 of 24

- 4.2 It is the Bidder's responsibility to ensure that they have obtained copies of all Addenda, and to ensure that the Addenda have been considered in their Submission. Addenda/Addendum shall become part of this Tender Document and the contents thereof shall be allowed for in the prices bid for the Work.
- 4.3 The Bidder, when ascertaining if copies of all Addenda issued have been obtained, shall be responsible for allowing sufficient time prior to the Closing to obtain any missing Addenda and to review and allow for the contents thereof in its Submission.
- 4.4 The Bidder shall submit the Submission using the most current Tender Document Forms as issued via Addenda. Failure to use the most current pages of the Tender Document Forms may result in the Submission being found non-compliant and disqualified.

5.0 Tender Submission

- 5.1 Submissions shall only be accepted electronically via the Metrolinx MERX Portal. Submissions submitted in any other manner shall be found non-compliant and disqualified.
- 5.2 It is the Bidders sole responsibility when submitting a Submission to Metrolinx to exercise extreme care when completing and submitting all required documents and/or information. Failure of the Bidder to include all required documents and/or information may result in the Bidder's Submission being found non-compliant and disqualified.
- 5.3 Bidders shall examine carefully the whole of the Tender Document and any data referred to therein. They shall make the necessary investigations to inform themselves thoroughly as to the character and magnitude of the Work.
- 5.4 The Bidder shall not claim at any time after the Closing and/or after notification of acceptance of its Submission that there was any misunderstanding or uncertainty in regard to the Tender Document or any of the contents therein. No plea of ignorance of conditions which exist, or any conditions or difficulties that may be encountered, shall be accepted as a reason for failure to complete the Contract or as a basis for claims for additional compensation or extension of time.
- 5.5 Submissions shall be completed fully in a clear and comprehensible manner.
- 5.6 The Submission shall be submitted on the most current Tender Document Forms issued by Metrolinx and except for designated sections where the Bidder is to enter information, the Tender Document and Tender Document Forms shall not

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 5 of 24

be altered in any way including, but not limited to, write-ins, strike-outs of the pre-printed provisions or any other conditional or qualifying statements.

- 5.7 Any Submission which contains such conditional and/or qualifying statements may be found non-compliant and disqualified unless such conditional and/or qualifying statements are withdrawn in writing by the Bidder, upon request by Metrolinx.
- 5.8 If during the preparation of their Submission, the Bidder desires to make a change which requires correction, alteration or erasure to any information previously entered in a designated section of the Submission by the Bidder, documents that have been uploaded to the Metrolinx MERX Portal may be added, removed and/or re-submitted as often as required at any time, prior to Closing.
- 5.9 All prices shall be firm and quoted in Canadian funds. The prices quoted in the Submission shall represent full payment for all such Work as is necessary for the proper completion of the Contract.
- 5.10 For assistance with registration and login credentials, subscription information, fees, and general use of the Metrolinx MERX Portal, please watch the online Electronic Bid Submission tutorial at:
<https://www.youtube.com/watch?v=To0fqScw3M>. Alternatively, you can contact MERX directly at 1-800-964-MERX (6379). For additional Metrolinx MERX Portal guidelines, refer to the document entitled "Metrolinx MERX Portal - General Information" under "Attachments" in this Tender Document.
- 5.11 Information contained in the most recent Submission submitted via the Metrolinx MERX Portal and received prior to the Closing will take precedence over the information contained in previously received Submissions from the Bidder.
- 5.12 The Bidder may withdraw a Submission at any time prior to the Closing specified by Metrolinx by logging into www.metrolinx.merx.com.

6.0 Submission Deadline

- 6.1 Submissions must be electronically uploaded via the Metrolinx MERX Portal by the Closing. Any Submission or portions thereof received after the Closing (as confirmed by MERX Audit Report) shall be found non-compliant and the entire Submission shall be disqualified regardless of the reason for lateness. The Bidder shall submit the Submission within sufficient time to ensure its arrival before the Closing.

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 6 of 24

- (a) If the Bidder attempts to submit their Submission, or portions thereof, after the Closing, such documents shall not be accepted by the MERX system.
 - (b) In the event that the MERX system allows late Submissions, this will not supersede any stipulations herein regarding late submissions.
- 6.2 Upon successful completion of the electronic submission process, the Bidder shall be provided with an E-bid Confirmation Number indicating that the Submission was uploaded successfully.
- 6.3 Metrolinx reserves the right to postpone the Closing at which time all potential Bidders shall be advised of the new Closing by way of Addenda.
- 6.4 After the Closing has occurred, all Submission received will be opened by Metrolinx staff. There shall be no public access to this opening. Results of the opening of Submissions will be made public within approximately 24 hours on the Metrolinx MERX Portal (search the Tender Number and select "Bid Results").
- 6.5 Upon execution of the final Contract, all Bidders that have submitted a Submission shall be notified in writing of the results of the award to the successful Bidder. Results of the award to the successful Bidder shall also be posted on the Metrolinx MERX Portal. (search the Tender Number and select "Awards").

7.0 Clarification of Submissions

- 7.1 Metrolinx reserves the right, within one hundred and twenty (120) calendar days following the Closing, to request that any Bidder clarify its Submission or provide the required supporting documentation specified in "Tender Document Form: Mandatory Corporate, Personnel and Technical Requirements", and such Bidders shall submit responses to such request within five (5) Business Days following receipt of such request or within such shorter time as Metrolinx may require. Metrolinx may, in its sole discretion, choose to meet with some or all of the Bidders to discuss aspects of their Submission. Metrolinx may require Bidders to submit additional information clarifying any matters contained in their Submission, provide confirmation of any matters contained in their Submission or prepare a written interpretation of any aspect of a Submission for the respective Bidder's acknowledgement of that interpretation. Any unsolicited information shall not be considered.
- 7.2 Such information accepted by Metrolinx and written interpretations which have been acknowledged by the relevant Bidder shall be considered to form part of the Submission of those Bidders.

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 7 of 24

7.3 After the Closing, only information specifically requested by Metrolinx for purposes of clarification or to substantiate compliance with a mandatory requirement, shall be considered as additions to a Bidder's Submission.

7.4 Metrolinx is not obliged to seek clarification of any aspect of a Submission.

8.0 Bidder Qualifications

8.1 Only the Submissions of qualified Bidders will be considered for acceptance by Metrolinx. In order to be considered qualified, the Bidder shall demonstrate to the satisfaction of Metrolinx in the sole discretion of Metrolinx, that the Bidder has:

- (a) satisfactorily completed contracts for work similar in scope, magnitude and complexity as "the Work of this Contract"; and
- (b) achieved at least one (1) of the following safety requirements:
 - (i) COR™ Certified status with the Infrastructure Health and Safety Association (IHSA); or
 - (ii) OHSAS 18001 certification; or
 - (iii) . Out-of-Province COR™ Reciprocity (for bidding purposes only) through IHSA.
- (c) the physical and financial resources to complete the work

8.2 With respect to the experience requirements set out in Subsection 8.1 above, each Bidder is solely responsible to provide:

- (a) in "Tender Document Form: Bidder's Qualifications", a detailed description of reference projects starting with the most recent, whether completed, that the Bidder has performed and that the Bidder is representing to Metrolinx meets the requirements of Subsection 8.1 herein;
- (b) in "Tender Document Form: Bidder's Qualifications", a client contact person for each reference project, that are prepared to speak to Metrolinx with respect to the Bidder's performance on each project described;

8.3 Metrolinx may, in its sole discretion, waive the requirement to contact references provided by any Bidder and rely on the detailed descriptions provided by the Bidder in "Tender Document Form: Bidder's Qualifications".

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 8 of 24

- 8.4 When completing "Tender Document Form - Bidder's Qualifications", the Bidder should list relevant work that has been completed or that is ongoing under a Metrolinx contract. In its determination of whether a Bidder meets the requirements of Section 8.1 herein, Metrolinx may, in its sole discretion:
- (a) take into account the experience of Metrolinx itself in dealing with the Bidder or its Subcontractor(s) in circumstances where the Bidder or its Subcontractor(s) has carried out (or is carrying out) a project for Metrolinx (whether or not the Bidder has listed such a project as a reference); and
 - (b) make general inquiries of third parties with respect to the qualifications of a Bidder and take the results of these general inquiries into account (whether or not the Bidder has listed the third party or the applicable project as a reference).
- 8.5 Before any Submission is accepted, any Bidder may be required to demonstrate to the satisfaction of Metrolinx, that it is capable of performing the Work. Metrolinx reserves the right to inspect the equipment to be used, and/or the facilities where the proposed Work is to be carried out, of any and all Bidders and Subcontractors, and make any and all further investigations it deems, in its sole opinion, necessary, prior to the acceptance of any Submission, to determine if a Bidder is qualified to perform the Work.
- 8.6 In the event the Bidder does not demonstrate to the satisfaction of Metrolinx that it possesses the necessary qualifications and experience required for acceptance of its Submission by Metrolinx, the Bidder's Submission shall be found non-compliant and disqualified.

9.0 Insurance

- 9.1 The Bidder shall, in accordance with the Supplementary General Conditions of the Contract, provide a valid certificate of insurance in the types and amounts specified, within five (5) Business Days of notification of acceptance of its Submission by Metrolinx. This requirement is a pre-condition of execution of the Contract. Failure by the successful Bidder to comply with this requirement shall result in acceptance of the Bidder's Submission to be declared void and forfeiture of the Bidder's Bid Deposit to Metrolinx.

10.0 Workplace Safety and Insurance Clearance Certificate

- 10.1 The Bidder shall, in accordance with the Supplementary General Conditions of the Contract, provide a valid Workplace Safety and Insurance Clearance Certificate for the premium rate class, subclass or group as appropriate for the

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 9 of 24

Work of this Contract, as issued by the Workplace Safety and Insurance Board, within five (5) Business Days of notification of acceptance of its Submission by Metrolinx. Failure by the successful Bidder to comply with this requirement shall result in acceptance of the Bidder's Submission to be declared void and forfeiture of the Bidder's Bid Deposit to Metrolinx.

11.0 Parent Company Indemnity

- 11.1 Solely upon Metrolinx request, within five (5) Business Days of notification of acceptance of its Submission by Metrolinx, as a pre-condition to execution of the Contract, the Bidder may be required to submit a 'Guarantee' from its parent company, if there is one, included as "Parental Guarantee" and provided under Attachments, or in a form satisfactory to Metrolinx and indicating that the Parent company agrees to provide all the necessary financial and technical support for the proper completion of the said Contract and shall guarantee the performance of the said Contract in accordance with the terms and conditions, including timely completion thereof, and agrees to guarantee the Work for the warranty period(s) stipulated therein. This requirement shall be exercised by Metrolinx based on Metrolinx's assessment, in its sole discretion, of the Bidder's financial capacity, corporate structure (i.e. if it is a subsidiary), scale and value of the Work and other risk factors.
- 11.2 Failure by the successful Bidder to comply with this requirement shall result in acceptance of the Bidder's Submission to be declared void and forfeiture of the Bidder's Bid Deposit to Metrolinx.

12.0 Bid Deposit

- 12.1 The Bidder shall comply with "Tender Document Form: Mandatory Corporate, Personnel and Technical Requirements" as it relates to the Bid Deposit requirement. Failure to comply with the aforementioned requirement shall result in the Submission being found non-compliant and disqualified.
- 12.2 The Bidder shall submit the required original Bid Deposit to Metrolinx Procurement Office no later than the deadline indicated in Section 1.2, Tender Timetable of Instructions to Bidders.
- (a) If hand delivering the Bid Deposit to the Procurement Office, the Bidder must present government issued photo identification to the security desk representative(s) upon arrival. Inform the security representative that an envelope is being delivered to the Metrolinx mail room on the 4th floor. The Bidder will not be provided with a receipt upon drop off of any

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 10 of 24

documentation, envelopes or packages. The envelope should be clearly labelled as follows:

- (i) "URGENT: Agreement to Bond/Bid Deposit
Attention: [Insert Name of Procurement Representative]
Procurement Services
Tender No. PT-2017-CUS-345
Hand Delivered on: [Insert Date and Time the package was delivered]
- (ii) The Bidder should send an email to the Procurement Representative indicating that the Bid Deposit has been delivered to the Procurement Office.

12.3 The Bid Deposit shall be in the form of a original bid bond from a recognized Canadian Surety or an original certified cheque or bank draft or letter of credit drawn upon a recognized Canadian Financial institution, payable to "Metrolinx" in the amount of \$500,000.00 (the "Bid Deposit"). The bid bond shall be duly executed by the Surety and signed by the Bidder. Certified Cheques, Bank Drafts or Letters of Credit shall be duly executed by the financial institution. All signatures and seals (if required) shall be originals.

- (a) Failure of the Bidder to provide the original Bid Deposit by the deadline stated in Section 1.2, Tender Timetable of Instructions to Bidders shall result in the Bidder's Submission being found non-compliant and disqualified, and may also result in the Bidder's bidding rights being suspended by Metrolinx for a period of twelve (12) months. It is the responsibility of the Bidder to properly arrange for the delivery of the original Bid Deposit to the Procurement Office to ensure that Metrolinx receives such original Bid Deposit within the timeframe specified in this Section 12.0, Bid Deposit.

12.4 The Bid Deposit should include the Contract name and number.

12.5 Certified cheques and bank drafts shall not be deposited and interest shall therefore not be paid.

12.6 The original Bid Deposit will be retained until all Submissions received have been reviewed and evaluated by Metrolinx. The Bid Deposits, with the exception of those belonging to the three (3) lowest priced responsive Submissions received, may be returned to Bidders upon request, ten (10) Business Days after the Closing. Otherwise the Bid Deposits, with the exception of a bid bond, shall be returned after a Contract for the Work has been executed.

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 11 of 24

- 12.7 The Bidder acknowledges and agrees that its Bid Deposit will be forfeited to Metrolinx as liquidated damages upon the occurrence of any of the following events:
- (a) Withdrawal of the Submission by the Bidder after the Closing where such withdrawal has not been requested by Metrolinx; or
 - (b) Failure by the Bidder to execute the Contract; or
 - (c) Failure by the Bidder to provide any of the documents required by the Tender Documents as a condition of entering into the Contract, including, but not necessarily limited to, the Contract Security, Insurance Certificates or Workplace Safety and Insurance Clearance Certificate within the timeframes specified in this Tender Document.

13.0 Contract Security

- 13.1 The Bidder shall comply with "Tender Document Form: Mandatory Corporate, Personnel and Technical Requirements" as it relates to the Agreement to Bond or specified alternative requirement. Failure to comply with the aforementioned requirement shall result in the Submission being found non-compliant and disqualified. A sample Agreement to Bond is provided under Attachments.
- 13.2 The Bidder shall submit the required original Agreement to Bond or specified alternative to the Metrolinx Procurement Office no later than by the deadline stated in Section 1.2, Tender Timetable of Instructions to Bidders.
- (a) If hand delivering the Agreement to Bond or alternative to the Procurement Office, the Bidder must present government issued photo identification to the security desk representative(s) upon arrival. Inform the security representative that an envelope is being delivered to the Metrolinx mail room on the 4th floor. The Bidder will not be provided with a receipt upon drop off of any documentation, envelopes or packages to the Procurement Office. The envelope should be clearly labelled as follows:
 - (i) "URGENT: Agreement to Bond/Bid Deposit
Procurement Services
Attention: [Insert Name of Procurement Representative]
Tender No. PT-2017-CUS-345
Hand Delivered on: [Insert Date and Time the package was delivered]"

INSTRUCTIONS TO BIDDERS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Page 12 of 24

- (ii) The Bidder should send an email to the Procurement Representative indicating that the Agreement to Bond or alternative has been delivered to the Procurement Office.

13.3 The original Agreement to Bond:

- (a) shall be issued by a recognized Canadian Surety,
- (b) shall be for a Performance Bond and a Labour and Materials Payment Bond each equal to fifty percent (50%) of the Contract Price; OR
- (c) [for a multiyear Contract] shall be for a Performance Bond and a Labour and Materials Payment Bond each equal to the Subtotal of Year One of the Contract, as specified in "Tender Document Form: Contract Prices".
- (d) shall be in favour of Metrolinx;
- (e) shall be duly executed and sealed by the Surety;
- (f) shall be duly executed by the Bidder;
- (g) should be duly sealed by the Bidder if required by the form.

13.4 Specified Alternatives

- (a) In lieu of an Agreement to Bond the Bidder may submit an original of one of the following specified alternative forms:
 - (i) Letter of Credit
 - (A) An original written surety statement from a recognized Canadian financial institution, in the amount of twenty-five percent (25%) of the Contract Price as specified in Tender Document Form: Contract Prices, stating that a Letter of Credit shall be available upon acceptance of the Bidder's Submission. The surety statement shall be duly executed by the financial institution."
 - (B) The Letter of Credit to be provided by the Bidder to Metrolinx upon acceptance of the Bidder's Submission, shall expressly state that it may be drawn upon by Metrolinx on the delivery of a certificate from the President and CEO of Metrolinx confirming that the Bidder has defaulted in the performance of

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 13 of 24

its obligations under the Contract. No other documentary evidence is required to be provided by Metrolinx.

- (C) The Letter of Credit shall indicate that "Metrolinx" is the named beneficiary and should include the Contract name and number.

(ii) Certified Cheque/Bank Draft

- (A) If a certified cheque or bank draft is used in lieu of an Agreement to Bond, it must be submitted as an original, in the amount of twenty-five percent (25%) of the Contract Price as specified in Tender Document Form: Contract Prices.
- (B) Certified Cheques and Bank Drafts shall be made payable to "Metrolinx" and shall be duly signed and sealed (if a seal is required) by the financial institution
- (C) Certified cheques and bank drafts shall not be deposited and interest shall therefore not be paid.
- (D) The certified cheque or bank draft should reference the Bidder's full legal company name, the Contract number and title.

13.5 All original specified alternative forms of Contract Security submitted shall have original signatures and original seals where required.

13.6 Failure of the Bidder to provide the Agreement to Bond or specified alternative by the deadline stated in Section 1.2, Tender Timetable of Instructions to Bidders shall result in the Bidder's Submission being found non-compliant and disqualified and may also result in the Bidder's bidding rights being suspended by Metrolinx for a period of twelve (12) months. It is the responsibility of the Bidder to properly arrange for the delivery of the Agreement to Bond or specified alternative to the Procurement Office and to ensure that Metrolinx receives the original Agreement to Bond or specified alternative within the timeframe provided.

13.7 As a pre-condition to execution of the Contract, the Bidder shall deliver the Performance Bond and Labour and Materials Payment Bond, or specified alternative, to Metrolinx within five (5) Business Days of notification of acceptance of its Submission by Metrolinx. The Performance Bond and the Labour and Materials Payment Bond should include the Contract number and title. Failure of the Bidder to fulfill this requirement shall result in acceptance of

INSTRUCTIONS TO BIDDERS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Page 14 of 24

the Submission by Metrolinx being cancelled and forfeiture of the Bidder's Bid Deposit.

14.0 Alternate Products and Materials

- 14.1 Bidders wishing to propose alternate products or materials, other than those specified in the Tender Documents, for use in the Work shall, no later than the date specified in Section 1.2, Tender Timetable of Instructions to Bidders, submit a request in writing to the Procurement Representative seeking approval for the proposed alternate. The request must include supporting documentation to establish the proposed alternate's equivalence to the product or material specified.
- 14.2 Metrolinx may, prior to Closing, respond to such requests as follows:
- (a) Should Metrolinx, in its sole discretion, approve the proposed alternate, it will issue an Addendum identifying the alternate and stating it is approved for use as part of the Work; or
 - (b) Should Metrolinx, in its sole discretion, not approve the proposed alternate, it shall only inform the Bidder who proposed the alternate of its decision.
- 14.3 Metrolinx is under no obligation to accept or reject any proposed alternate. Metrolinx shall accept or reject any proposed alternate at its sole discretion. Metrolinx is under no obligation to disclose the reason, or reasons, to any Bidder for the acceptance or rejection of any proposed alternate.

15.0 Mandatory Requirements

- 15.1 The Bidders must meet all mandatory requirements in order for their Submission to be considered further. Failure of a Bidder to meet all of the mandatory requirements listed below shall result in the Bidder's Submission to be found non-compliant and will not be considered further.
- 15.2 The mandatory requirements for this Tender Document are as follows:
- (a) The Submission shall be submitted by the Bidder's E-Bid Authorized Signer. For the purposes of a Joint Venture, the E-Bid Authorized Signer of the Participant-in-Charge shall submit the Submission.
 - (b) Pricing information must be completed and submitted with the Submission using "Tender Document Form: Contract Prices".
 - (c) The Bidder shall attend a mandatory site/information meeting per the instructions outlined in Instructions to Bidders.

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 15 of 24

- (d) The Bidder shall declare any conflicts of interest in Section **Error! Reference source not found.** of "Tender Document Form: Conflict of Interest". If Section **Error! Reference source not found.**(b) is left blank or Tender Document Form: Conflict of Interest is not returned with the Submission, the provisions of Section **Error! Reference source not found.**(a) of "Tender Document Form: Conflict of Interest" shall apply.
- (e) The Bidder shall meet all of the mandatory requirements stated in "Tender Document Form: Mandatory Corporate, Personnel and Technical Requirements".

16.0 Rights of Metrolinx

16.1 Metrolinx reserves the right, in its sole discretion:

- (a) to cancel this call for Tenders and any acceptance of a Submission for any reason and at any time prior to final execution of the Contract by Metrolinx, for any reason, without any obligation or any reimbursement to the Bidder except the obligation to return the Bid Deposit;
- (b) to reject any or all Submissions. The Submission with the lowest price will not necessarily be accepted. Metrolinx's selection will be based on which Bidder has provided a Submission which Metrolinx determines, in its sole discretion, to provide the greatest value based on quality, service and price based on the evaluation criteria contained in this Tender Document;
- (c) to disqualify any Submission which contains misrepresentations or any other inaccurate or misleading information;
- (d) to waive any requirement of this Tender Document or request amendment of a Submission by the Bidder where, in the sole opinion of Metrolinx, there is an irregularity or omission in the information provided that is not material to the Submission unless a specific consequence has been identified herein for the commission of such an irregularity or omission;
- (e) to waive the requirement to check references;
- (f) to not respond to a Bidder's questions;
- (g) to use its own experiences, and the experiences of any other third party, with the Bidder in previous contracts in order to evaluate the Bidder's Submission. Specifically to,

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 16 of 24

- (i) take into account the experience of Metrolinx itself in dealing with the Bidder in circumstances where the Bidder has carried out (or is carrying out) a project for Metrolinx (whether or not the Bidder has listed such project in "Tender Document Form: Bidder's Qualifications"; and
 - (ii) make general inquiries of third parties with respect to the qualifications of a Bidder and take the results of these general inquiries into account (whether or not the Bidder has listed the third party or the applicable project in "Tender Document Form: Bidder's Qualifications".
- (h) to issue or not to issue a notification of acceptance of a Bidder's Submission based on submitted references and/or references independently obtained by Metrolinx;
- (i) to issue or not to issue a notification of acceptance of a Bidder's Submission based on the Bidder's, or its Subcontractor(s), experiences with Metrolinx or other departments or agencies within the Ontario government, if the Bidder or its Subcontractor(s):
- (i) was/were previously given a "Notification of Submission Acceptance" of contract by a department or agency within the Ontario government and defaulted in proceeding with the work of the contract;
 - (ii) failed or refused to comply with any applicable federal, provincial or municipal law governing a bid or a prior contract with a department or agency within the Ontario government;
 - (iii) had a previous contract with a department or agency within the Ontario government that was terminated for default in the past year;
 - (iv) is an affiliate of or successor to any corporation described in Sections 16.1(i)(i) through 16.1(i)(iii) above, including any firm that is controlled within the meaning of the Ontario Business Corporations Act by the same person or group of persons who so controlled any corporation described in Sections 16.1(i)(i) through 16.1(i)(iii) above.
- (j) to reject any Bidder's Submission during this Tender Process and any bidder submission from any procurement process, due to unsatisfactory performance history with Metrolinx;

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 17 of 24

- (k) to request a listing of all projects, regardless of scope, complexity or estimated value, completed for or terminated by Metrolinx within the past three (3) to five (5) years or currently active;
- (l) to suspend a Bidder's bidding rights for a period of twelve (12) months after Closing, for failure of the Bidder to provide the Agreement to Bond or specified alternative by the deadline stated in Section 1.2, Tender Timetable of Instructions to Bidders;
- (m) to distribute via Addenda, copies of any Bidder's questions received and responses provided by Metrolinx, to all Bidders who received this Tender Document;
- (n) to request that a Bidder voluntarily withdraw its Submission without penalty, where in the opinion of Metrolinx the Submission is substantially below internal budget estimates and therefore the Work would not be satisfactorily completed;
- (o) to request that a Bidder voluntarily withdraw from its Submission, without penalty, any conditional and/or qualifying statements, as determined by Metrolinx in its sole discretion;
- (p) to disqualify any Submission where the Bidder does not voluntarily withdraw parts of, or all of, its Submission, as requested by Metrolinx under sections 16.1(n) or 16.1(o);
- (q) to postpone the Closing, at which time all Bidders who received Tender Documents shall be advised of the new Closing via written Addenda;
- (r) to within one hundred and twenty (120) days following Closing, exercise any rights under Section 7.1 of Instructions to Bidders;
- (s) to correct arithmetical and/or carry forward errors in any or all Submissions where such errors affect extended totals, the Contract Price H.S.T. and/or Grand Total. Arithmetical corrections shall only be made based upon the unit prices submitted by the Bidder. Corrections to extensions, sums, differences, carry forward errors or other arithmetical operations based on the unit prices submitted will be identified on the Tender Document by Metrolinx and acknowledged in each instance by the initials of the Bidder's and Metrolinx's authorized signatories. Such corrections will become part of the Bidder's Submission. Failure of the Bidder to acknowledge such corrections shall result in its Submission being found non-compliant and disqualified;

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 18 of 24

- (t) to, upon failure of the Bidder whose Submission was accepted to fulfill the conditions of Section 17.2 of Instructions to Bidders, cancel acceptance of the Bidder's Submission by Metrolinx and consistent with industry practice, notify another Bidder who was determined to be qualified in accordance with the "Submission Evaluation and Selection Process" section of this Tender Document and who submitted a compliant Submission, that its Submission has been accepted and, subsequent to the fulfillment of the conditions of Section 17.2 of Instructions to Bidders, and for Metrolinx to issue a notification of acceptance of the Submission to that Bidder.

17.0 Contract To Be Executed

- 17.1 Metrolinx shall notify the Bidder in writing of acceptance of its Submission. . Metrolinx will prepare Agreement Between Owner and Contractor and bind it into the Contract. Three (3) copies of the Contract will be forwarded to the Bidder for review and execution.
- 17.2 The Contract shall be executed by the Bidder and delivered to Metrolinx within five (5) Business Days of notification to the Bidder that Metrolinx has accepted its Submission. Failure by the Bidder to execute and deliver the Contract with the required Insurance Certificates, Workplace Safety and Insurance Clearance Certificate and the Performance and Labour and Materials Payment Bonds, or specified alternative (if applicable), and if requested, the Parental Guarantee and any other documents as may be required within the specified time, could result in the cancellation of the acceptance of the Bidder's Submission and forfeiture of the Bidder's Bid Deposit.
- 17.3 Upon failure of the Bidder whose Submission was accepted, to fulfil the conditions of Section 17.2 herein, Metrolinx may, at its sole discretion, cancel acceptance of the Bidder's Submission consistent with Section 16.1(t) of Instructions to Bidders.
- 17.4 There shall be no binding contract for the supply of the Work unless and until Metrolinx and the Bidder who's Submission has been accepted have executed the written agreements contemplated in the Tender Document.
- 17.5 The Bidder shall not start the Work before the Contract has been executed by the Bidder and Metrolinx and all documents required by the Tender Document, as a condition of acceptance, have been delivered to Metrolinx.

INSTRUCTIONS TO BIDDERS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Page 19 of 24

18.0 Subcontractors and Suppliers

- 18.1 Bidders shall be responsible for the distribution of all the instruments of the Tender Document and Addenda/Addendum thereto to all Subcontractors or Suppliers.
- 18.2 Metrolinx or its representatives will have no obligation whatsoever to supply any Subcontractor or Supplier with all or part of the Tender Document and Addenda and shall not be liable for any damages suffered by any Bidder, Subcontractor or Supplier who does not receive or review the Tender Document or Addenda/Addendum. No claims for payment or for a change order will be entertained because of the failure of any Subcontractor or Supplier to receive or review the Tender Document or Addenda/Addendum which have been supplied to the Bidders prior to Closing.

19.0 Submission Evaluation

- 19.1 Subject to the "Rights of Metrolinx" set out herein and without creating any obligations whatsoever to any Bidder, Metrolinx advises that it shall evaluate Submissions using the criteria stated under the "Submission Evaluation and Selection Process" section of this Tender Document.

20.0 Conflict of Interest

- 20.1 Conflict of Interest shall be as defined in "Definitions" of this Tender Document. The Conflict of Interest declaration included in "Tender Document Form: Conflict of Interest" shall be completed and provided with the Submission.
- 20.2 Examples of Conflict of Interest include but are not limited to:
 - (a) any director, officer, or employee or advisor of Metrolinx who has any connection or relationship with, or any pecuniary interest in the Bidder or any Subcontractor thereof;
 - (b) the Bidder or any Subcontractor thereof is in possession of confidential information relating to the Work; and
 - (c) any director, officer or employee or advisor of Metrolinx who has knowledge of the Work has assisted the Bidder in the preparation of its Submission.
- 20.3 If, at the determination of Metrolinx in its sole discretion, a Bidder is found to be in a Conflict of Interest that cannot be resolved or the Bidder fails to disclose any

INSTRUCTIONS TO BIDDERS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Page 20 of 24

actual or potential Conflict of Interest, Metrolinx may, at its sole discretion, disqualify the Bidder from the Tender Process or terminate any agreement entered into with the Bidder pursuant to this Tender Process.

21.0 Joint Ventures

- 21.1 If a Joint Venture is proposed, the Bidder shall state in its Submission the Joint Venture agreement that forms the basis on which the Joint Venture plans to carry out its obligations.
- 21.2 The Joint Venture shall not change its Joint Venture arrangement.
- 21.3 One of the Joint Venture participants shall be nominated as being in charge during this Tender Process and, in the event of a successful Submission during finalization of the Contract (the "Participant in Charge"). The Participant in Charge shall be authorized by the other joint venture participants to incur liabilities and receive instructions for and on behalf of any and all participants of the Joint Venture.
- 21.4 Each Joint Venture participant shall demonstrate its authorization of the Participant in Charge by submitting with their Submissions a power of attorney, or similar document, signed by a legally authorized representative of the Joint Venture participant or a copy of the Joint Venture agreement electing the Participant-in-Charge.
- 21.5 All participants of the Joint Venture shall be legally liable, jointly and severally, during this Tender Process and during the Contract for carrying out the obligations pursuant to the Contract.

22.0 Prohibited Contacts and Lobbying Prohibition

- 22.1 A Bidder, Bidder's team members and all of the Bidder's respective Subcontractors, advisors, employees and representatives are prohibited from engaging in any form of political or other lobbying, of any kind whatsoever, to influence the outcome of this Tender Process.
- 22.2 Without limiting the generality of Section 22.1 above, neither the Bidder nor the Bidder's team members nor any of their respective Subcontractors, advisors, employees or representatives shall contact or attempt to contact, either directly or indirectly, at any time during this Tender Process, any directors, officers, employees and advisors of Metrolinx, other than the Procurement Representative, other than to discuss pre-existing work that is being conducted pursuant to a separate contract.

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 21 of 24

23.0 Media Releases, Public Disclosures and Public Announcements

- 23.1 A Bidder shall not, and shall ensure that its team members, advisors, Subcontractors, employees or representatives do not issue or disseminate any media release, public announcement or public disclosure (whether for publication in the press on the radio, television, internet, or any other medium) that relates to this Tender Process, its Submission or any matters related thereto, without the prior written consent of Metrolinx.
- 23.2 A Bidder shall not, and shall ensure that its team members, advisors, Subcontractors, employees and representatives do not make any public comment, respond to questions in a public forum, or carry out any activities to either criticize another Bidder or Submission or to publicly promote or advertise its own qualifications, interest in or participation in the Tender Process without the prior written consent of Metrolinx, which may be withheld in the sole discretion of Metrolinx. Notwithstanding this item, the Bidder, Bidder's team members and all of the Bidder's respective advisors, Subcontractors, employees and representatives are permitted to state publicly that it/they are participating in this Tender Process.
- 23.3 For greater clarity, this section does not prohibit disclosures necessary to permit the Bidder to discuss this Tender Document with prospective Subcontractors regarding their participation in this Tender Process.

24.0 Restriction on Communications Between Bidders - No Collusion

- 24.1 A Bidder shall not discuss or communicate, directly or indirectly, with any other Bidder, any information whatsoever regarding the preparation of its own Submission or the Submissions of other Bidders. Bidders shall prepare and submit Submissions independently and without any knowledge, comparison of information or arrangements, direct or indirect, with any other Bidder. This obligation extends to all team members of a Bidder and all of the Bidder's respective advisors, Subcontractors, employees and representatives.

25.0 Disclosure of Information

- 25.1 The Bidder hereby agrees that any information provided in its Submission, even where it is identified as being supplied in confidence, may be disclosed by Metrolinx where required by law, order of a court, or tribunal.
- 25.2 The Bidder hereby consents to the disclosure, on a confidential basis, of its Submission by Metrolinx to Metrolinx's advisors retained for the purpose of evaluating or participating in the evaluation of the Submissions.

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 22 of 24

- 25.3 Under Ontario's Open Data Directive, Metrolinx is required to publish certain procurement information. Accordingly, the Bidder acknowledges that, subject to any applicable FIPPA exemptions, Metrolinx may publish procurement data including but not limited to the names of the Bidders and the winning bid in accordance with Ontario's Open Data Directive. For more information, see: www.ontario.ca/page/ontarios-open-data-directive.

26.0 Freedom of Information and Protection of Privacy Act ("FIPPA")

- 26.1 Bidders are advised that Metrolinx may be required to disclose all, a part, or parts of a Bidder's Submission pursuant to FIPPA.

27.0 Submission to Be Retained by Metrolinx

- 27.1 Metrolinx shall not return a Submission or any accompanying documentation submitted, with the exception of a Bid Deposit and/or Agreement to Bond or specified alternatives, submitted by a Bidder.

28.0 Confidential Information of Metrolinx

- 28.1 All information provided by or obtained from Metrolinx in any form in connection with this Tender Process;
- (a) is the sole property of Metrolinx and shall be treated as confidential;
 - (b) shall not be used for any purpose other than replying to the Tender Document and the performance of any subsequent agreement; and
 - (c) shall not be disclosed without prior written authorization from Metrolinx.

29.0 Bidders Shall Bear Their Own Costs

- 29.1 The Bidder shall bear all costs associated with or incurred in connection with its participation in this Tender Process, including, but not limited to, preparation of its Submission.

30.0 Changes to Key Personnel

- 30.1 If after the Closing, but prior to the execution of the Contract, the Bidder wishes to request a change in a Key Personnel, the Bidder shall notify the Procurement Representative as soon as possible and the notification shall identify the proposed change in Key Personnel and the proposed substitute, if applicable, and include sufficient documentation that the proposed substitute is equivalent or superior in experience and qualifications to the person or party being replaced.

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 23 of 24

- 30.2 In response to a request as per Section 30.1 above, Metrolinx may, in its sole discretion provide the Bidder with instructions as to the type of information required by Metrolinx to consider the proposed change to the Bidder's Key Personnel as well as the deadlines for submission of information that the Bidder must meet in order to have its request considered by Metrolinx.
- 30.3 The Bidder shall provide any further documentation as may be required by Metrolinx to assess any proposed substitute or change. If Metrolinx, in its sole discretion, considers the proposed substitute to be acceptable and equivalent or superior in experience and qualifications to the person or party being replaced, Metrolinx may consent to the substitution. Metrolinx's consent to such substitution, however, may be subject to such terms and conditions as Metrolinx may require. If the proposed substitute or change is not acceptable to Metrolinx, the Bidder may propose an alternate substitute or change for review by Metrolinx in the same manner as the first proposed substitute.
- 30.4 Metrolinx may, in its sole discretion, disallow any actual or proposed change.

31.0 Vendor Performance Management Program

- 31.1 Vendor Performance Management ("VPM") Program means the Metrolinx system for monitoring, evaluating and recording vendor performance, as same may be amended or replaced from time to time. The Vendor Performance Management Program establishes a standard methodology for the incorporation of a vendor's past performance in a particular category as a criterion in assessing that vendor's submission for future work with Metrolinx.
- 31.2 Pursuant to Metrolinx's VPM Program, Metrolinx will be considering the Bidder's past performance under contracts with Metrolinx, in a particular category, in evaluating Submissions received in response to this Tender Document.
- 31.3 The VPR is being applied as a component of evaluation for this Tender Process in accordance with the "Submission Evaluation and Selection Process" section of this Tender Document.
- 31.4 A Bidder may access their VPR through an annual subscription on the Metrolinx MERX Portal. If a Bidder has questions regarding their VPR, they should contact the Procurement Representative in accordance with Section 2.0 of Instructions to Bidders.
- 31.5 Information regarding Metrolinx Vendor Performance Management System and how a Vendor Performance Rating is calculated can be found in the Metrolinx

INSTRUCTIONS TO BIDDERS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 24 of 24

“Vendor Relationship Management Procedures and Guidelines v1,1 dated November 7, 2016”, or most current version, accessed through the following link:

http://www.metrolinx.com/tenders/en/VendorRelationshipManagement_Guidelines.pdf.

- 31.6 The "Contract Performance Appraisal" applicable to any Contract resulting from this Tender Process, can be found under "Attachments".

SUBMISSION EVALUATION AND SELECTION PROCESS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 1 of 5

1.0 Evaluation

- 1.1 Submissions shall undergo several phases of evaluation based on documentation provided and Vendor Performance Rating information contained in the Metrolinx MERX Portal.
- 1.2 Mandatory criteria will be rated pass or fail. All other criteria shall be evaluated in accordance with Section 1.0 herein. Evaluation shall occur in two (2) phases, as follows:
 - (a) Phase One: Administrative Evaluation (Compliant/Non-Compliant)
 - (i) Submissions shall undergo an administrative evaluation to determine compliance with the administrative mandatory requirements. Only those Submissions determined in the sole opinion of Metrolinx, to have fulfilled all the administrative mandatory requirements shall proceed to Phase Two of the evaluation process. Submissions that do not meet the administrative mandatory requirements shall be considered non-compliant and shall be disqualified.
 - (ii) Administrative mandatory requirements include, but shall not be limited to:
 - (A) Proper completion of Tender Document Forms;
 - (B) Compliance to Tender Document requirements;
 - (C) Attendance at mandatory Site visit, if any.
 - (b) Phase Two: Vendor Performance Rating (VPR) (Part A) and Pricing (Part B) Evaluation
 - (i) Part A - Vendor Performance Rating (VPR) Evaluation
 - (A) The VPR of each Bidder's Submission proceeding to this Phase Two: VPR Evaluation shall be evaluated as follows:
 - I) For this Tender Process as it relates to evaluation of a Bidder's VPR, "Performance Category" shall be defined as the Construction Services category.
 - II) For this Tender Process, the Vendor Performance Rating ("VPR") is the average of a vendor's performance evaluation scores (as assessed by or on behalf of

SUBMISSION EVALUATION AND SELECTION PROCESS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Page 2 of 5

Metrolinx), in the Performance Category, for a thirty-six (36) month period preceding the Closing.

- III) If a Bidder has not completed any work for Metrolinx for a thirty-six (36) month period preceding the Closing, for the purpose of evaluating the Submission, the Bidder will be assigned a VPR in the Performance Category, which is the straight average of all the VPR's of all vendors who have performed services for Metrolinx for a thirty-six (36) month period preceding the Closing, in this Performance Category.
- IV) The legal name of the Bidder stated on the Form of Tender will be used for determining the Bidder's VPR score in the Performance Category. It is the responsibility of the Bidder to ensure that its proper legal name has been stated on the Form of Tender and matches the legal name used by the Bidder in setting up its legal profile in the Metrolinx MERX Portal. Metrolinx will not accept any requests from the Bidder, after the Closing, to change the legal name provided.
- V) In the case of a Joint Venture where multiple parties will sign the Contract, the VPR under the Performance Category, of each Joint Venture participant, will be added and the average will be applied as the VPR score.
- VI) If any member of the Joint Venture has not completed work for Metrolinx within a thirty-six (36) month period preceding the Closing, Section 1.2(b)(i)(A)III) above shall apply for that member.
- VII) The Bidder's VPR, at the time of evaluating this Phase Two, shall be the VPR used for evaluation purposes. The Bidder's VPR used in the evaluation of this Phase Two can be obtained from the Procurement Representative at the conclusion of this Tender Process.
- VIII) Once VPR scores in the Performance Category are determined for each Submission proceeding to this Phase Two evaluation, each Bidder's VPR shall be evaluated as follows:

SUBMISSION EVALUATION AND SELECTION PROCESS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 3 of 5

1) The following equation shall be applied to determine each Bidder's VPR Score, as follows:

a) " Bidder's VPR (Expressed as a %) / 10 = Bidder's VPR Score"

(ii) Part B - Pricing Evaluation

(A) Tender Document Form: - Contract Prices shall be evaluated for compliant Submissions.

(B) An administrative evaluation shall be conducted of Tender Document Form: - Contract Prices to determine compliance with the mandatory requirements as stated therein and in the Instructions to Bidders. The Contract Price of each Submission proceeding to Pricing Evaluation shall be evaluated and scored as follows:

I) The Submission with the lowest Contract Price shall receive the maximum score of ten (10) points for Pricing Evaluation.

II) The following equation shall be applied to other compliant Submissions to determine a score out of ten (10):

$$\frac{\text{Lowest Contract Price}}{\text{Bidder's Contract Price}} \times 10 = \text{score out of ten}$$

(iii) Evaluation

(A) The following weightings shall be applied to determine each Bidder's Phase Two Total Overall Score, as follows:

Evaluated Component	Maximum Score	Weighting Factor	Total (Score x Weight)
PHASE ONE: ADMINISTRATIVE EVALUATION (Compliant/Non-Compliant)			
PHASE TWO: VENDOR PERFORMANCE RATING (VPR) EVALUATION			
Bidder's VPR Score	10	5	

SUBMISSION EVALUATION AND SELECTION PROCESS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 4 of 5

Evaluated Component	Maximum Score	Weighting Factor	Total (Score x Weight)
VPR Evaluation Subtotal:			
PHASE TWO: PRICING EVALUATION			
Tender Document Form: Contract Prices	10	95	
Pricing Evaluation Subtotal:			
TOTAL OVERALL SCORE		100%	1,000

(iv) Total Overall Score

(A) Evaluation Criteria shall be assigned a score out of ten (10). The score is then multiplied by the weight to determine the weighted score (i.e. VPR Evaluation Subtotal, Pricing Evaluation Subtotal). The weighted scores are then added to determine the Total Overall Score for the Submission.

(B) The VPR Evaluation Subtotal shall be added to the Pricing Evaluation Subtotal to determine the Total Overall Score for the Submission.

D) Total Overall Score = VPR Evaluation Subtotal + Pricing Evaluation Subtotal

(C) The compliant Submissions evaluated during this Phase Two process, will be ranked from highest to lowest Total Overall Score. The top three Highest Ranked Submissions (first, second and third highest Total Overall Score = “Highest Ranked”) shall proceed to Phase Three: Technical Evaluation.

(c) Phase Three: Technical Evaluation (Pass/ Fail)
(hereinafter referred to as “Technical Evaluation”)

(i) A technical evaluation shall be conducted of the Highest Ranked compliant Submissions. Bidder’s qualifications in accordance with Section 8.0, Bidder’s Qualifications of Instructions to Bidders as well as Tender Document Form: Bidder’s Qualifications and Mandatory Corporate, Personnel and Technical Requirements shall form the basis of this evaluation.

SUBMISSION EVALUATION AND SELECTION PROCESS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 5 of 5

- (ii) Only the Submissions of qualified Bidders will be considered for acceptance by Metrolinx.
- (iii) In the event the Bidder does not demonstrate to the satisfaction of Metrolinx that it possesses the necessary qualifications and experience required for acceptance of its Submission by Metrolinx, the Bidder's Submission shall be found non-compliant and disqualified.
- (iv) If the Highest Ranked compliant Submissions do not meet the requirements of the Technical Evaluation, Metrolinx will carry out a technical evaluation of the Submission next in ranking, and so on until a compliant Submission is found.
- (v) Notwithstanding Sections 1.2(c)(i) through 1.2(c)(iv) above, Metrolinx may exercise its rights under Sections 16.1(g) through 16.1(k), under Rights of Metrolinx in Instructions to Bidders, and in doing so, any information obtained will be factored into this Technical Evaluation as a final pass/fail criteria.

2.0 Selection of Submissions

- 2.1 Metrolinx's selection of the successful Submission will be based on which Bidder has provided a Submission which Metrolinx determines in its sole discretion, to be most beneficial to Metrolinx.
- 2.2 Notification of acceptance shall be issued to the compliant Bidder with the highest Total Overall Score that meets the criteria of Section 1.2(c) above.

END OF SECTION

SUPPLEMENTARY AGREEMENT BETWEEN OWNER AND CONTRACTOR

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 1 of 3

The “Agreement between Owner and Contractor” of CCDC 2 2008 Stipulated Price Contract, is hereby amended as follows:

1.0 ARTICLE A-1 THE WORK

1.1 Paragraph 1.3 is amended as follows:

- (a) Add the words “, and attain Total Performance of the Work by the 10th day of February in the year 2020” after the words “in the year 2020” in the third line of paragraph 1.3.

1.2 Add Paragraphs 1.4 through 1.6 as follows:

“1.4 The Contractor has informed itself of the conditions relating to the Work to be performed and has inspected and is thoroughly familiar with the location of the Work and the plans, specifications, drawings and all terms, conditions and covenants of the Contract.

1.5 The Contractor acknowledges that it meets all mandatory requirements stated in the Contract Documents.

1.6 The Contractor hereby declares that no Conflict of Interest exists in accordance with the Supplementary General Conditions of the Contract.”

2.0 ARTICLE A-3 CONTRACT DOCUMENTS

2.1 Paragraph 3.1 is amended as follows:

- (a) “3.1 Delete the words, “The following are the *Contract Documents* referred to in Article A-1 of the Agreement – THE WORK:
“— Agreement between *Owner* and *Contractor*, — Definitions
— the General Conditions of the Stipulated Price Contract”
and replace with the words “The *Contract Documents* referred to in Article A-1 of the Agreement – THE WORK, are listed under “List of Contents” herein.”

3.0 ARTICLE A-4 CONTRACT PRICE

3.1 Add new Paragraphs 4.6 through 4.11 as follows:

SUPPLEMENTARY AGREEMENT BETWEEN OWNER AND CONTRACTOR

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 2 of 3

“4.6 The Contract Price is firm.”

4.7 The Contract Price includes all specified cash allowances, contingency allowances (if applicable) and all applicable taxes, except Harmonized Sales Tax (H.S.T.).

4.8 The Contract Price represents full payment for all the Work necessary for the proper completion of the Contract.

4.9 The Contract Price includes all labour, superintendence, plant, tools, appliances, equipment, supplies and other accessories, services and facilities customs, duties, royalties, handling, transportation, travel, mileage, overhead, profit and all other charges.

3.2 4.10 Allowances

4.10.1 Cash Allowances

.1 Cash Allowances are subject to the Supplementary General Conditions and General Conditions of the Contract.

.2 Descriptions of each Cash Allowance are listed below and amounts are specified under this A-4 – Contract Price in the attached Excel spreadsheet entitled “Contract Prices”.

4.10.2 Description of Cash Allowances

.1 Cash Allowance – Testing and Inspection

.2 Cash Allowance – Hazardous Materials and Abatement

.3 Cash Allowance Repair of non-Typical deterioration/defects

.4 Cash Allowance – Temporary Wayfinding Signage

.5 Cash Allowance – Temporary Pedestrian Access

.6 Cash Allowance – Contractor’s Downtime

.7 Cash Allowance – Other Metrolinx Projects

.8 Cash Allowance – 81 Bay Project

SUPPLEMENTARY AGREEMENT BETWEEN OWNER AND CONTRACTOR

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 3 of 3

.6 Cash Allowance – Yonge Street Bridge Restoration

4.10.3 Contingency Allowances

.1 Contingency Allowances are subject to the General Conditions of the Contract.

4.11 Options

4.11.1 Not Applicable

4.0 ARTICLE A-6 RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING

4.1 Paragraph 6.1 is amended as follows:

- (a) Delete the words “or other form of electronic communication” from the second line of paragraph 6.1.
- (b) Delete the words “or other form of electronic communication” from the seventh line of paragraph 6.1.
- (c) Delete the words “email address” from the signature lines for the Owner, Contractor and Consultant in paragraph 6.1.

5.0 ARTICLE A-9 SEVERABILITY

5.1 Add new Article A-9 as follows:

“ARTICLE A-9 SEVERABILITY

9.1 If any provision of this Contract is found to be invalid or unenforceable in any circumstances, the remainder of this Contract, and the application of such provision in any other circumstances, shall not be affected.”

6.0 ARTICLE A-10 TIME OF ESSENCE

6.1 Add new Article A-10 as follows:

“ARTICLE A-10 TIME OF ESSENCE

10.1 Time shall be of the essence of the Contract and under all Contract Documents.”

END OF SECTION

FORM OF AGREEMENT

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Page 1 of 1

1.0 Form of Agreement

The “Agreement Between Owner and Contractor” in CCDC 2 2008 Stipulated Unit Price Contract is referred to herein as the Form of Agreement and shall constitute the form of agreement of this Contract in its entirety. CCDC 2 2008 is available for purchase at www.ccdc.org.

The Owner is: Metrolinx

The Consultant is: Entuitive Corporation

200 University Avenue, 7th Floor
Toronto, ON M5H 3C6 Canada

The Work is: Union Station New Emergency Generator

Contract No. PT-2017-CUS-345

Article A-1: Date of Commencement of Work: December 10, 2018

Date of Substantial Performance of the Work: January 11, 2020

Date of Total Performance of the Work: February 10, 2020

Article A-2: This list of Contract Documents are the documents as listed in the List of Contents, including Tender Document Forms as completed and submitted by the Contractor, and as accepted by Metrolinx.

END OF SECTION

SUPPLEMENTARY DEFINITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 1 of 6

The “Definitions” of CCDC 4 2011 Unit Price Contract, are hereby amended as follows:

7.0 Definitions

7.1 Act

- (a) Add new definition, “Act”, as follows:

Act means the Construction Lien Act (Ontario) as amended.”

7.2 Applicable Law

- (a) Add new definition, “Applicable Law”, as follows:

Applicable Law means all applicable laws, statutes, regulations, orders, by-laws, treaties, judgements, decrees and ordinances applicable from time to time and, whether or not having the force of law, all applicable approvals, standards, codes, requirements, requests, directives, rules, guidelines, instructions, circulars, manuals, and policies of any Governmental Authority having or purporting to have jurisdiction or authority over a party, property, transaction or event, including laws relating to workplace safety and insurance, occupational health and safety and employment standards.”

7.3 Confidential Information

- (a) Add new definition, “Confidential Information”, as follows:

Confidential Information means all information of a confidential nature (as determined with reference to its treatment by the Owner) which is provided, disclosed or made available (orally, electronically or in writing or by any other media) by the Owner or the Consultant (or its representatives) to the Contractor (including to employees, contractors, or other representatives thereof). For greater certainty, *Confidential Information* also includes all construction documents, Personal Information and all of the Owner’s materials provided by the Owner, which includes: (a) specifications, drawings, images, software, audio or video recordings, specifications, performance requirements, software development tools, technologies, content, data (including all information whether or not contained in or on any database or electronic information storage system or media owned by or in the custody or control of the Owner), (b) technical information, and any other recorded information, in any form and on any media, that are proprietary to, or controlled or licensed by, the Owner or the Consultant and

SUPPLEMENTARY DEFINITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 2 of 6

provided to the Contractor; (c) all procurement documents issued by the Owner; (d) all documentation or source materials (including source code) related to any of the foregoing; and (e) all copies, translations, improvements, modifications, enhancements, adaptations, or derivations made to the aforementioned Owner's materials by the Owner or any third party not performing work under this Contract."

7.4 Consultant

- (a) Delete the definition of "Consultant" in its entirety and replace it with the following:

The *Consultant* shall be the person or entity designated as the *Consultant* by the Owner, from time to time."

7.5 Contract Documents

- (a) Add the words "in writing" after the word "upon" in the second line of the definition of Contract Documents.

7.6 Contract Time

- (a) Delete the word "Substantial" and substitute the word "Total" in the second line.

7.7 FIPPA

- (a) Add new definition, "FIPPA", as follows:
 - (i) FIPPA means the Freedom of Information and Protection of Privacy Act (Ontario) as amended."

7.8 FIPPA Records

- (a) Add new definition, "FIPPA Records" as follows:

FIPPA Records means all information, data, records and materials, however recorded, in the custody or control of the Owner, including Confidential Information and Personal Information (as defined in FIPPA). For the purposes of this definition, documents held by the *Contractor* in connection with this *Contract* are considered to be in the control of the *Owner*."

SUPPLEMENTARY DEFINITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 3 of 6

7.9 GC

- (a) Add new definition, “GC”, as follows:

GC means the General Conditions of the Contract, as amended by the Supplementary General Conditions”.

7.10 Governmental Authority

- (a) Add new definition, “Governmental Authority”, as follows:

Governmental Authority means any domestic government, including any federal, provincial, territorial, municipal, regional or other local government, and any government established court, agency, tribunal, commission or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions respecting government; provided, however, “*Governmental Authority*” does not include Metrolinx.

7.11 Independent Inspection Company

- (a) Add new definition, “Independent Inspection Company”, as follows:

“*Independent Inspection Company* means any independent or 3rd party inspection and testing agencies/companies.”

7.12 OHSA

- (a) Add new definition, “OHSA”, as follows:

OHSA means the Occupational Health and Safety Act (Ontario), as amended.”

7.13 Personal Information

- (a) Add new definition, “Personal Information” as follows:

Personal Information has the meaning as set out for the term in *FIPPA*.

7.14 Provisional Item(s)

- (a) Add new definition, “Provisional Item(s) as follows:

SUPPLEMENTARY DEFINITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 4 of 6

Provisional Item(s) are one or more components of the Work that are to be exercised at the sole discretion of Metrolinx.

7.15 Railway

- (a) Add new definition, “Railway”, as follows:

Railway or *Railways* means one or more of the Canadian National Railway Company, Canadian Pacific Railway Company, or The Toronto Terminals Railway Company Limited owning or operating the *Railway Right-of-Way* on which all or part of the *Work* may be performed.”

7.16 Railway’s Engineer

- (a) Add new definition, “Railway’s Engineer”, as follows:

Railway’s Engineer means the person designated as such by the applicable *Railway* or the *Owner*.”

7.17 Railway Flag Person

- (a) Add new definition, “Railway Flag Person”, as follows:

Railway Flag Person means the person designated as such by the applicable *Railway* or the *Owner* to provide flagging services.”

7.18 Railway Right-of-Way

- (a) Add new definition, “Railway Right-of-Way”, as follows:

Railway Right-of-Way means the land, property, trackage, equipment and facilities of the *Railway*, including main tracks, side tracks, branch lines, yards and terminals owned or controlled by the *Railway* or the *Owner*.”

7.19 Submittals

- (a) Add new definition, “Submittals”, as follows:

Submittals are any or all documents or items required by the *Contract Documents* to be provided by the *Contractor* to the *Owner* or the *Consultant*, including but not limited to:

SUPPLEMENTARY DEFINITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 5 of 6

- Shop Drawings, samples, models, specifications, mock-ups to indicate details or characteristics, before the portion of the *Work* that they represent can be incorporated into the *Work*;
- Construction Schedule;
- As-built drawings and manuals to provide instructions for the operation; and
- safety plans, schedules or policies; and
- documents related to the warranty or maintenance of the *Work*.”

7.20 Standard of Care

- (a) Add new definition, “Standard of Care”, as follows:

Standard of Care shall have the meaning set out in GC 3.15.”

7.21 Total Performance of the Work

- (a) Add new definition, “Total Performance of the Work”, as follows:

Total Performance of the Work means when the entire *Work*, except for those items arising from GC 12.3 – WARRANTY, has been performed in accordance with the requirements of the *Contract Documents* and is so certified by the *Consultant*.”

7.22 Toxic and Hazardous Substances

- (a) Add new definition, “Toxic and Hazardous Substances”, as follows:

Toxic and Hazardous Substances means, collectively, any contaminant, waste, subject waste, pollutant, toxic substance, dangerous goods, asbestos, petroleum, its derivatives, by-products or other hydrocarbons, as defined in or pursuant to any applicable laws, regulations, by-laws, guidelines or orders rendered by any governmental authority having jurisdiction or any other substance or material which, when released to, or present in, the natural environment, is likely to cause in some immediate or foreseeable future time, material harm or degradation of the natural environment or material risk to human health.”

SUPPLEMENTARY DEFINITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 6 of 6

7.23 Unit Price

- (a) Add new definition “Unit Price”, as follows:

A Unit Price means an all-inclusive cost for goods and/or services, including customs duties, royalties, handling, transportation, overhead, profit and all other charges as it relates to SGC 4.3, Provisional Items.

7.24 WSIB

- (a) Add new definition, “WSIB”, as follows:

WSIB means the Workplace Safety and Insurance Board.”

7.25 Working Days

- (a) Delete the definition of “Working Days” in its entirety and replace with the following:

Working Days means any day other than: (a) a Saturday or Sunday and (b) any other day on which the *Owner’s* Head Office is not open for business. Each *Working Day* will end at 4:00 p.m. on that day.”

END OF SECTION

DEFINITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 1 of 1

1.0 Definitions

The “Definitions” of CCDC 2 2008 Stipulated Price Contract shall constitute the “Definitions of the Contract” in their entirety as amended by the Supplementary Definitions herein. CCDC 2 2008 can be purchased at www.ccdc.org.

END OF SECTION

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 1 of 78

Where a General Condition or paragraph of the General Conditions of the Stipulated Price Contract of the CCDC2 2008 – Stipulated Price Contracts (hereinafter referred to as “General Conditions of the Contract” is deleted in its entirety by these Supplementary General Conditions, it shall be noted as “Intentionally left blank”. The numbering of the remaining General Conditions or paragraphs shall remain unchanged, and the numbering of the deleted item will be retained. The General Conditions of the Contract are hereby amended as follows:

1.0 **GC 1.1 - Contract Documents**

1.1 GC 1.1.7

- (a) Delete GC 1.1.7 in its entirety and replace with the following:

“1.1.7 If there is a conflict with the *Contract Documents*, it shall be resolved be in accordance with the order of priority set out in Article A-3 *Contract Documents* of the Agreement between the Owner and the Contractor.”

- (b) Add GC 1.1.7.5, as follows:

“1.1.7.5 In case of discrepancies, noted materials and annotations shall take precedence over graphic indications in the *Contract Documents*.”

1.2 GC 1.1.8

- (a) Delete GC 1.1.8 in its entirety and replace with the following:

“1.1.8 The *Owner* shall provide the *Contractor*, without charge, up to ten copies of the *Contract Documents*. If requested by the *Contractor*, the *Owner* shall provide additional copies, at the cost of the *Contractor*.”

1.3 GC 1.1.11

- (a) Add GC 1.1.11 as follows:

“1.1.11 Subject to paragraph 1.1.9, all surveys, reports, drawings, calculations, designs, plan, specifications and other data, information, materials, collected, compiled, drawn or produced, including computer printouts, pursuant to the Contract are the property of the Owner. The Contractor shall transfer the copyright, including an express waiver and release of all moral rights, of all Drawings, plans, Specifications, models, photos, and other written

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 2 of 78

or graphic materials produced under the Contract to the Owner which will be free to use them as it sees fit. Any waiver or release obtained under this clause may include a reasonable exclusion of liability regarding the use of materials for other projects. In the event of any dispute or disagreement pertaining to the Work between the Owner and the Contractor, the Owner will have the unqualified right and license to use the design as it may have evolved from time to time and any Drawings, Specifications, documents, materials of any nature and kind which may now or hereafter exist and which the Contractor may have any right, title, interest or copyright for the purpose of completing the design and construction of the Work for which they were prepared.”

1.4 GC 1.1.12

(a) Add GC 1.1.12 as follows:

“1.1.12 Wherever in the Contract Documents items are noted as “N.I.C.” (“Not In Contract”) the Owner will provide such items either during or after the Contract Time. The Contractor shall accommodate the entry of such items into the Work when N.I.C. items are delivered to the Place of the Work.”

2.0 **GC 1.2 - Law Of The Contract**

2.1 Delete GC 1.2.1 in its entirety and replace with the following:

“1.2.1 The parties agree that the law of Ontario, Canada shall govern the interpretation of the *Contract* and irrevocably attorn to the exclusive jurisdiction of the courts of Ontario, Canada and all lawful courts to which decisions can be appealed therefrom.”

3.0 **GC 1.3 – Rights and Remedies**

3.1 Add GC 1.3.3 as follows:

“1.3.3 Notwithstanding paragraph 1.3.1, the Owner shall not be liable, whether in contract, tort or any other theory of law, for any claim arising from any prior negotiation, representation, or agreement, whether written or oral, which is superseded by the Contract under Article A-2 of the Agreement – Agreements and Amendments.”

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 3 of 78

4.0 **GC 1.4 ASSIGNMENT**

4.1 GC 1.4.1

- (a) Delete GC 1.4.1 in its entirety and replace with the following:

“1.4.1 The *Contractor* shall not assign the *Contract*, either whole or in part, without the prior written consent of the *Owner*. The *Owner* may assign the *Contract*, either in whole or in part, with written notice to the *Contractor*.”

5.0 **GC 1.5 ADVERTISING AND PUBLIC NOTICES**

- 5.1 Add GC 1.5 – ADVERTISING AND PUBLIC NOTICES as follows:

“GC 1.5 – ADVERTISING AND PUBLIC NOTICES

1.5.1 The *Contractor* will obtain the *Owner's* prior written approval for any public advertising, written public sales promotions, press release or other general publicity matter, in which the name or trademarks of the *Owner* or any *Railway* are mentioned or used or in which words are used from which any connection with the *Owner* or any *Railway* or their trademarks may be inferred. The *Contractor* will not allow or permit any public ceremony in connection with the *Work* without the prior written permission of the *Owner*, which may be unreasonably withheld. The *Contractor* will not erect or permit the erection of any sign or advertising without the prior written approval of the *Owner*. The *Contractor* shall not publish, issue or make any public statements or news release, electronic or otherwise concerning the *Contract* or the *Work*, without the express written consent of the *Owner*, which may be unreasonably withheld”

6.0 **GC 1.6 CONFIDENTIAL INFORMATION AND PERSONAL INFORMATION**

- 6.1 Add GC 1.6 - CONFIDENTIAL INFORMATION AND PERSONAL INFORMATION as follows:

“GC 1.6 – CONFIDENTIAL INFORMATION AND PERSONAL INFORMATION

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 4 of 78

- 1.6.1 The *Contractor* shall not disclose or provide any Confidential Information to third parties who do not require that information or data to complete any portion of the *Work* and who are not authorized by the *Owner* to receive, or have access to, such Confidential Information.
- 1.6.2 The *Contractor* acknowledges that the *Owner* is a provincial crown agency subject to the *Freedom of Information and Protection of Privacy Act* (Ontario), and agrees that all *FIPPA Records* are subject to, and the collection, use, storage and treatment thereof, is governed by *FIPPA*. The *Contractor* agrees to keep all *FIPPA Records* secure and available, in accordance with the requirements of *FIPPA*. In the event of a conflict between the requirements of this Contract and the requirements of *FIPPA*, the requirements of *FIPPA* shall take precedence.
- 1.6.3 In the event that a request is made under *FIPPA* for the disclosure of any *FIPPA Records*, the *Owner* shall provide prompt written notice thereof to the *Contractor* and the *Contractor* shall provide any and all relevant *FIPPA Records* to the *Owner* on demand for the purposes of responding to an access request under *FIPPA*. In these circumstances, the *Contractor* shall provide all *FIPPA Records* requested to the *Owner's* Freedom of Information Coordinator (or equivalent) within seven (7) *Working Days* of receipt of the request from the *Owner*. Notwithstanding anything to the contrary in this Contract and subject to the *Contractor's* rights of appeal pursuant to Section 28(9) of *FIPPA*, the *Owner* shall determine what *FIPPA Records* will be disclosed in connection with any such request, in accordance with the requirements of *FIPPA* (including, without limitation, the requirements with respect to affected persons set out in Section 28 thereof).
- 1.6.4 For greater certainty, the *Contractor* shall advise its representatives and all *Subcontractors* of the requirements of this GC 1.6, and associated requirements set out elsewhere in this *Contract*, and take appropriate action to ensure compliance by such representatives with the terms of this GC 1.6. In addition to any other liabilities of the *Contractor* pursuant to this *Contract* or otherwise at law or in equity, the *Contractor* shall be liable for all claims arising from any non-compliance with this GC 1.6 by the *Contractor, Subcontractors* and their respective personnel.”

7.0 **GC 1.7 RECORDS AND AUDIT**

- 7.1 Add GC 1.7 - RECORDS AND AUDIT as follows:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 5 of 78

“GC 1.7 - RECORDS AND AUDIT

1.7.1 The *Contractor* shall maintain complete and accurate books, payrolls, accounts, records and invoices in relation to the Contract and shall grant the Owner, full audit rights in respect of all said books, records, accounts and invoices relating to the performance of the Work. Such records shall include, but are not limited to:

- .1 a daily log or report containing details on weather conditions, the condition of the Place of the Work, work force of the Contractor, Subcontractor, Suppliers, third parties and any other forces on site at the Place of the Work, and also record general activities and performance for the day. Such log or report shall also include any extraordinary or emergency events which may occur;
- .2 records with details on manpower and material resourcing of the Work, including records which document the activities of the Contractor in connection with the construction schedule, and comparing that resourcing to the resourcing anticipated against the most recent version of the construction schedule; and
- .3 other information, reports, documents, records and the like pertaining to the physical condition of the Place of the Work, health and safety, fire safety, emergency preparedness, environmental matters, human resources or employee matters.

1.7.2 The *Owner* may inspect and audit such books, payrolls, accounts records and invoices of the *Contractor* from time to time, at any time as deemed necessary by the *Owner* prior to the date of Final Certificate for Payment and thereafter for a period of two (2) years to verify the *Contractor's* estimates, valuation of changes in the Work, the performance of the *Contractor*, and claims, and the *Contractor* shall supply certified copies of books, payrolls, accounts, invoices and other records to the *Owner* or access to same as required by the *Owner*. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to the Owner, through its employees, agents, representatives, or other designees, during normal business hours at the Contractor's office or place of business. The Contractor shall ensure an equivalent provision to this GC 1.7.2 are part of each Subcontractor's and Supplier's contract (and shall require the Subcontractors and Suppliers to incorporate same into every level of contract thereunder) for any part of the Work and the Contract, to provide the Owner with access to project records as contemplated herein.

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 6 of 78

1.7.3 If the *Contractor* fails to keep, or fails to cause to be kept, adequate records to document the estimate, valuation of a change in the *Work*, the *Contractor's* performance, or claim or fails to provide certified copies or access to such records when requested, the *Contractor* shall forfeit all right to payment for the change in the *Work* or claim which it may otherwise have had. Any amount already paid by the *Owner* in respect of such change in *Work* or claim shall become immediately repayable to the *Owner* on demand for same."

8.0 **GC 1.8 FURTHER ASSURANCES**

8.1 Add GC 1.8 - FURTHER ASSURANCES as follows:

"GC 1.8 - FURTHER ASSURANCES

1.8.1 Each party agrees that it shall at any time and from time to time, at its own expense, execute and deliver such further documents and do such further acts and things as the other party may reasonably request for the purpose of giving effect to the *Contract* or carrying out the intention of facilitating the performance of the *Contract*.

1.8.2 Without limiting the generality of GC 1.8.1 and notwithstanding any other provisions of the *Contract*, the *Contractor* acknowledges that it may, from time to time during the *Contract Time*, be requested to provide its agreement to indemnify, or to directly indemnify third parties for any liability, damages or claims which may arise in connection with the performance of the *Work* and as a result of the acts or omissions of the *Contractor* or those persons or entities for who it is responsible at law, and the *Contractor* shall reasonably cooperate with the *Owner* and shall execute and deliver such documents and agreements as may be required and requested by the *Owner*."

PART 2 ADMINISTRATION OF THE CONTRACT

9.0 **GC 2.1 AUTHORITY OF THE CONSULTANT**

9.1 Delete GC 2.1 in its entirety and replace with the following:

"GC 2.1 AUTHORITY OF THE CONSULTANT

2.1.1 The *Consultant* shall be appointed by the *Owner* and shall be the *Owner's* representative during construction and until the issuance by the *Consultant*

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 7 of 78

of a certificate attesting to the Total Performance of the Work, or at a date specified by the *Owner*. All instructions to the *Contractor* including instructions from the *Owner* will be issued by the *Consultant*. The *Consultant* will have the authority to act on behalf of the *Owner* only to the extent provided in the *Contract Documents*.

2.1.2 The *Consultant* shall inspect the *Work* for its conformity with the plans and Specifications, and record the necessary data to establish payment quantities under the schedule of Contract quantities and unit prices or to make an assessment of the value of the Work completed in the case of a lump sum price contract.

2.1.3 The *Consultant* will investigate all claims of a change in the *Work* made by the *Contractor* and issue appropriate instructions

2.1.4 In the case of non-compliance with the provisions of the *Contract* by the *Contractor*, the *Consultant*, after consultation with the *Owner*, will have the authority to suspend the *Work* for such reasonable time as may be necessary to remedy such non-compliance. The *Contractor* shall not be entitled to any compensation for suspension of the *Work* in these circumstances.

2.1.5 The duties, responsibilities and limitations of authority of the *Consultant* as set forth in the *Contract Documents* may be modified or extended by the *Owner* in writing.

2.1.6 If the *Consultant's* employment is terminated, the *Owner* shall appoint a replacement *Consultant* whose status under the *Contract Documents* shall be that of the former *Consultant*."

10.0 GC 2.2 ROLE OF THE CONSULTANT

10.1 GC 2.2.3

- (a) Delete the second sentence of GC 2.2.3.

10.2 GC 2.2.6

- (a) Add the word "schedules" after the word "techniques," in the second line.

10.3 GC 2.2.7

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 8 of 78

- (a) Delete GC 2.2.7 in its entirety and replace with the following:

“2.2.7 The *Consultant* will be, in the first instance, the interpreter of the requirements of the *Contract Document*.”

10.4 GC 2.2.14

- (a) Delete the word “submittals,” and replace with the words “Submittals which are provided” after the word “Contractor’s” in the first line.

10.5 GC 2.2.16

- (a) Delete GC 2.2.16 in its entirety and replace with the following:

“2.2.16 The Consultant will conduct reviews of the Work to determine the dates of *Substantial Performance of the Work* and *Total Performance of the Work*.”

11.0 **GC 2.3 REVIEW AND INSPECTION OF THE WORK**

11.1 GC 2.3.8

- (a) Add 2.3.8 as follows:

“2.3.8 The *Contractor* shall immediately inform the *Owner* and the *Consultant* of any notices, warnings or asserted violations issued by any regulatory or government agencies having jurisdiction relating to the *Work*.”

11.2 GC 2.3.9

- (a) Add GC 2.3.9 as follows:

“2.3.9 The *Owner* or the *Consultant* shall have the right to:

- .1 review and inspect the progress of the Work; and
- .2 review, approve or accept any Submittals.

The *Owner’s* or the *Consultant’s* review, inspection, approval and/or acceptance is for the sole benefit of *Owner* and shall not

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 9 of 78

constitute a transfer of liability from the *Contractor* to the *Owner* or the *Consultant*, nor shall it constitute a waiver by the *Owner* or the *Consultant* of the *Contractor's* liability. The *Contractor* remains liable and responsible for its actions, errors or omissions, and its obligations to carry out the *Work* in accordance with the *Contract Documents*, *Applicable Law* and the *Required Standard of Care* regardless of any such review, inspection, approval or acceptance by the *Owner*. ”

11.3 GC 2.3.10

- (a) Add GC 2.3.10 as follows:

“2.3.10 Where standards of performance are specified in the *Contract Documents* and the *Work* does not comply with the performance specified, such deficiency shall be corrected as directed by the *Consultant*. Any testing of work identified as defective in accordance with GC 2.4, including retesting required by the *Owner* to verify performance, shall be done at the *Contractor's* expense.”

12.0 GC 2.4 DEFECTIVE WORK

12.1 GC 2.4.1

- (a) Delete GC 2.4.1 in its entirety and replace with the following:

“2.4.1 The *Contractor* shall promptly correct defective work that has been rejected by the *Consultant* as failing to conform to the *Contract Documents* whether or not the defective work has been incorporated into the *Work* and whether or not the defect is the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the *Contractor* at no additional cost to the *Owner*. If the said defective work was in any way identified as a result of, or during the course of, an inspection by the *Owner*, the *Contractor* shall reimburse the *Owner* in full for any costs or expenses incurred by the *Owner* in respect of, or as a result of, the inspection.

- .1 The *Contractor* shall rectify, in a manner acceptable to the *Owner* and the *Consultant*, all defective *Work* and

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 10 of 78

deficiencies throughout the *Work*, whether or not they are specifically identified by the *Consultant*.

- .2 The *Contractor* shall prioritize the correction of any defective *Work* which, in the sole discretion of the *Owner*, adversely affects the day to day operations of the *Owner*.”

12.2 GC 2.4.3

- (a) Delete the words “the difference in value between the work as performed and that called for by” and replace with “the value of such work as is necessary to correct any non-compliance with” in the second and third lines of GC 2.4.3.

PART 3 EXECUTION OF THE WORK

13.0 GC 3.1 CONTROL OF THE WORK

13.1 GC 3.1.2

- (a) Add the word “schedules” after the word “techniques” in the first line.

13.2 GC 3.1.3

- (a) Add GC 3.1.3 as follows:

“3.1.3 Notwithstanding paragraphs 3.1.1 and 3.1.2, the *Contractor* agrees that it shall fully comply with all policies and procedures of the *Owner* which are relevant to any activity of the *Contractor* to be performed under the *Contract*. The *Contractor* further agrees that it will use reasonable efforts to inquire from the *Owner* if such policies or procedures exist which are relevant to any activity of the *Contractor* to be performed under the *Contract*. The *Owner* agrees that it will use reasonable efforts to communicate to the *Contractor* all policies or procedures it may have which are relevant to any such activity.”

13.3 GC 3.1.4

- (a) Add GC 3.1.4 as follows:

“3.1.4 Prior to commencing individual procurement, fabrication and construction activities, the *Contractor* shall verify, at the *Place of*

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 11 of 78

the Work, all relevant measurements and levels necessary for proper and complete fabrication, assembly and installation of the *Work* and shall further carefully compare such field measurements and conditions with the requirements of the *Contract Documents*. Where dimensions are not included or exact locations are not apparent, the *Contractor* shall immediately notify the *Consultant* in writing and obtain written instructions from the *Consultant* before proceeding with any part of the affected work.”

14.0 **GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS**

14.1 GC 3.2.2

- (a) Delete GC 3.2.2 in its entirety.

15.0 **GC 3.4 DOCUMENT REVIEW**

15.1 GC 3.4.1

- (a) Delete GC 3.4.1 in its entirety and replace with the following:

“3.4.1 The *Contractor* shall review the *Contract Documents* and shall report promptly to the *Consultant* any error, inconsistency or omission the *Contractor* may discover. Such review by the *Contractor* shall comply with the standard of care described in GC 3.15 STANDARD OF CARE. Except for its obligation to make such review and report the result, the *Contractor* does not assume any responsibility to the *Owner* or to the *Consultant* for the accuracy of the *Contract Documents*. The *Contractor* shall not be liable for damage or costs resulting from such errors, inconsistencies, or omissions in the *Contract Documents*, which the *Contractor* could not reasonably have discovered. If the *Contractor* does discover any error, inconsistency or omission in the *Contract Documents*, the *Contractor* shall not proceed with the *Work* affected until the *Contractor* has received corrected or missing information from the *Consultant*.”

15.2 GC 3.4.2

- (a) Add GC 3.4.2 as follows:

“3.4.2 If the *Contractor* finds discrepancies in or omissions from the *Contract Documents* or has any doubt as to the meaning or intent of any part thereof, the *Contractor* shall immediately notify the *Consultant*, who will provide written instructions or explanations. Neither the *Owner* nor the *Consultant* will be responsible for oral instructions.”

16.0 **GC 3.5 CONSTRUCTION SCHEDULE**

16.1 GC 3.5.1

(a) Delete GC 3.5.1 in its entirety and replace with the following:

“3.5.1 The *Contractor* shall submit to the *Owner* and *Consultant* within five (5) *Working Days* of the date that *the Agreement Between Owner and Contractor* has been fully executed by the *Owner*, and thereafter from time to time in accordance with GC 3.5.2, a construction schedule in computerized form in accordance with the following requirements, for acceptance by the *Owner* and *Consultant*, each in its sole discretion:

- .1 takes into account the sequence of construction and completion dates;
- .2 demonstrates and indicates the logic and timing of major activities of the Work with sufficient detail of critical events and their inter-relationship to demonstrate the Work will be performed in conformity with the *Contract Time*;
- .3 indicates proposed start dates and estimated duration for activities; and
- .4 with sufficient detail to identify the *Contractor* and each specific *Subcontractor* and their respective parts of the Work and specific location thereof.

If the *Owner* or the *Consultant* identifies deficiencies, problems, discrepancies or omissions in the construction schedule, the *Contractor* shall promptly revise the schedule to incorporate such comments and re-submit to the *Owner* and the *Consultant* as many times as required, all at the cost of the *Contractor*, until the construction schedule is acceptable to the *Owner* and the

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 13 of 78

Consultant. The *Contractor* is responsible for providing a complete and sufficient constructions schedule in accordance with the requirements set out herein and there shall be no claims for delays or costs as a result of the failure to provide an acceptable schedule.”

16.2 GC 3.5.2

(a) Add GC 3.5.2 as follows:

“3.5.2 The *Contractor* shall monitor the progress of the *Work* relative to the construction schedule and provide an updated schedule that is acceptable to the *Owner* in its sole discretion, subject to the requirements set out in GC 3.5.1, on a monthly basis or as requested by the *Owner*. The *Contractor* shall submit such updated and accepted schedule with every application for progress payment in accordance with GC 5.2.8.”

16.3 GC 3.5.3

(a) Add GC 3.5.3 as follows:

“3.5.3 The *Contractor* shall immediately advise the *Consultant* of any revisions required to the schedule as the result of extensions of the *Contract Time* as provided in Part 6 of the General Conditions – CHANGES IN THE WORK.”

16.4 GC 3.5.4

(a) Add GC 3.5.4 as follows:

“3.5.2 If the *Contract Price* is greater than \$500,000.00, the schedule shall be prepared using the critical path method and the *Contractor* shall submit with the schedule a Gantt Chart (a list of tasks and related information, including duration, with a bar type chart showing tasks and durations over time) and a PERT Chart (a network diagram showing all tasks and task dependencies).”

16.5 GC 3.5.5

(a) Add GC 3.5.5 as follows:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 14 of 78

“3.5.5 If, at any time, it should appear to the *Owner* or the *Consultant* that the actual progress of the *Work* is behind schedule or is likely to become behind schedule, or if the *Contractor* has given notice of such to the *Owner* or the *Consultant* pursuant to GC 3.5.2, the *Contractor* shall take appropriate steps to cause the actual progress of the *Work* to conform to the schedule or minimize the resulting delay and shall produce and present to the *Owner* and the *Consultant* a recovery plan demonstrating how the *Contractor* will achieve recovery of the schedule.”

17.0 GC 3.6 SUPERVISION

17.1 GC 3.6.1

- (a) Add the words “with the prior consent of the *Owner*” at the end of GC 3.6.1.

17.2 GC 3.6.3

- (a) Add GC 3.6.3 as follows:

“3.6.3 The *Contractor* shall provide the *Owner* and the *Consultant* with the name, address, and telephone number of the representative referred to in GC 3.6.1 and other responsible persons who may be contacted for emergency and other reasons during non-working hours throughout the course of the *Work*.”

17.3 GC 3.6.4

- (a) Add GC 3.6.4 as follows:

“3.6.4 The *Owner* may, at any time, object to any representative or employee of the *Contractor*, *Subcontractors* or *Suppliers* and require the *Contractor* to remove, dismiss or replace, or cause to be removed, dismissed or replaced, the said representative or employee.”

18.0 GC 3.7 SUBCONTRACTS AND SUPPLIERS

18.1 GC 3.7.1.4

- (a) Add GC 3.7.1.4 as follows:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 15 of 78

- “4 ensure that the *Contractor*, all *Subcontractors* and *Suppliers*, and anyone employed or engaged by them directly or indirectly, have the qualifications, technical skills, levels of experience and knowledge required, and all applicable permits, licences and approvals necessary, to discharge the work to be performed by them in accordance with the terms of the *Contract*.”

18.2 GC 3.7.3

- (a) Delete GC 3.7.3 in its entirety and replace with the following:

“3.7.3 The *Contractor* may subcontract any part of the *Work*, subject to these General Conditions and the terms set out in the *Contract Documents*.”

18.3 GC 3.7.4

- (a) Delete GC 3.7.4 in its entirety and replace with the following:

“3.7.4 The *Contractor* shall notify the *Consultant*, in writing, of its intention to subcontract. Such notification shall identify the part or parts of the *Work* and the *Subcontractor* with whom it is proposing to subcontract. The *Owner* may object to the use of any *Subcontractor*, in which case the *Contractor* shall nominate an alternative *Subcontractor* for review by the *Owner*.”

18.4 GC 3.7.5

- (a) Delete GC 3.7.5 in its entirety and replace with the following:

“3.7.5 The *Contractor* shall not, without the written consent of the *Owner*, and whose consent may be unreasonably withheld, change a *Subcontractor* who has been engaged in accordance with this General Condition.”

18.5 GC 3.7.7

- (a) Add GC 3.7.7 as follows:

“3.7.7 The *Contractor* shall preserve and protect the rights of the *Owner* with respect to that part of the *Work* to be performed under subcontract and shall enter into agreements with the intended *Subcontractors* to require them to perform their *Work* in accordance with the *Contract Documents* and shall be as fully

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 16 of 78

responsible to the *Owner* for acts and omissions of the *Contractor's Subcontractors* and of persons directly and indirectly employed by them as for acts and omissions of persons employed directly by the *Contractor*.”

18.6 GC 3.7.8

(a) Add GC 3.7.8 as follows:

“3.7.8 The *Owner's* consent to subcontracting by the *Contractor* shall not be construed as relieving the *Contractor* from any obligation under the *Contract* and shall not impose any liability on the *Owner*. Nothing contained in the *Contract Documents* shall create a contractual relationship between a *Subcontractor* and the *Owner*. The *Contractor* shall be solely responsible for scheduling, coordinating and reviewing the work of its *Subcontractors and Suppliers*. ”

18.7 GC 3.7.9

(a) Add GC 3.7.9 as follows:

“3.7.9 Subcontracting shall be conducted in a manner consistent with the principles of open, fair and transparent procurement, and the *Contractor* shall keep records demonstrating compliance with this requirement in accordance with GC 1.7 RECORDS AND AUDIT.”

18.8 GC 3.7.10

(a) Add GC 3.7.10 as follows:

“3.7.10 The *Contractor* shall not be entitled to compensation by the *Owner* or any extension to the *Contract Time* arising out of, or in any way relating to, any breach of contract or failure to perform work by any *Subcontractor* or *Supplier* for any reason, including but not limited to, the insolvency or bankruptcy of the *Subcontractor* or *Supplier*, even though the *Subcontractor* or *Supplier* may have been designated or pre-qualified by the *Owner* or the *Consultant*.”

19.0 GC 3.8 LABOUR AND PRODUCTS

19.1 GC 3.8.2

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 17 of 78

- (a) Add the following sentence to the end of GC 3.8.2:

“The *Contractor* shall not change the source of supply of any *Product* without the written authorization of the *Consultant*.”

19.2 GC 3.8.3

- (a) Add the words “and qualified” after the word “skilled” in the first line.

19.3 GC 3.8.4

- (a) Add GC 3.8.4 as follows:

“3.8.4 The *Owner* may at any time, for reasonable cause, require the *Contractor* to promptly remove from the *Place of the Work* any employee of the *Contractor* as well as any *Subcontractor* or employee of any *Subcontractor*.”

19.4 GC 3.8.5

- (a) Add GC 3.8.5 as follows:

“3.8.5 The *Contractor* is responsible for the safe on-site storage of *Products* and their protection (including *Products* supplied by the *Owner* and other contractors to be installed under the *Contract*) in such ways as to avoid dangerous conditions or contamination to the *Products* or other persons or property and in locations at the *Place of the Work* to the satisfaction of the *Owner* and the *Consultant*. The *Owner* shall provide all relevant information to the *Contractor* in relation to the *Products* to be supplied by the *Owner*.”

19.5 GC 3.8.6

- (a) Add GC 3.8.6 as follows:

“3.8.6 The *Contractor* shall ensure that all *Products* are of good quality, fit for their intended purpose and maintained in a safe, serviceable condition in accordance with this *Contract* and good industry practice.”

19.6 GC 3.8.7

- (a) Add GC 3.8.7 as follows:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 18 of 78

“3.8.7 Where more than one *Product* is specified for a use, the *Contractor* may select any of the *Products* so specified unless the *Specifications*, *Drawings* or *Contract Documents* indicate otherwise. The *Contractor* shall assume all responsibility for liabilities and additional costs that may arise as a result of the *Contractor’s* choice to use one of the named *Products*.”

19.7 GC 3.8.8

(a) Add GC 3.8.8 as follows:

“3.8.8 The *Contractor* may apply to the *Consultant* to substitute a *Product* for an equivalent *Product*. Such application shall be in writing and made at the earliest opportunity with sufficient time for the *Consultant* to assess the application. The application shall include the following: 1 reasons for the proposed substitution (eg. significant delay in delivery, strikes, unavailability, improved quality or field service, amount of contract cost reduction etc.); and 2 sufficient description and technical information, specifications, references and samples and any other information requested by the *Consultant*; in order for the *Consultant* to thoroughly assess the proposed substitution and compare the proposed substitute with that specified.”

19.8 GC 3.8.9

(a) Add GC 3.8.9 as follows:

“3.8.9 The *Consultant’s* assessment of proposed substitutions shall include, but not limited to, criteria such as quality, durability, performance, ease of operation, safety, technical support, service and parts, availability and estimated cost of warranty and adherence to *Specifications*. All applications and submissions related to the proposed substitution shall only be made by the *Contractor* and not by any *Subcontractors* or *Suppliers*.”

19.9 GC 3.8.10

(a) Add GC 3.8.10 as follows:

“3.8.10 The approval or rejection of a proposed substitution shall be at the discretion of the *Consultant*, whose decision shall be final. Regardless of the *Consultant’s* decision on a proposed substitution, the *Owner* reserves the right to assess and apply to the *Contractor*,

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 19 of 78

all costs related to the *Consultant's* and the *Owner's* review of the proposed substitution.”

19.10 GC 3.8.11

- (a) Add GC 3.8.11 as follows:

“3.8.11 The *Contractor's* prices shall be based on the *Products* specified. The Contract shall not be based on a presumed acceptance by the *Consultant* of a substitute *Product*.”

19.11 GC 3.8.12

- (a) Add GC 3.8.12 as follows:

“3.8.12 Acceptance by the *Consultant* of an equivalent *Product* shall apply to this *Contract* only and shall not set any precedent for other Contracts.”

19.12 GC 3.8.13

- (a) Add GC 3.8.13 as follows:

“3.8.13 The *Contractor* shall assume all responsibility for liabilities and additional costs that may subsequently arise as a result of his proposed substitution being accepted by the *Consultant*.”

19.13 GC 3.8.14

- (a) Add GC 3.8.14 as follows:

“3.8.14 Any changes necessitated by the use of the substituted *Products* shall be at the expense of the *Contractor*. The *Contractor* shall be responsible for assuring the proper fit and matching of all substituted *Products* to the surrounding materials.”

20.0 **GC 3.10 SHOP DRAWINGS AND OTHER SUBMITTALS**

20.1 GC 3.10

- (a) Add the words “AND OTHER SUBMITTALS” to the end of the heading for GC 3.10 – SHOP DRAWINGS.

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 20 of 78

- (b) Add the words “and Other Submittals” after the words “Shop Drawings” in GC’s 3.10.1, 3.10.2, 3.10.3, 3.10.4, 3.10.5, 3.10.7, 3.10.8, 3.10.8.2, 3.10.9, 3.10.10, 3.10.11 and 3.10.12.

- (c) Add the following to the end of GC 3.10.1:

“All *Shop Drawings* and *Other Submittals*, shall be submitted electronically on a FTP site supplied by the *Contractor*, and should be kept up-to-date during the *Contract*.”

21.0 **GC 3.11 USE OF THE WORK**

21.1 GC 3.11.1

- (a) Add the words “the Owner’s reasonable instructions,” after the word “permits,” in the second line.

21.2 GC 3.11.2

- (a) Add the words “, individuals and the areas adjacent to the work.” to the end of GC 3.11.2.

21.3 GC 3.11.3

- (a) Add GC 3.11.3 as follows:

“3.11.3 Subject to paragraph 9.4.6 of GC 9.4 - CONSTRUCTION SAFETY, The *Owner* shall have the right to enter and occupy the *Place of the Work* in whole or in part for the purpose of placing materials, fittings, and equipment, or for any other use at any time before completion of the *Contract* if, in the reasonable opinion of the *Consultant*, such entry and occupation does not prevent or interfere with the *Contractor* in achieving *Substantial Performance of the Work* within the *Contract Time* stipulated in the *Contract*.”

21.4 GC 3.11.4

- (a) Add GC 3.11.4 as follows:

“3.11.4 No entry or occupation by the *Owner* as referenced in paragraph 3.11.3 shall constitute or be considered as acceptance of the *Work* in whole or in part, or in any way relieve the *Contractor* of its responsibility to complete the *Contract*.”

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 21 of 78

22.0 GC 3.13 CLEANUP

22.1 GC 3.13.2

- (a) Add the words “all to the satisfaction of the *Consultant* and the *Owner*, acting reasonably.” to the end of GC 3.13.2.

22.2 GC 3.13.4

- (a) Add GC 3.13.4 as follows:

“3.13.4 The *Owner* shall have the right to back charge the cost of cleaning and removal if such cleaning and removal is not completed within twenty-four (24) hours of written notice to clean or remove. The *Owner* shall also have the right to back charge the cost of damage to the *Place of the Work* caused by the *Contractor’s*, *Subcontractor’s* or *Supplier’s* transportation in and out of the *Place of the Work* if not repaired within five (5) *Working Days* of written notice to repair or before final payment, whichever is earlier.”

23.0 GC 3.14 INTERFERENCE

23.1 GC 3.14

- (a) Add GC 3.14 INTERFERENCE as follows:

“GC 3.14 INTERFERENCE

3.14.1 If the *Work*, in whole or in part, involves the renovation of, or addition to, existing and occupied premises:

- .1 the *Contractor* shall maintain normal business operations and traffic flow, with a minimum of inconvenience to the tenants and occupants of the *Place of the Work*;
- .2 subject to the provisions of the *Contract Documents*, the *Contractor* shall ensure that no essential services such as electric power, water supply or other public utilities are interrupted;
- .3 in every case where an interruption to existing services or utilities is to occur during execution of the *Work*, the

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 22 of 78

Contractor shall give the *Owner* five (5) *Working Days* prior written notice. The *Contractor* shall reschedule any such interruption if requested to do so in writing by the *Owner*; and

- .4 any work by the *Contractor* that generates excessive noise shall be subject to the restrictions set out elsewhere in the *Contract Documents*.”

24.0 **GC 3.15 – PERFORMANCE BY CONTRACTOR AND STANDARD OF CARE**

- 24.1 Add GC 3.15 PERFORMANCE BY CONTRACTOR AND STANDARD OF CARE as follows:

“GC 3.15 PERFORMANCE BY CONTRACTOR AND STANDARD OF CARE

3.15.1 In performing its services and obligations under the *Contract*, the *Contractor* shall exercise a standard of care, skill and diligence that would normally be provided by an experienced and prudent contractor supplying similar services for similar projects (“Standard of Care”). The *Contractor* acknowledges and agrees that throughout the *Contract*, the *Contractor’s* obligations, duties and responsibilities shall be interpreted in accordance with this standard. The *Contractor* shall exercise the same standard of due care and diligence in respect of any *Products*, personnel, or procedures which it may recommend to the *Owner*.

3.15.2 The *Contractor* further represents covenants and warrants to the *Owner* that:

- .1 the personnel it assigns are appropriately experienced and qualified;
- .2 it has a sufficient staff of qualified and competent personnel to replace its designated supervisor and project manager, subject the *Owner’s* approval, in the event of death, incapacity, removal or resignation; and
- .3 there are no pending, threatened, or anticipated claims that would have a material effect on the financial ability of the *Contractor* to perform its work under the *Contract*.”

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 23 of 78

25.0 GC 3.16 – RISK OF LOSS AND TITLE

25.1 Add GC 3.16 RISK OF LOSS AND TITLE as follows:

“3.16 RISK OF LOSS AND TITLE

3.16.1 Title to portions of the *Work* completed or in the process of being completed and title to all *Product* and material produced and received by the *Contractor* shall pass to the *Owner* on the earlier of payment by the *Owner* or the delivery of any such portion of the *Work* and materials to the *Owner*; provided that the *Owner* is then in compliance with its payment obligations under the *Contract* and that the total value of such portion of the *Work*, *Products* and materials is not greater than the amount of money paid by the *Owner* at that time, to the *Contractor* under this *Contract*.

3.16.2 Risk of loss or damage to any part of the *Work* or *Products* shall remain with the *Contractor* until issuance of the *Consultant's* certificate of *Total Performance of the Work*.

3.16.3 The *Contractor* shall take reasonable and proper care of all property, title to which is vested in the *Owner*, while the same is in, on or about the plant and premises of the *Contractor* or otherwise in his possession or subject to his control and shall be responsible for any loss or damage resulting from his failure to do so other than loss or damage caused by ordinary wear and tear.”

PART 4 ALLOWANCES AND PROVISIONAL ITEMS

26.0 PART 4 ALLOWANCES AND PROVISION ITEMS

- (a) Add the words “AND PROVISIONAL ITEMS” to the end of the heading for PART 4 ALLOWANCES.

27.0 GC 4.1 CASH ALLOWANCE

27.1 GC 4.1.3

- (a) Delete GC 4.1.3 in its entirety and replace with following:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 24 of 78

“4.1.3 *Cash Allowances* shall be used and expended solely for purposes specified and at the sole discretion of *Owner*, and work under a *Cash Allowance* is not guaranteed. The *Contract Price* includes the *Contractor's* overhead and profit, including but not limited to administering the *Cash Allowance* or soliciting bids for such *Cash Allowances*, in connection with such *Cash Allowances*. Where costs under a *Cash Allowance* exceed the amount of the allowance allocated to such *Cash Allowance* item, unexpended amounts from other *Cash Allowances* may be reallocated at the *Owner's* direction in its sole discretion to cover the shortfall without additional overhead or profit charges being attributed to the *Contractor*. A markup for overhead and profit may only be charged to overruns on the total of all *Cash Allowances* in accordance with the percentages set out for such markup in GC 6.1.3. *Cash Allowance* items shall be administered and authorized as follows:

- .1 The *Owner*, via the *Consultant*, shall notify the *Contractor* a request to proceed with a *Cash Allowance* item.
- .2 Upon receipt of such request from the *Consultant*, the *Contractor* shall, in respect of the identified *Cash Allowance* item provide to the *Owner* a response setting out: the schedule for the *Work* and expected milestones and completion date; the personnel and *Subcontractors* which the *Contractor* proposes to perform the *Work* and the costs of such *Work*, with up to three (3) quotations for any or all of the *Work* if requested by the *Owner*; and any other information requested by the *Owner*. If one of the quotations is from the *Consultant*, then all quotations shall be caused by the *Consultant* to be submitted to the *Owner* directly from all vendors.”
- .3 Upon receipt and review of such response, the *Owner*, via the *Consultant*, shall approve such *Cash Allowance* item in writing. No amounts shall be payable in respect of any *Cash Allowance* items unless and until the *Owner* has approved such expenditure in writing.”

27.2 GC 4.1.4

- (a) Delete “the Contract Documents” from GC 4.1.4 and replace with “GC 6.1.3”.

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 25 of 78

28.0 GC 4.3 – Provisional Items

28.1 Add new GC 4.3 – PROVISIONAL ITEMS as follows:

“GC 4.3 – *Provisional Items*

4.3.1 The *Contract Price* includes the *Provisional Items*, if any, stated in the *Contract Documents*.

4.3.2 The *Provisional Items* shall be authorized individually in writing by the *Owner* through the *Consultant*. The Contractor shall not proceed with any *Provisional Item* without such prior written authorization.

4.3.3 The prices stated for any and all items identified as “*Provisional Items*” in Article A-4 *Contract Price* of Supplementary Agreement Between Owner and Contractor shall be for the completed *Work* “in place” and shall be inclusive of all costs related thereto including, but not necessarily limited to, all overhead, profit and applicable taxes, except Harmonized Sales Tax, unless otherwise specified by the *Owner*. In the event the *Owner* decides, in its sole discretion, not to proceed with any or all of the identified *Provisional Items*, the *Contract Price* shall be adjusted by the Extended Price for the applicable Item No.’s stated in Article A-4 *Contract Price* of Supplementary Agreement Between Owner and Contractor for such *Provisional Item(s)*.

4.3.4 In the event changes are made to the stated estimated quantities for a *Provisional Item*, the Extended Price for that *Provisional Item* as stated in Article A-4 *Contract Price* of the Supplementary Agreement Between Owner and Contractor shall be adjusted based on the actual quantity of work performed and the Unit Price for that *Provisional Item*.”

.1 *Provisional Items* are options to be exercised at the sole discretion of the *Owner*. In the event the *Owner* decides, in its sole discretion, to:

.1 not proceed with any or all of the identified *Provisional Items*; or

.2 proceed with any or all of the identified *Provisional Items* but increases or reduces the quantity of such *Provisional Items*;

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 26 of 78

the *Contract Price* shall be adjusted proportionally based on the Extended Price stated for such *Provisional Items* in Article A-4. The Extended Price shall form the basis of all adjustments without any additional compensation or markup. For greater certainty, the markups provided in GC 6.1.3 and GC 6.7.4 are not applicable to *Provisional Items*.”

PART 5 PAYMENT

29.0 **GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER**

29.1 GC 5.1.1

- (a) Delete GC 5.1.1 in its entirety.

29.2 GC 5.1.2

- (a) Delete GC 5.1.2 in its entirety.

30.0 **GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT**

30.1 GC 5.2.4

- (a) Delete the words “calendar days” and replace with “Working Days” in the first line.

30.2 GC 5.2.7

- (a) Add the following sentence to the end of GC 5.2.7:

“Any *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work* shall remain at the risk of the Contractor notwithstanding that title has passed to the Owner pursuant to GC 3.16 RISK OF LOSS AND TITLE.”

30.3 GC 5.2.8

- (a) Add GC 5.2.8 as follows:

“5.2.8 The *Contractor* shall submit, with each application for progress payment after the first, a *WSIB* clearance certificate, an updated schedule acceptable to the Owner in accordance with GC 3.5

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 27 of 78

CONSTRUCTION SCHEDULE, and a Statutory Declaration, on an original form of CCDC Document 9A-2001 Statutory Declaration of Progress Payment Distribution by Contractor, stating that payments in connection with the *Work*, as noted in the Statutory Declaration, have been made to the end of the period immediately preceding that covered by the current application and, if requested by the *Owner*, a Statutory Declaration from any *Subcontractor*, as may be identified by the *Owner*, on an original form of CCDC Document 9B-2001 Statutory Declaration of Progress Payment Distribution by Subcontractor. The Statutory Declarations shall be dated the same date as the *Contractor's* application for payment.”

30.4 GC 5.2.9

- (a) Add GC 5.2.9 as follows:

“5.2.9 The *Contractor* shall prepare and maintain current as-built drawings which shall consist of the *Drawings* and *Specifications* revised by the *Contractor* during the *Work*, showing changes to the *Drawings* and *Specifications*, including but not limited to architectural, structural, mechanical, electrical, cabling, *Shop Drawings*, single-line diagrams and any other graphical representations, and shall be maintained by the *Contractor* and made available to the *Consultant* for review with each application for progress payment.”

30.5 GC 5.2.10

- (a) Add GC 5.2.10 as follows:

“5.2.10 Payment for bonds and insurance will be paid one hundred percent (100%) on the first progress payment, provided that respective invoices are submitted as proof of payment.”

31.0 **GC 5.3 PROGRESS PAYMENT**

31.1 GC 5.3.1.2

- (a) Add the following sentence to the end of GC 5.3.1.2:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 28 of 78

“For clarity, the 10 calendar day period referenced herein shall not commence until such time as the *Consultant* has determined that he has received from the *Contractor* all required documents supporting the invoice and evidencing the *Work* being invoiced, including but not limited to the documents listed in GC 5.2.8 and GC 5.2.9, all to the *Consultant's* satisfaction.”

31.2 GC 5.3.1.3

(a) Delete GC 5.3.1.3 in its entirety and replace with following:

“3 the *Owner* shall make payment to the *Contractor* on account as provided in Article A-5 of the Agreement – Payment no later than twenty (20) calendar days after the date of issuance by the *Consultant* of a certificate for payment.”

31.3 GC 5.3.3

(a) Add GC 5.3.3 as follows:

“5.3.3 Certificates for payment may provide for retention of amounts as determined by the *Consultant* to ensure correction or replacement of deficient work done or unacceptable product provided.”

32.0 **GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK**

32.1 GC 5.4.3

(a) Delete GC 5.4.3 in its entirety and replace with the following:

“5.4.3 Immediately prior to the issuance of the certificate of *Substantial Performance* of the *Work*, the *Contractor*, in consultation with the *Consultant*, shall establish a schedule for completion of the *Work* and correcting deficiencies in the *Work*, and the construction schedule shall be deemed to be amended to include this completion schedule.”

32.2 GC 5.4.4

(a) Add GC 5.4.4 as follows:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 29 of 78

“5.4.4 Prior to submitting its written application for *Substantial Performance of the Work*, the *Contractor* shall submit to the *Consultant* all:

- .1 guarantees;
- .2 warranties, completed as per GC 12.3;
- .3 certificates;
- .4 testing and balancing reports;
- .5 distribution system diagrams;
- .6 spare parts;
- .7 maintenance/operation manuals;
- .8 training manuals;
- .9 samples;
- .10 reports and correspondence from authorities having jurisdiction in the Place of the Work;
- .11 Shop Drawings, and marked up Drawings;
- .12 completed as-built drawings in the latest edition of a Computer Assisted Design Drawing software program;
- .13 inspection certificates;
- .14 and other materials or documentation required to be submitted under the *Contract*, together with written proof acceptable to the *Owner* and the *Consultant* that the *Work* has been substantially performed in conformance with the requirements of municipal, governmental and utility authorities having jurisdiction in the *Place of the Work*.”

33.0 **GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK**

33.1 GC 5.5.1.2

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 30 of 78

- (a) Add the words “and, if requested by the Owner, as Statutory Declaration from any Subcontractor, as may be identified by the Owner, on an original form of CCDC Document 9B – 2001 Statutory Declaration of Progress Payment Distribution by Subcontractor.” to the end of GC 5.5.1.2.

33.2 GC 5.5.2

- (a) Delete the words “the statement” and replace with the words “the documents” in the first line of GC 5.5.2.

33.3 GC 5.5.3

- (a) Delete GC 5.5.3 in its entirety.

33.4 GC 5.5.4

- (a) Delete GC 5.5.4 in its entirety and replace with the following:

“5.5.4 The *Contract* shall be subject to the *Construction Lien Act (Ontario)* (the “*Act*”). In accordance with the *Act*, the *Owner* may retain any amounts which are: required by law to satisfy any liens against the *Work*, in respect of claims of third parties made to the *Owner* in respect of the *Contract* or the *Work*, and in respect of any claims the *Owner* may have against the *Contractor*.”

33.5 GC 5.5.5

- (a) Delete GC 5.5.5 in its entirety.

34.0 **GC 5.6 PROGRESSIVE RELEASE OF HOLDBACK**

34.1 GC 5.6.1

- (a) Delete 5.6.1 in its entirety and replace with following:

“5.6.1 Where the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work* and is certified as completed in accordance with the *Act* and evidence of such is submitted by the *Contractor*, along with a clearance certificate or letter from the *Workplace Safety and Insurance Board* relating to the subcontract, to the satisfaction of the *Consultant*, the *Owner* shall pay the *Contractor* the holdback amount retained for such subcontract work, or the *Products*

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 31 of 78

supplied by such *Supplier*, on the first calendar day following the expiration of the holdback period for such work stipulated in the *Act*. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* and any amounts in respect of claims of third parties made to the *Owner* in respect of the *Contract* or the *Work*.”

35.0 **GC 5.7 FINAL PAYMENT**

35.1 GC 5.7.1

(a) Delete GC 5.7.1 in its entirety and replace with the following:

“5.7.1 When the *Contractor* considers that the *Work* has been totally performed, the *Contractor* shall submit an application for final payment, together with a written application for review by the *Consultant* to establish *Total Performance of the Work*, and any other documents or materials not yet delivered pursuant to GC 5.4.4 and as listed in GC 5.7.5. The *Work* shall not be deemed to have been performed until all of the aforementioned documents and materials have been delivered, and the *Owner* may withhold payment in respect of the delivery of any documents or materials in an amount determined by the *Consultant* in accordance with the provisions of GC 5.8 WITHHOLDING OF PAYMENT and GC 12.1 INDEMNIFICATION. The *Consultant* shall advise the *Contractor* upon receipt of an application for final payment if additional documents or materials are required pursuant to this GC 5.7.1 and the *Contractor* shall respond promptly with such documents or materials.”

35.2 GC 5.7.2

(a) Delete GC 5.7.2 in its entirety and replace with following:

“5.7.2 The *Consultant* will, no later than 10 calendar days after the receipt of an application from the *Contractor* for final payment, review the *Work* to verify the validity of the application and:

- .1 advise the *Contractor* in writing that the *Work* is not totally performed and give reasons why, or

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 32 of 78

- .2 state the date of *Total Performance of the Work* in a certificate and issue a copy of that certificate to each of the *Owner* and the *Contractor*.”

The above time period for response shall not commence until all documents and materials required pursuant to GC 5.7.1 have been received by the *Consultant*.”

35.3 GC 5.7.3

- (a) Delete the words “finds the Contractor’s application for final payment valid” and substitute the words “issues the certificate of Total Performance of the Work” in the first line.

35.4 GC 5.7.4

- (a) Delete the number “5” and replace with “15” in the second line.

35.5 GC 5.7.5

- (a) Add GC 5.7.5 as follows:

“5.7.5 The *Contractor* shall submit to the *Consultant*, with the application for final payment, the following documentation:

- .1 all closeout documentation required by the *Contract Documents*, including but not limited to, warranties, manuals, guarantees, as-built drawings and all other relevant literature from *Suppliers* and manufacturers including, but not limited to:
 - .1 equipment, maintenance and operations manuals;
 - .2 equipment specifications, data sheets and brochures, parts lists and assembly drawings, performance curves and other related data;
 - .3 line drawings, value charts and control sequences with description of the sequence of operations;
 - .4 warranty documents;
 - .5 service and maintenance reports as applicable;
 - .6 specifications;

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 33 of 78

- .7 shop drawings;
 - .8 testing results;
 - .8 commissioning and quality assurance documentation, and
 - .9 HVAC balance reports.
- .2 a Statutory Declaration, on an original form of CCDC Document 9A – 2001, stating that payments in connection with the *Work*, as noted in the statutory declaration, have been made to the end of the period immediately preceding that covered by the application for final payment and, if requested by the *Owner*, as Statutory Declaration from any *Subcontractor*, as may be identified by the *Owner*, on an original form of CCDC Document 9B – 2001 Statutory Declaration of Progress Payment Distribution by Subcontractor.”

36.0 **GC 5.8 WITHHOLDING OF PAYMENT**

36.1 GC 5.8

- (a) Add “Subject to GC 12.1 INDEMNIFICATION,” at the beginning of GC 5.8.1.

37.0 **GC 5.10 CLAIMS FOR LIEN**

37.1 GC 5.10

- (a) Add GC 5.10 Claims for Lien as follows:

“GC 5.10 CLAIMS FOR LIEN

- 5.10.1 The *Contractor* shall cause any and all construction liens and certificates of action relating to the *Work* registered or preserved by any *Subcontractor*, *Supplier*, *Contractor’s* employees, or any other party to whom the *Contractor* is or may be responsible at law, to be discharged or vacated, or cause to be discharged or vacated, immediately but in any case no later than five (5) *Working Days* of the date of registration or reservation, all at the *Contractor’s* sole expense. The *Contractor* shall not be entitled to

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 34 of 78

receive any payment from the *Owner* until all such claims for lien and certificates of action have been vacated or discharged.

5.10.2 The *Contractor* shall cause any and all written notices of lien relating to the *Work* given to any person, including, but not limited to, the *Owner* by any *Subcontractor*, sub-subcontractor, *Supplier*, *Contractor's* employees, or any party to whom the *Contractor* is or may be responsible at law, to be withdrawn, and the *Contractor* shall do so immediately but in any case no later than five (5) *Working Days* of the written notice of lien having been given, all at the *Contractor's* sole expense.

5.10.3 If the *Contractor* fails to discharge or vacate any such lien or certificate of action, or to have any such written notice of lien withdrawn, within five (5) days, then the *Owner* shall have the right but not the obligation, do so and set off and deduct from any amount owing to the *Contractor*, all costs and expenses of so doing, and of defending any related action, including without limitation, the costs of borrowing the appropriate cash, letter of credit or bond as security, and legal fees and disbursements on a full indemnity basis. If there is no amount owing by the *Owner* to the *Contractor*, then the *Contractor* shall reimburse the *Owner* for all of the said costs and expenses of so doing.”

38.0 **GC 6.1 OWNER'S RIGHT TO MAKE CHANGES**

38.1 GC 6.1.3

(a) Add GC 6.1.3 as follows:

“6.1.3 For the purpose of valuing *Cash Allowances* pursuant to GC 4.1.4, *Contingency Allowances* or *Optional Items* pursuant to GC 4.2.2, changes which result in an increase in the *Contract Price*, and any other items under the *Contract Documents* which provide for payment to the *Contractor* of overhead and profit, allowances for overhead and profit shall be included as follows:

- .1 *Contractor's* combined mark-up for overhead and profit shall be fifteen percent (15%) on work and services completed by its own forces, and five percent (5%) on work and services completed by its *Subcontractors*.

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 35 of 78

- .2 *Subcontractors'* combined mark-up for overhead and profit shall be fifteen percent (15%) on work and services completed by their own forces, and five percent (5%) on work and services completed by their subcontractors."

38.2 GC 6.1.4

- (a) Add GC 6.1.4 as follows:

"6.1.4 The mark-ups provided for in GC 6.1.3 shall constitute the only compensation *the Contractor* shall be entitled to for any and all overhead and profit related to the change, *Cash Allowance* or *Contingency Allowance*."

38.3 GC 6.1.5

- (a) Add GC 6.1.5 as follows:

"6.1.5 The *Contractor's* and *Subcontractor's* overhead as set out in GC 6.1.3 shall be deemed to include direct and indirect costs arising from: preparation of change order, change directive, supplemental instruction; obtaining quotations and preparation and submission of any documentation or materials; computer services; cleaning and cleaning services; any increase in the cost of obtaining or maintaining all bonds and insurance policies; any increase in performance, labour and materials payment bonds values and durations; any increase in insurance and workplace safety insurance values and durations; any increase in warranty or guaranty values or durations; estimating, costing, accounting, payroll administration; office administration, processing correspondence, timekeeping, material consumed in the construction contract administration and management process; reproduction, office, shop drawing review and preparation; permits and statutory fees; plant and equipment including operators and equipment rentals; vehicles; place of work office and head office overheads; place of work site contractor and subcontractor superintendence, supervisors and assistants; material re-handling; safety equipment, safety wear and first aid; security; technical staff; telephone, mobile phone, and facsimile services and charges; temporary heat, light and power; temporary protection; temporary place of work offices, trailers and storage compounds; timekeeping and the like."

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 36 of 78

39.0 GC 6.2 – Change Order

39.1 GC 6.2.1 is amended as follows:

- (a) Delete the words “promptly present,” and substitute the words “, within five (5) Working Days of receiving the written description, present” in the second line of paragraph 6.2.1.

39.2 GC 6.2.2:

- (a) Renumber existing paragraph “6.2.2” to paragraph number “6.2.3”.

- (b) Add new paragraph 6.2.2 as follows:

“6.2.2 The method of adjustment of the *Contract Price* presented by the *Contractor* may be:

- .1 by estimate and acceptance in a lump sum or *Unit Price* quotation,
- .2 by *Unit Prices* set out in the *Contract* or subsequently agreed upon, or
- .3 by the actual cost of the change in the *Work*, plus an agreed fixed or percentage fee.”

39.3 GC 6.2.4

- (a) Add GC 6.2.4 as follows:

“6.2.4 When the *Contractor* submits an invoice from a *Subcontractor* or *Supplier* as part of its detailed breakdown of the cost of a change, as may be required by GC 6.2 CHANGE ORDER or GC 6.3 CHANGE DIRECTIVE, the *Contractor* is deemed to represent and warrant to the *Owner* that the amount shown on the invoice is the amount that the *Contractor* is liable to pay for the services and materials described in the invoice, net of all discounts, unless the *Contractor* indicates otherwise when submitting its detailed breakdown. When the *Contractor* submits an estimate or quotation from a *Subcontractor* or *Supplier* as part of its detailed breakdown of the estimated cost of a change, the *Contractor* is deemed to represent and warrant to the *Owner* that, subject to any qualifications on the face of the estimate or quotation and any qualifications made by the *Contractor* within the detailed

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 37 of 78

breakdown, that the amount set out in the estimate or quotation is the amount the *Contractor* has agreed to pay should the *Contractor* be authorized to proceed with the change, net of all discounts. Notwithstanding the foregoing, the *Contractor* shall be entitled to take a commercially reasonable early payment discount (if offered) when the *Contractor* pays its *Subcontractor* or *Supplier* prior to receiving payment from the *Owner*.”

39.4 GC 6.2.5

- (a) Add GC 6.2.5 as follows:

“6.2.5 In the event any of the change in the *Work*, contains items or parts that, in the opinion of the *Consultant*, are the same or equivalent to items for which the *Contractor* submitted prices under *Options*, in the Submission, then such prices shall be used to calculate the amount paid by the *Owner* for that work or parts of the *Work* in respect of any such change in the *Work*.”

39.5 GC 6.2.6

- (a) Add GC 6.2.6 as follows:

“6.2.6 No compensation for any change in the *Work* shall be allowed unless such change is first ordered in writing by the *Consultant* and authorized by the *Owner*.”

40.0 **GC 6.3 CHANGE DIRECTIVE**

40.1 GC 6.3.7

- (a) Delete GC 6.3.7.1 in its entirety and replace with following:

- “.1 salaries, wages and benefits paid to personnel in the direct employ of the *Contractor*, applying the labour rates set out in the wage schedule in the *Contract Documents* or as otherwise agreed between the *Owner* and *Contractor* for personnel,
- .2 carrying out the *Work* on-site at the *Place of the Work*, including necessary supervisory services;
- .3 engaged in expediting the production or transportation of material or equipment, at shops or on the road;

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 38 of 78

.4 engaged in the preparation of *Shop Drawings*, fabrication drawings, coordination drawings and *Contract* as-built drawings, or,

.5 carrying out clerical work to process changes in the *Work*."

40.2 GC 6.3.8

(a) Add the words "except for GC 6.3.14" after the word "Contract" in the first line.

40.3 GC 6.3.14

(a) Add GC 6.3.14 as follows:

"6.3.14 For greater certainty, any adjustment of the *Contract Price* for the *Work* attributable to the *Change Directive* shall not include, and no payment shall be made for:

.1 head office salaries and benefits and all other overhead or general expenses, except only for the salaries, wages and benefits of personnel described in paragraph 6.3.7.1 and the contributions, assessments or taxes referred to in paragraphs 6.3.7.2;

.2 capital expenses and interest on capital;

.3 general clean-up, except where the performance of the *Work* in the *Change Directive* causes specific additional clean-up requirements;

.4 wages paid for project managers, superintendents, assistants, watch persons and administrative personnel, provided the *Change Directive* does not result in an extension of *Contract Time*;

.5 wages, salaries, rentals, or other expenses that exceed the rates that are standard in the locality of the *Place of the Work* that are otherwise deemed unreasonable by the *Consultant*;

.6 any costs or expenses attributable to the negligence, improper *Work*, deficiencies, or breaches of *Contract* by the *Contractor* or *Subcontractor*; and

.7 any cost of quality assurance, such as inspection and testing services, charges levied by authorities, and any legal fees unless any such costs or fees are pre-approved in writing by the *Owner*."

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 39 of 78

41.0 GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

41.1 GC 6.4.5

(a) Add GC 6.4.5 as follows:

“6.4.5 The *Contractor* confirms that, prior to bidding, it carefully investigated the character of the *Work*, the *Place of the Work*, and all local conditions which might affect its obligations and that it has satisfied itself as to the nature and extent of the *Work*, the *Contract Documents* and the *Contract* and as to the facilities and difficulties in attending and completing the execution of the *Work*. The *Owner* shall, upon written request, co-operate with, and provide reasonable assistance to, the *Contractor* during such investigations. The *Contractor* confirms that it has applied to its investigations as aforesaid the degree of care and skill described in paragraph 3.15.1. The *Contractor* is not entitled to compensation or to an extension of the *Contract Time* for conditions which could reasonably have been ascertained by the *Contractor* by such careful investigation undertaken prior to the submission of its bid.”

41.2 GC 6.4.6

(a) Add GC 6.4.6 as follows:

“6.4.6 To the extent the *Contractor* has not investigated as referenced in paragraph 6.4.5, the *Contractor* willingly assumes responsibility for all losses, damages, costs, expenses (including all legal costs on a full indemnity basis), liabilities, claims, actions, and demands, whether arising under statute, contract or at common law, which such investigations might have avoided or reduced and shall indemnify and save harmless the *Owner* from all risk which might make it more onerous and more expensive to fulfill or perform the *Work* than was contemplated or known when the *Contract* was signed, and for any and all liability, responsibility and obligations which the *Owner* may have to any third parties resulting from any failure to investigate.”

41.3 GC 6.4.7

(a) Add GC 6.4.7 as follows:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 40 of 78

“6.4.7 If the finding made pursuant to paragraph 6.4.2 is that the subsurface or otherwise concealed physical conditions differ materially and this would cause an increase or decrease in the *Contractor's* cost or time to perform the *Work*, and if the said conditions were otherwise discoverable by the *Contractor* in the proper performance of its duties and obligations under the *Contract*, all costs and expenses resulting from any delay (excluding, for clarity, the direct cost of remediating the said conditions) in the completion of the *Work* that is caused, or contributed to, as a result of the said conditions, will be borne by the *Contractor*.”

42.0 **GC 6.5 DELAYS**

42.1 GC 6.5.1 and GC 6.5.2

- (a) Add after the phrase “as the result of such delay” at the end of GC 6.5.1 and GC 6.5.2, respectively, the following:

“, as determined by the *Consultant*, subject to GC 6.5.9 and the following:

- .1 the *Contractor* shall not be reimbursed for any consequential, incidental, indirect or special damages including, without limitation, loss of profits, loss of opportunity or loss of productivity resulting from such delay; and
- .2 the *Contractor* shall not be reimbursed for any costs which, regardless of the delay, would be expected to have been incurred in the regular course of business, including but not limited to the costs of the *Contractor's* head office personnel during or in relation to such delay.

42.2 GC 6.5.6

- (a) Add GC 6.5.6 as follows:

“6.5.6 If the *Contractor* is delayed in the performance of the *Work* by an act or omission of the *Contractor*, any *Subcontractor*, or anyone employed or engaged by them, directly or indirectly, or by any cause within the *Contractor's* control, the *Contractor* shall devote such additional resources and take all steps necessary (all at the

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 41 of 78

Contractor's own cost and expense), to ensure that the date for attaining Substantial Performance of the Work and Total Performance of the Work under the Contract, as may have been amended in accordance with the provisions of Part 6 of the General Conditions – Changes in the Work, is met. The Owner shall be reimbursed by the Contractor for all reasonable costs incurred by the Owner as a result of such delay, as determined by the Consultant.”

42.3 GC 6.5.7

(a) Add GC 6.5.7 as follows:

“6.5.7 The Contractor shall be responsible for the care, maintenance and protection of the Work in the event of any suspension of construction as a result of the delay described in paragraphs 6.5.1, 6.5.2 or 6.5.3. In the event of such suspension, the Contractor shall be reimbursed by the Owner for the reasonable costs incurred by the Contractor for such care, maintenance and protection. The Contractor's entitlement to costs pursuant to this paragraph 6.5.7, if any, shall be in addition to amounts, if any, to which the Contractor is entitled pursuant to paragraphs 6.5.1, 6.5.2 or 6.5.3.”

42.4 GC 6.5.8

(a) Add GC 6.5.8 as follows:

“6.5.8 Without limiting the obligations of the Contractor described in GC 3.2 – CONSTRUCTION BY OWNER OR OTHER CONTRACTORS and GC 9.4 – CONSTRUCTION SAFETY, the Owner may, by Notice in Writing, direct the Contractor to stop the Work or stop parts of the Work where the Owner determines that there is an imminent risk to the safety of persons or property at the Place of the Work. In the event that the Contractor receives such notice, it shall immediately stop the Work, secure the Place of the Work, rectify the safety issue to the satisfaction of the Owner, and make up any lost time due to the safety issue, all at the Contractor's cost. The Contractor shall not be entitled to an extension of the Contract Time or to an increase in the Contract Price.”

42.5 GC 6.5.9

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 42 of 78

(a) Add GC 6.5.9 as follows:

“6.5.9 Regardless of the reason or cause of delay, the *Contractor* shall:

- .1 have a duty to mitigate the expenses or costs which may be incurred as a result of any delay, which mitigation measures shall include, but not be limited to, reducing the number of the *Contractor's* and *Subcontractor's* personnel at the *Place of the Work*, reducing the amount of supplies or the use of *Equipment*, and there shall be no reimbursement for any costs or expenses that could reasonably have been mitigated; and
- .2 keep such records and documentation as may be necessary to support any claim for reimbursement for expenses or costs which may be incurred as a result of any delay, including any records or documentation which demonstrates compliance with GC 6.5.9.1, and there shall be no reimbursement for any costs that are not sufficiently supported by such necessary records and documentation, as determined by the *Consultant*.”

42.6 GC 6.5.10

(a) Add GC 6.5.10 as follows:

“6.5.10 Any finding or recommendation of the *Consultant* under GC 6.5 not accepted by either party shall be settled in accordance with PART 8 DISPUTE RESOLUTION.”

PART 7 DEFAULT NOTICE

43.0 **GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK, SUSPEND THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT**

43.1 GC 7.1

(a) Add the words “suspend the work” after the words “perform the work” in the first line of the heading for GC 7.1.

43.2 GC 7.1.5.5

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 43 of 78

- (a) Add GC 7.1.5.5 as follows:

".5 charge the *Contractor* for any damages the *Owner* may have sustained as a result of the default."

43.3 GC 7.1.7

- (a) Add GC 7.1.7 as follows:

"7.1.7 The *Owner* may, if conditions arise which make it necessary for reasons other than as provided in paragraphs 7.1.1 and 7.1.4, suspend performance of the *Work*, terminate the *Contractor's* right to continue with the *Work* or terminate the *Contract*, in whole or in part, by giving *Notice in Writing* to that effect to the *Contractor*. Such suspension or termination shall be effective in the manner specified in said notice and shall be without prejudice to any claims which either party may have against the other. The *Owner's* entitlement to so terminate or suspend shall be absolute and unconditional and exercisable by the *Owner* in its sole discretion."

43.4 GC 7.1.8

- (a) Add GC 7.1.8 as follows:

"7.1.8 The *Contractor* upon receiving notice of suspension or termination from the *Owner* shall suspend all operations as soon as reasonably possible except for work which, in the *Contractor's* opinion, is necessary for the safety of personnel and for the care and preservation of the *Work*, the materials and plant. Subject to any directions in the notice of suspension or termination, the *Contractor* shall discontinue ordering materials, facilities, and supplies and make every reasonable effort to delay delivery of existing orders and, in the event of termination, to cancel existing orders on the best terms available."

43.5 GC 7.1.9

- (a) Add GC 7.1.9 as follows:

"7.1.9 During any period of suspension, the *Contractor* shall not remove from the site any part of the *Work*, or any *Product* or materials without the consent of the *Owner*."

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 44 of 78

43.6 GC 7.1.10

- (a) Add GC 7.1.10 as follows:

“7.1.10 If the *Work* should be suspended for a period of sixty (60) consecutive calendar days or less, the *Contractor*, upon the expiration of the period of suspension, shall resume the performance of the *Work* in accordance with the *Contract Documents*. If the suspension was not due to an act or omission of the *Contractor*, the *Contract Price* and *Contract Time* shall be adjusted as provided in paragraph 6.5.1 of GC 6.5 - Delays.”

43.7 GC 7.1.11

- (a) Add GC 7.1.11 as follows:

“7.1.11 If after sixty (60) consecutive calendar days from the date of notice of suspension of the *Work*, the *Owner* and the *Contractor* agree to continue with and complete the *Work*, the *Contractor* shall resume operations and complete the *Work* in accordance with any terms and conditions agreed upon by the *Owner* and the *Contractor*. Failing such an agreement, the provisions of paragraph 7.2.2 shall become applicable.”

43.8 GC 7.1.12

- (a) Add GC 7.1.12 as follows:

“7.1.12 If the *Owner* terminates the *Contract* pursuant to paragraph 7.1.7, the *Contractor* shall only be entitled to receive payment for all work performed up to the date of termination as certified by the *Consultant* and the direct costs associated with the termination incurred by the *Contractor*, including the costs of the demobilization, losses sustained on *Products* and *Construction Equipment* and *Subcontractor* and sub-subcontractor cancellation costs (which costs shall not include loss of profit claims) reasonably incurred by the *Contractor*. The *Contractor* shall not be entitled to any additional reimbursement on account of the termination including, without limitation, indirect, incidental, special, consequential or other damages, including loss of profits, notwithstanding any other provision of the *Contract Documents*.”

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 45 of 78

44.0 **GC 7.2 CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT**

44.1 GC 7.2.1

- (a) Delete GC 7.2.1 in its entirety.

44.2 GC 7.2.2

- (a) Delete the words "20 Working Days" and substitute the words "sixty (60) consecutive calendar days" in the first line of paragraph 7.2.2.

44.3 GC 7.2.3.1

- (a) Delete GC 7.2.3.1 in its entirety.

44.4 GC 7.2.3.3

- (a) Add the words ", except where the Owner has a claim against the Contractor for set-off," after the word Consultant" in GC 7.2.3.3.

44.5 GC 7.2.3.4

- (a) Delete the words ", except for GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER," from the first and second lines of GC 7.2.3.4.

44.6 GC 7.2.4

- (a) Add the following to the end of GC 7.2.4:

"If the default cannot be corrected within the 5 *Working Days* specified herein, the *Owner* shall be deemed to have cured the default if it

.1 commences the correction of the default within the specified time;
and

.2 provides the *Contractor* with an acceptable schedule for such correction; and

.3 completes the correction in accordance with such schedule."

44.7 GC 7.2.5

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 46 of 78

- (a) Delete GC 7.2.5 in its entirety and replace with following:

“7.2.5 If the *Contractor* terminates the *Contract* under the conditions set out above, the *Contractor* shall be entitled to be paid for all work performed to the date of termination. The *Contractor* shall also be entitled to recover the direct costs associated with termination, including the costs of demobilization, and losses sustained on *Products* and *Construction Equipment*. The *Contractor* shall not be entitled to any additional reimbursement on account of any such termination including, without limitation, indirect, incidental, special, consequential or other damages, including loss of profits, notwithstanding any other provision of the *Contract Documents*.”

44.8 GC 7.2.6

- (a) Add GC 7.2.6 as follows:

“7.2.6 The *Owner's* withholding of a progress payment, holdback payment or final payment due to the *Contractor's* failure to pay a *Subcontractor* or *Supplier*, to protect the *Owner's* interest in the event of the registration of a lien or receipt of notice of lien, or otherwise pursuant to the terms of the *Contract*, shall not constitute a default under paragraph 7.2.3 which would permit the *Contractor* to stop the *Work* or terminate the *Contract*. In such circumstances, the *Contractor* shall continue with the *Work*.”

44.9 GC 7.2.7

- (a) Add GC 7.2.7 as follows:

“7.2.7 If the *Contractor* stops the *Work* or terminates the *Contract* in accordance with this GC 7.2 – Contractor's Right To Suspend The Work Or Terminate The Contract, the *Contractor* shall leave the *Place of the Work* and the *Work* in a secure condition.”

PART 8 – DISPUTE RESOLUTION

45.0 GC 8.1 AUTHORITY OF THE CONSULTANT

45.1 GC 8.1.3

- (a) Delete GC 8.1.3 in its entirety and replace with following:

“8.1.3 Unless the *Contract* has been terminated or completed, the *Contractor* shall in every case, regardless of claim or dispute, continue to proceed with the *Work* with due diligence in accordance with the *Consultant*’s instructions. It is understood by the parties that such actions will not jeopardize any claim that the parties may have.”

46.0 **GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION**

46.1 GC 8.2.6

(a) Delete GC 8.2.6 in its entirety and replace with following:

“8.2.6 When a dispute has not been resolved through negotiation or mediation, within 10 *Working Days* after the date of termination of the mediated negotiations under GC 8.2.5, either party may give a *Notice in Writing* to the other Party and to the *Consultant* inviting the other Party to agree to submit the dispute to be resolved by arbitration pursuant to the Arbitration Act, 1991. If the other party wishes to accept the invitation to submit the dispute to arbitration, it shall so indicate by the delivery of a responding *Notice in Writing* within 10 *Working Days* of receipt of the invitation. If, within the required times, no invitation is made, or, if made, is not accepted, either Party may refer the dispute to the courts or any other form of dispute resolution, which they have agreed to use.”

46.2 GC 8.2.7

(a) Delete GC 8.2.7 in its entirety.

46.3 GC 8.2.8

(a) Delete GC 8.2.8 in its entirety.

PART 9 – PROTECTION OF PERSONS AND PROPERTY

47.0 **GC 9.1 PROTECTION OF WORK AND PROPERTY**

47.1 GC 9.1.1

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 48 of 78

- (a) Delete GC 9.1.1 in its entirety and replace with following:

“9.1.1 The *Contractor* shall be responsible for security at the *Place of the Work* and will take such other security measures as may be necessary in respect of the *Work* and the *Place of the Work*, as determined by the *Owner* in its sole discretion, and shall protect the *Work*, the *Place of the Work*, the *Railway Property*, and the *Owner’s* property and property adjacent to the *Place of the Work* and the *Railway Property* from damage which may arise as the result of the *Contractor’s* operations under the *Contract*, and shall be responsible for such damage, except damage which occurs as the result of:

- .1 errors in the *Contract Documents* which the *Contractor* could not have discovered applying the Standard of Care;
- .2 acts or omissions by the *Owner*, the *Consultant*, other contractors, and their agents and employees.”

47.2 GC 9.1.2

- (a) Delete GC 9.1.2 in its entirety and replace with the following:

“9.1.2 Before commencing any *Work*, the *Contractor* shall determine the locations of all underground utilities and structures indicated in or inferable from the *Contract Documents*, or that are inferable from an inspection of the *Place of the Work*.”

47.3 GC 9.1.3

- (a) Add the words “Railway property,” after the word “Work,” in the first line.

47.4 GC 9.1.4

- (a) Add the words, “Railway’s property,” after the word “Work” in the first line and add the words “and Railway’s property” after the word “property” in the second line.

48.0 **GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES**

48.1 GC 9.2.1, 9.2.2, 9.2.3, 9.2.4, 9.2.5, 9.2.6, 9.2.7 and 9.2.8

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 49 of 78

- (a) Delete the words “toxic and hazardous substances” from GC 9.2.1, 9.2.2, 9.2.3, 9.2.4, 9.2.5, 9.2.6, 9.2.7 and 9.2.8 and substitute the words “Toxic and Hazardous Substances” in their place.

48.2 GC 9.2.5.5

- (a) Add GC 9.2.5.5 as follows:

“9.2.5.5 take all reasonable steps to mitigate the impact on *Contract Time* and *Contract Price*.”

48.3 GC 9.2.7.4

- (a) Delete GC 9.2.7.4 in its entirety.

48.4 GC 9.2.8.2

- (a) Add the words “Railway’s property,” after the words “damage to the Work,” in the first line.

GC 9.4 CONSTRUCTION SAFETY

48.5 GC 9.4.1

- (a) Delete 9.4.1 in its entirety and replace with the following:

“9.4.1 The *Contractor* shall be solely responsible for construction safety at the *Place of the Work* and for compliance with the rules, regulations and practices required by the applicable construction health and safety legislation and shall be responsible for initiating, maintaining and supervising all safety precautions and programs, in connection with the performance of the *Work*.”

48.6 GC 9.4.2

- (a) Add GC 9.4.2 as follows:

“9.4.2 The *Owner* shall be the “Constructor” for the *Work* as defined in and in accordance with OHSA. As Constructor, the *Owner* shall file the “Notice of Project” with the Ontario Ministry of Labour. The *Contractor* further covenants and agrees to promptly provide such information and do such things as may be required to enable the *Owner* to fulfill its obligations pursuant to OHSA. Without limiting the generality of the foregoing, the *Contractor* shall:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 50 of 78

- .1 immediately provide written notice to the *Owner* of any accident at the *Place of the Work* causing personal or possible personal injury to any individual, and to immediately provide such details to the *Owner*, including the identity of the personnel, the nature of such injuries which were suffered or may have been suffered and any other information as the *Owner* may require or request; and.
- .2 participate in or provide to its personnel such health and safety training as the *Owner* may reasonably require, prior to the *Commencement of the Work* and from time to time.”

48.7 GC 9.4.3

- (a) Add GC 9.4.3 as follows:

“9.4.3 The *Contractor* represents and warrants that it is familiar with the obligations imposed on an “employer” as defined in the *Occupational Health and Safety Act (Ontario)*, and that it has in place a health and safety program to ensure the health and safety of all workers for which it has responsibility under the said *Act*.”

48.8 GC 9.4.4

- (a) Add GC 9.4.4 as follows:

“9.4.4 The *Contractor* shall comply in all respects with the requirements of the *Occupational Health and Safety Act (Ontario)* and its own health and safety program to take all steps reasonable in the circumstances to ensure the health and safety of all workers for which it has responsibility under the said *Act*. The *Contractor* shall maintain and strictly enforce its health and safety program. The *Contractor* shall also provide such information within such timeframes as may be required in order to allow the *Owner* to fulfill its obligations pursuant to the *Occupational Health and Safety Act (Ontario)*, including, without limitation, the obligation to notify the Director under such *Act* in the event of an accident causing personal injury.”

48.9 GC 9.4.5

- (a) Add GC 9.4.5 as follows:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 51 of 78

“9.4.5 The *Contractor* shall comply with all requirements of the Workplace Hazardous Materials System (WHMIS) regarding the use, handling and storage of controlled products.”

48.10 GC 9.4.6

(a) Add GC 9.4.6 as follows:

“9.4.6 Prior to commencing the *Work* the *Contractor* shall:

- .1 ensure that all prescribed posting requirements are posted on site for all workers to view;
- .2 provide a copy of the *Contractor's* Health & Safety Policy to the *Owner*;
- .3 prepare and submit to the *Owner* a Site Specific Safety Plan (Job Safety Analysis);
- .4 review and comply with facility specific hazard, safety and orientation requirements as applicable; and
- .5 prepare and submit site-specific hazardous assessment plans as applicable pertaining to but not limited to: live power work, lock out/tag out/shut down/switch covers, confined space entry, cranes and crane lifts, and other hazardous assessment plans as required.”

48.11 GC 9.4.7

(a) Add GC 9.4.7 as follows:

“9.4.7 The *Contractor* shall indemnify and save harmless the *Owner*, its agents, officers, directors, employees, consultants, successors and assigns from and against the consequences of any and all safety infractions committed by the *Contractor* or any of its *Subcontractors* or their subcontractors under the construction health and safety legislation applicable to the *Place of the Work*, including but not limited to, payment of legal fees and disbursements on a full indemnity basis.”

48.12 GC 9.4.8

(a) Add GC 9.4.8 as follows:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 52 of 78

“9.4.8 The *Owner* and/or the *Consultant* shall have the right, from time to time during the performance of the *Work*, to perform or cause to be performed, an on-site safety audit of the *Work* and the *Place of the Work*. The *Owner* may identify specific safety issues or Safety Incidents as set out in GC 17, and the *Contractor* shall address such issues or Safety Incidents promptly to the satisfaction of the *Owner*, at the *Contractor's* cost, and provide the *Owner* with sufficient evidence of correction. No act or omission of the *Owner* during the audit shall constitute a transfer of liability from the *Contractor* to the *Owner*. The *Contractor* remains responsible for ensuring safety of the *Work* and the *Place of the Work*.”

49.0 GC 9.5 MOULD

49.1 GC 9.5.2.2

- (a) Add the words “Railway’s property,” after the words “damage to the Work,” in the first line.

49.2 GC 9.5.3.4

- (a) Delete paragraph 9.5.3.4 in its entirety.

PART 10 GOVERNING REGULATIONS

50.0 GC 10.1 TAXES AND DUTIES

50.1 GC 10.1.2

- (a) Add the following to the end of GC 10.1.2:

“For greater certainty, the *Contractor* shall not be entitled to any mark-up for overhead or profit on any increase in such taxes and duties.”

50.2 GC 10.1.3

- (a) Add GC 10.1.3 as follows:

“10.1.3 Where the *Owner* is entitled to an exemption or a recovery of sales taxes, customs duties, excise taxes or *Value Added Taxes* (including Harmonized Sales Tax) applicable to the *Contract*, the *Contractor* shall, at the request of the *Owner* or the *Owner's*

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 53 of 78

representative, assist with the application for any exemption, recovery or refund of all such taxes and duties and all amounts recovered or exemptions obtained shall be for the sole benefit of the *Owner*. The *Contractor* agrees to endorse over to the *Owner* any cheques received from the federal or provincial governments, or any other taxing authority, as may be required to give effect to this section.”

50.3 GC 10.1.4

(a) Add GC 10.1.4 as follows:

“10.1.4 The *Contractor* shall maintain accurate records of *Construction Equipment, Product* and component costs reflecting the taxes, customs duties, excise taxes and *Value Added Taxes* paid.”

50.4 GC 10.1.5

(a) Add GC 10.1.5 as follows:

“10.1.5 Any refund of taxes, including, without limitation, any government sales tax, customs duty, excise tax or *Value Added Tax*, whether or not paid, which is found to be inapplicable or for which exemption may be obtained, is the sole and exclusive property of the *Owner*. The *Contractor* agrees to cooperate with the *Owner* and to obtain from all *Subcontractors and Suppliers* cooperation with the *Owner* in the application for any refund of any taxes, which cooperation shall include but not be limited to, making or concurring in the making of an application for any such refund or exemption, and providing to the *Owner* copies, or where required, originals of records, invoices, purchase orders and other documentation necessary to support such applications or exemptions or refunds. All such refunds shall either be paid to the *Owner*, or shall be a credit to the *Owner* against the *Price*, at the *Owner's* discretion. The *Contractor* agrees to enable, assist with and submit to any reasonable audit requested by the *Owner* with respect the potential refunds under this section.”

50.5 GC 10.1.6

(a) Add 10.1.6 as follows:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 54 of 78

“10.1.6 Customs duties penalties, or any other penalty, fine or assessment levied against the *Contractor*, shall not be treated as a tax or customs duty for the purpose of this GC 10.1.”

51.0 **GC 10.2 LAWS, NOTICES, PERMITS AND FEES**

51.1 GC 10.2.1

- (a) Add the following at the end of GC 10.2.1:

“The *Contractor* shall comply with all *Applicable Law*.”

51.2 GC 10.2.3

- (a) Add the words “The Contractor shall provide the Owner with copies of all such permits, licenses, inspections and certificates.” at the end of GC 10.2.3.

51.3 GC 10.2.4

- (a) Delete the word “laws” and substitute the words “Applicable Laws” in the first line.
- (b) Delete the words “or codes” and substitute the words “codes, and industry best practices and guidelines” after the word “regulations,” in the first line.
- (c) Add the words “to the environment,” after the words “relate to the Work,” in the second line.
- (d) Add the words “The Contractor shall provide the Owner with copies of all such required notices and related health and safety documents.” at the end of GC 10.2.4.

51.4 GC 10.2.5

- (a) Delete the word “The” and substitute the words “Subject to GC 3.4.1, the” at the beginning of GC 10.2.5.
- (b) Delete the words “applicable laws” and substitute the words “Applicable Laws” in the third line.

51.5 GC 10.2.6

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 55 of 78

- (a) Delete GC 10.2.6 in its entirety and replace with the following:

“10.2.6 If the *Contractor* fails to notify the *Owner* and the *Consultant* in writing, fails to obtain direction as required in GC 10.2.5, and/or performs work that it knows or ought to have known that contravenes *Applicable Laws*, ordinances, guidelines, standards, permits, statutes, by-laws, rules, regulations, or codes, the *Contractor* shall be responsible for and shall correct the violations thereof, and shall bear the costs, expenses, and damages attributable to the failure to comply with the provisions of such laws, ordinances, guidelines, standards, permits, statutes, by-laws, rules, regulations, or codes, and, notwithstanding any limitations described in GC 12.1.1, shall indemnify and hold harmless the *Owner* and the *Consultant* from and against any claims, demands, losses, costs, damages, actions, suits or proceedings resulting from such failure or breach of law.”

51.6 GC 10.2.8

- (a) Add GC 10.2.8 as follows:

“10.2.8 Without limiting the generality of any other provision in the *Contract Documents*, the *Contractor* shall cause all certificates to be furnished that are required by or given by the appropriate governmental or quasi-governmental authorities as evidence that the *Work* as installed conforms with *Applicable Laws* and regulations of any authorities having jurisdiction over the *Place of the Work*, including, without limitation, certificates of compliance for the *Owner's* occupancy or partial occupancy. The certificates are to be final certificates giving complete clearance of the *Work*, in the event that such governmental or quasi- governmental authorities furnish such certificates.”

52.0 **GC 10.4 WORKER'S COMPENSATION**

52.1 GC 10.4.1

- (a) Add the words “with each application for progress payment,” after the word “Work,” in the first line.
- (b) Add the words “the Certificate of Clearance and” after the word “provide” in the third line .

PART 11 INSURANCE AND CONTRACT SECURITY

53.0 GC 11.1 INSURANCE

53.1 GC 11.1

- (a) Delete GC 11.1 INSURANCE in its entirety and replace with the following:

“GC 11.1 INSURANCE

11.1.1 Without restricting the generality of GC 12.1 – INDEMNIFICATION, and unless the Owner and the Contractor agree to obtain project-specific insurance, or higher insurance limits, the Contractor shall provide, maintain, and pay for the minimum insurance coverages specified in GC 11.1 – INSURANCE

.1 Wrap-Up Liability Insurance (Owner Provided):

The Owner shall, at its own expense, obtain and maintain project-specific Wrap-Up General Liability Insurance (the “Policy”) with a combined single limit of liability of not less than One Hundred Million (\$100,000,000.00) dollars per occurrence and in the aggregate with respect to Products and Completed Operations Liability, against claims for bodily injury (including death), personal injury, property damage (including loss of use), and Products and Completed Operations for a period of not less than twenty-four (24) months from the date of Substantial Performance of the Work. Such policy shall include as additional insureds the Contractor and Subcontractors of any tier and including Suppliers who perform the Work at the Place of Work and also includes consultants, sub-consultants, engineers and architects (but not for Professional Liability purposes). The policy is subject to special limits, endorsements, extensions, restrictions and exclusions which shall include but not necessarily be limited to:

- .1 Products and Completed Operations liability for a period of twenty-four (24) months from the date of Substantial Performance of the Work);

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 57 of 78

- .2 Owners and Contractors Liability;
- .3 Contingent Employer's Liability;
- .4 Non-owned Automobile Liability including Legal Liability for Damage to Hired Autos (SEF #94) - \$50,000 Limit, \$1,000 deductible;
- .5 Cross Liability/Severability of Interests;
- .6 No XCU Exclusion (explosion, collapse and underground);
- .7 Contingent Medical Malpractice;
- .8 Broad Form Property Damage;
- .9 Property Damage to Metrolinx' existing property (but not any property which is subject to coverage under a Course of Construction/Builder's Risk Policy);
- .10 Silent on Terrorism;
- .11 Sudden & Accidental Pollution;
- .12 Tenants Legal Liability \$5,000,000;
- .13 Medical Payments \$50,000 per person, \$100,000 each accident;
- .14 Employees as Additional Insured;
- .15 Defence Costs in Addition to Limits of Liability;
- .16 Asbestos Exclusion;
- .17 Employment Practices Exclusions;
- .18 Automobile Exclusion;
- .19 Security Firm Exclusion;
- .20 Nuclear Exclusion;

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 58 of 78

- .21 Fungus, Mildew and Mould Exclusion;
- .22 Excludes Errors and Omissions (Professional Services);
- .23 Excludes property damage to contractor's and sub-contractor's plant and equipment;
- .24 Excludes US Employers Liability;
- .25 Excludes damage to property either forming part of, or to form part of the Work; and
- .26 If any Named Insured or other Insured under this insurance policy has any other insurance against loss covered by this Policy, except for insurance which is written specifically to cover in respect of the Project insured, this Policy shall be primary insurance and such other insurance shall be excess of the limits stated in this Policy. Where any Named Insured or other Insured has or places buy down insurance and/or any other insurance specifically covering work in respect of the Project insured or to provide coverage for the deductibles under this Policy, such insurance shall be primary and the insurance provided by this policy shall be excess of the limits stated in such purchased Policy.

.2 Wrap-Up Liability Deductible:

The Policy carries a deductible of One Hundred Thousand (\$100,00.000) dollars per occurrence inclusive of all legal fees and associated expenses incurred in the investigation, defence, settlement, arbitration or litigation of claims.

.3 Contractor's Responsibility for Wrap-Up Liability Deductible:

.1 The Contractor shall, at its own expense, be responsible and liable for one hundred percent (100%) of the deductibles under the policy on each and every claim. Deductibles are inclusive of all legal fees, and associated expenses incurred in

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 59 of 78

the investigation, defense, settlement arbitration or litigation of Claims.

.2 Upon notification of a claim being made, the Owner shall, at its sole direction, be entitled to retain the amount of the deductible in whole or in part from payment to the Contractor. Such amount will be applied by the Owner in satisfaction of that claim and excess amounts, if any, will be paid to the Contractor in the event and at such time as the claim is settled, dismissed or withdrawn. Notwithstanding the foregoing, the Owner may, at its sole discretion, issue an invoice to the Contractor for the actual amount of the claim settlement up to the amount of the deductible, and if the invoice is not paid within thirty (30) days, The Owner shall deduct such amount from a future payment due to the Contractor.

.4 Cooperation with Wrap-Up Insurer's Consultant:

If an insurer or an insurer's appointed consultant, for underwriting purposes or as a term of the Wrap-Up Liability Policy, needs to review any part of the performance of this Contract, then the Contractor shall, cooperate with the insurer and its consultant, including providing them with such information and documentation as they may reasonably require.

.5 Claims Reporting:

The Contractor shall provide the Owner with written notice and all reasonable particulars and documents related to any damages, losses, incidents, claims and potential claims relating to the Policy as soon as possible after the damage, loss, incident or claim has been discovered. The Contractor shall also cooperate with the Owner's insurers in their investigation of any claim which is in excess of the deductible.

.6 Wrap-Up Liability Policy Term:

The Owner provided wrap-up liability insurance policy shall be effective from the date of the Commencement of the Work until the date of Substantial Performance of the Work as certified by the Consultant.

.7 “All Risk” Course of Construction Insurance (Owner Provided):

The Owner shall, at its own expense, obtain and maintain “All Risks” Course of Construction Property Insurance covering the Work for direct physical loss or damage to property in course of construction whilst at the location of the Work and forming part of or to form part of the Work. The limit shall be equal to the replacement value of the Work, or at the discretion of the Owner, a limit of loss equal to the estimated Maximum Foreseeable Loss calculation as promulgated by insurers or brokerage consultants. Such policy is subject to aggregates, sub-limits, endorsements, extensions, restrictions and exclusions, including but not necessarily limited to the following:

- .1 personal property excluded;
- .2 construction tools, equipment and machinery excluded;
- .3 asbestos contamination excluded;
- .4 terrorism excluded;
- .5 delay in startup & soft costs excluded;
- .6 Faulty material, workmanship and design excluded;
- .7 electronic data excluded,
- .8 trees; shrubs, plants and lawns \$100,000;
- .9 mold excluded;
- .10 debris Removal \$2,500,000 – maximum 25% of the amount of loss;
- .11 by-laws \$2,000,000;
- .12 ingress/egress \$1,000,000 – maximum 30 days;
- .13 DE4 approved;
- .14 Inland Transit \$2,000,000;

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 61 of 78

- .15 Fire Fighting Charges \$500,000;
- .16 testing & commissioning – 4 weeks – restricted to new equipment only;
- .17 Pollution Clean-up \$1,000,000;
- .18 Accounts Receivable \$1,000,000;
- .19 civil authority – maximum 4 weeks
- .20 Dewatering \$1,000,000;
- .21 Professional Fees (Excluding Public Adjuster) \$500,000;
- .22 Arson/Crime Reward \$50,000;
- .23 Valuable Papers and Records \$1,000,000;
- .24 off premise service interruption \$2,500,000;
- .25 extra expense \$1,000,000;
- .26 expediting expense \$1,000,000;

.8 “All Risk” Course of Construction Insurance Deductible:

.1 The Contractor shall, at its own expense be responsible and liable for one hundred percent (100%) of the following deductibles under this policy for each and every loss:

- .1 \$50,000 Any One Loss, except
- .2 \$50,000 Flood
- .3 \$250,000 Collapse and subsidence to construction of tunnels and sub-surface structures and installations.
- .4 3% of Total Insurable Values (Subject to a minimum of \$100,000 per occurrence) Earthquake 48 Hours Waiting Period – Off Premises Power
- .7 Upon notification of a claim being made the Owner shall, at its sole direction, be entitled to retain the

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 62 of 78

amount of the deductible in whole or in part from payment to the Contractor. Such amount will be applied by the Owner in satisfaction of that claim and excess amounts, if any, will be paid to the Contractor in the event and at such time as the claim is settled, dismissed or withdrawn. Notwithstanding the foregoing, the Owner may, at its sole discretion, issue an invoice to the Contractor for the actual amount of the claim settlement up to the amount of the deductible, and if the invoice is not paid within thirty (30) days, The Owner shall deduct such amount from a future payment due to the Contractor.

.2 “All Risk” Course of Construction Consultant:

If an insurer or an insurer’s appointed consultant, for underwriting purposes or as a term of the Builders’ “All Risk” Course of Construction Policy, needs to review any part of the performance of this Contract, then the Contractor shall, cooperate with the insurer and its consultant, including providing them with such information and documentation as they may reasonably require.

.3 Claims Reporting:

The Contractor shall provide the Owner with written notice and all reasonable particulars and documents related to any damages, losses, incidents, claims and potential claims relating to the Policy as soon as possible after the damage, loss, incident or claim has been discovered. The Contractor shall also cooperate with the Owner’s insurers in their investigation of any claim which is in excess of the deductible.

.9 Builders’ “All Risk” Course of Construction Policy Term:

The Owner provided Builders’ “All Risk” Course of Construction insurance policy shall be effective from the date of the Commencement of the Work until the date of Substantial Performance of the Work as certified by the Consultant.

.10 Contractors’ Pollution Liability (Owner Provided):

The Owner shall, at its own expense, obtain and maintain

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 63 of 78

project-specific Contractors' Pollution Liability Insurance with a limit of liability of not less than Five Million \$5,000,000 dollars per pollution condition and in the aggregate, including 24 months completed operations coverage, against claims for on-site clean-up of new pollutant conditions, third party claims for on-site bodily injury and property damage, and off-site clean up caused by a pollution or contamination incident resulting from covered operations. Emergency remediation expense limit Five Hundred Thousand (\$500,000) dollars and in the aggregate. Such policy is subject to aggregates, sub-limits, endorsements, extensions, restrictions and exclusions.

.1 Contractors' Pollution Liability Insurance Deductible:

.1 The Contractor shall, at its own expense be responsible and liable for one hundred percent (100%) of the Fifty Thousand (\$50,000) dollars deductible under this policy for each and every loss.

.2 Upon notification of a claim being made the Owner shall, at its sole direction, be entitled to retain the amount of the deductible in whole or in part from payment to the Contractor. Such amount will be applied by the Owner in satisfaction of that claim and excess amounts, if any, will be paid to the Contractor in the event and at such time as the claim is settled, dismissed or withdrawn. Notwithstanding the foregoing, the Owner may, at its sole discretion, issue an invoice to the Contractor for the actual amount of the claim settlement up to the amount of the deductible, and if the invoice is not paid within thirty (30) days, The Owner shall deduct such amount from a future payment due to the Contractor.

.2 Cooperation with Contractors' Pollution Liability Insurance Consultant:

If an insurer or an insurer's appointed consultant, for underwriting purposes or as a term of the Contractors' Pollution Liability Policy, needs to review any part of the performance of this Contract, then the Contractor shall, cooperate with the insurer and its consultant, including providing them with such information and documentation as they may reasonably require.

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 64 of 78

.3 Claims Reporting:

The Contractor shall provide the Owner with written notice and all reasonable particulars and documents related to any damages, losses, incidents, claims and potential claims relating to the Policy as soon as possible after the damage, loss, incident or claim has been discovered. The Contractor shall also cooperate with the Owner's insurers in their investigation of any claim which is in excess of the deductible.

.4 Contractors' Pollution Liability Policy Term:

The Owner provided Contractors' Pollution Liability insurance policy shall be effective from the date of the Commencement of the Work until the date of Substantial Performance of the Work as certified by the Consultant.

.11 Contractor Provided Insurance

.1 General Liability Insurance (Contractor Provided):

The Contractor shall, at its own expense, obtain and maintain General Liability Insurance for all off-site activities and any on-site activities following substantial completion when such on-site activities are not covered under the Owners Wrap-Up Liability completed operations. Such General Liability Insurance shall have a combined single liability limit of not less than Five Million (\$5,000,000) dollars per occurrence and in the aggregate, against claims for bodily injury (including death), personal injury, property damage (including loss of use), and Products and Completed Operations. Such policy shall be endorsed to include Metrolinx as an Additional Insured. The policy shall include but not necessarily be limited to:

- .1 Extended products and completed operations liability for a period of not less than 24 months beyond the Owner Wrap-Up Liability completed operations expiry date;
- .2 Blanket written contractual liability;
- .3 Contingent Employer's Liability;
- .4 Employer's liability (as applicable);

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 65 of 78

- .5 Non-owned Automobile Liability including Legal Liability for Damage to Hired Autos (SEF #94);
- .6 Contractual Liability (SEF #96);
- .7 Cross Liability/Severability of Interests;
- .8 No XCU Exclusion (explosion, collapse and underground);
- .9 Incidental Medical Malpractice;
- .10 Broad Form Property Damage;
- .11 Sudden & Accidental Pollution subject to a minimum scope equal to IBC 2313;
- .13 Tenants Legal Liability;
- .14 Medical Payments;
- .15 Employees as Insureds;
- .16 Defence Costs in Addition to Limits of Liability;
- .17 Waiver of Subrogation in favour of Owner;

.2 Automobile Liability Insurance (Contractor Provided):

The Contractor shall, at its own expense, obtain and maintain insurance covering for bodily injury, death, damage to property and statutory accident benefits coverage with respect to all vehicles owned, licensed or leased by the Contractor. The policy shall have limits of not less than Five Million (\$5,000,000) dollars inclusive per occurrence. If the policy is issued pursuant to a government-operated automobile insurance system, the Contractor shall provide the Owner with confirmation of automobile insurance coverage for all automobiles registered in the name of the Contractor.

.3 Equipment Insurance (Contractor Provided):

- .1 The Contractor shall, at its own expense, obtain and maintain insurance covering construction machinery and equipment used by the Contractor for the performance of

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 66 of 78

the Work, including boiler insurance on temporary boilers and pressure vessels. The policy shall be in a form acceptable to the Owner and shall not allow subrogation claims by the insurer against the Owner.

- .2 Subject to satisfactory proof of financial capability by the Contractor for self-insurance, the Owner agrees to waive the equipment insurance requirement. In so doing, the Contractor waives all right of claim against the Owner in respect to loss or damage to such equipment as if it was otherwise insured and subject to a Waiver of Subrogation rights from the insurer.

.4 Aircraft and Watercraft Liability Insurance:

.5 Property and Boiler and Machinery Insurance

11.1.2 Unless otherwise stipulated, the duration of each insurance policy shall be from the date of *Commencement of the Work* until the date of the final certificate for payment.

11.1.3 The *Contractor* shall be responsible for deductible amounts under the policies except where otherwise provided in GC 11.1 - INSURANCE or where such amounts may be excluded from the *Contractor's* responsibility by the terms of GC 9.1 - PROTECTION OF WORK AND PROPERTY and GC 9.2 - DAMAGES AND MUTUAL RESPONSIBILITY.

11.1.4 Proof of Insurance Coverage:

- .1 Prior to *Commencement of the Work* and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the *Contractor* shall promptly provide the *Owner* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements.

- .2 Certificates for General Liability Insurance shall include, in addition to the Contractor the following as additional insureds:

- .1 Metrolinx

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 67 of 78

- .2 Entuitive Corporation
- .3 VIA Rail Canada Ltd;
- .4 Canadian National Railway Company Limited;
- .5 Bombardier Transportation Canada Limited;
- .6 City of Toronto

.3 Certificates of All Risks Property Insurance and Boiler and Machinery Insurance shall include the *Owner*, *Consultant* and all *Subcontractors* as additional insureds.

.4 All Certificates of Insurance shall also include the *Contract* name and number.

11.1.5 Where the full insurable value of the *Work* is substantially less than the *Contract Price*, the *Owner* may reduce the amount of insurance required or waive one or more of the types of insurance requirement.

11.1.6 If the *Contractor* fails to provide or maintain insurance as required by the *Contract Documents*, then the *Owner* shall have the right to provide and maintain such insurance and give evidence to the *Contractor* and the *Consultant*. The *Contractor* shall pay the cost thereof to the *Owner* on demand or the *Owner* may deduct the amount which is due or may become due to the *Contractor*.

11.1.7 All required insurance policies shall be placed with insurers licensed to underwrite insurance in the jurisdiction of the *Place of the Work*.

11.1.8 All required insurance policies shall be endorsed to provide the *Owner* with not less than thirty (30) days' notice in writing in advance of any cancellation and material amendment or change restricting coverage.

11.1.9 All insureds shall cooperate with the *Contractor* to comply with any reporting requirements of the insurance policies in order to maintain the policies in good standing, to give notice in writing of any incidents which may result in a claim or loss covered by the policies and to provide documentation necessary in the defence or settlement of claims.

54.0 GC 11.2 CONTRACT SECURITY

54.1 GC 11.2.1

- (a) Add the following to the end of GC 11.2.1:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 68 of 78

“The *Contractor* shall provide and maintain the following *Contract* security:

- .1 Performance Bond and a Labour and Materials Payment Bond each equal to fifty percent (50%) of the *Contract Price*”

54.2 GC 11.2.3

- (a) Add GC 11.2.3 as follows:

“11.2.3 The premiums for the bonds required by the *Contract Documents* are included in the *Contract Price*. Prior to commencement of the Work, the *Contractor* shall promptly provide the *Owner* with confirmation of the *Contract* security with documentary evidence and thereafter provide confirmation and evidence of up-to-date *Contract* security from time to time upon request by the *Owner*. If approved changes pursuant to the *Contract* result in approved increases to the *Contract Price*, the *Contractor* shall promptly acquire additional bonding and provide the *Owner* with confirmation and evidence of the up-to-date *Contract* security.”

PART 12 INDEMNIFICATION, WAIVER OF CLAIMS AND WARRANTY

55.0 GC 12.1 INDEMNIFICATION

55.1 GC 12.1.1

- (a) Delete paragraph 12.1.1 in its entirety and replace with the following:

“12.1.1 Without restricting the *Contractor's* obligation to indemnify as described in paragraph 12.1.4, the *Contractor* shall indemnify and hold harmless the *Owner* from and against all claims, demands, losses, costs, damages, actions, suits or proceedings whether in respect to losses suffered by the *Owner* or in respect to claims by third parties that arise out of, or are attributable in any respect to the *Contractor's* involvement as a party to this *Contract*, provided such claims are caused by:

- .1 the negligent acts or omissions of the *Contractor* or anyone for whose acts or omissions the *Contractor* is liable, or

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 69 of 78

- .2 a failure of the *Contractor* to fulfil the terms or conditions of the *Contract*; and
- .3 made by *Notice in Writing* within a period of six years from the date of *Substantial Performance of the Work* as set out in the certificate of *Substantial Performance of the Work* issued pursuant to paragraph 5.4.2.2 of GC 5.4 – SUBSTANTIAL PERFORMANCE THE WORK or within such shorter period as may be prescribed by any limitation statute of the Province of Ontario.
- .4 The *Owner* expressly waives the right to indemnity for claims other than those provided for in this *Contract*.”

55.2 GC 12.1.2

- (a) Delete GC 12.1.2 in its entirety.

55.3 GC 12.1.3

- (a) Delete the words “either party to indemnify the other” and substitute the words “the Contractor to indemnify the Owner” in the first line of GC 12.1.3.

55.4 GC 12.1.4

- (a) Delete the words “The Owner and the Contractor shall indemnify and hold harmless the other” and substitute the words “The Contractor shall indemnify and hold harmless the Owner” in the first line of GC 12.1.4.
- (b) Delete the word “their” and substitute the words “the Contractor’s” in the second line of GC 12.1.4.

55.5 GC 12.1.5

- (a) Delete GC 12.1.5 in its entirety.

55.6 GC 12.1.6

- (a) Delete the words “or the Contractor” from the first line.

55.7 GC 12.1.6.2

- (a) Delete GC 12.1.6.2 in its entirety and replace with the following:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 70 of 78

“12.1.6.2 Should the *Contractor* be required as a result of its obligation to indemnify the *Owner* to pay or satisfy a final order, judgment or award made against the *Owner*, then the *Contractor* upon assuming all liability for any costs that might result shall have the right to appeal in the name of the *Owner* until such rights of appeal have been exhausted.”

55.8 GC 12.1.7

(a) Add GC 12.1.7 as follows:

“12.1.7 Notwithstanding anything contained in the *Contract Documents* to the contrary, the *Owner* shall have the right to set-off the amount of any claims for which *Notice in Writing* has been given by the *Owner* to the *Contractor* in accordance with GC 6.6 CLAIMS FOR A CHANGE TO CONTRACT PRICE or GC 12.1 INDEMNIFICATION against any amounts which may be otherwise owing or payable to the *Contractor* pursuant to the terms of the *Contract*.”

55.9 GC 12.1.8

(a) Add GC 12.1.8 as follows:

“12.1.8 In addition to and without limiting any other rights the *Owner* may have under this *Contract* and at law, the *Owner* may retain from monies owing to the *Contractor* under this *Contract*, at any time, an amount sufficient to cover any outstanding or disputed liabilities including the cost to remedy deficiencies in the *Work*, the reduction in value of substandard portions of the *Work*, claims for damages by third parties, undetermined claims by the *Owner*, and any assessment due to the *Workplace Safety and Insurance Board*.”

56.0 **GC 12.2 WAIVER OF CLAIMS**

56.1 GC 12.2.1.2 and 12.2.1.3

(a) Delete GC 12.2.1.2 and GC 12.2.1.3 in their entirety.

56.2 GC 12.2.2

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 71 of 78

- (a) Delete the words “those referred in paragraphs 12.2.1.2 and 12.2.1.3 and”.

57.0 GC 12.3 WARRANTY

57.1 GC 12.3.1

- (a) Delete the words “one year” and substitute the words “two years” in the first line.
- (b) Add the words “The warranty on replaced or rectified parts and workmanship shall be extended for a period of two (2) years from the date of acceptance by the Owner of the replacement or rectification of the parts and workmanship” at the end of GC 12.3.1.

57.2 GC 12.3.2

- (a) Delete the word “The” and substitute the words “Subject to paragraph 3.4.1, the” at the beginning of GC 12.3.2.

57.3 GC 12.3.3

- (a) Delete the words “one year” from the second line of GC 12.3.3.

57.4 GC 12.3.4

- (a) Delete the words “one year” from the second line of GC 12.3.4.

57.5 GC 12.3.6

- (a) Add the words “in a form acceptable to the Consultant, and to submit said warranties to the Consultant upon Substantial Performance of the Work or at such earlier date as may be required by the Consultant, acting reasonably” after the words “from the warrantor” in the fourth line of GC 12.3.6.

58.0 GC 13 FRENCH LANGUAGE SERVICES

- (a) Add GC 13 FRENCH LANGUAGE SERVICES as follows:

“GC 13 FRENCH LANGUAGE SERVICES

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 72 of 78

13.1 Definitions

- .1 "French Language Services Act" means the French Language Services Act, R.S.O. 1990, c.F. 32, as amended.
- .2 "French-designated Area" means an area designated from time to time in the Schedule to the French Language Services Act (Ontario). A map and complete listing of French-designated areas is available at <http://www.ofa.gov.on.ca/en/flsa-mapdesig.html>.

13.2 French Language Services

- .1 Insofar as this *Contract* relates to the provision of Services directly to the public on behalf of the *Owner*, the French Language Services Act, R.S.O. 1990, c. F. 32 and any amendments thereto (hereinafter referred to as "the FLSA") shall be applicable.
- .2 A person has the right in accordance with the FLSA to communicate in French with, and to receive available services in French where the *Contractor's* work is located in or serves an area designated in the FLSA Schedule. It shall be the *Contractor's* responsibility to provide translation services to any person making such a request as per R.S.O. 1990, c. F.32, s. 5(1).
- .3 A service refers to any service or procedure provided to the public, including communications.
- .4 Services being provided in French must be equivalent to those offered in English, available within the same timeframe and of the same quality.
- .5 Services and communications in designated areas include, but are not limited to:

(i) Consultations/Public Meetings

- (ii) Presentation materials, displays, comment cards/feedback mechanism or other materials are available in French. *Contractor* has at least one bilingual staff or interpreter on hand able to answer questions and discuss technical

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 73 of 78

drawings/documents in French. When relevant, the *Contractor* will compile and analyze the views of Francophones separately, because they may have different concerns.

- (iii) Construction contracts may from time to time involve erecting temporary signage to redirect or warn the public of hazards. Such signage will be bilingual.
- (iv) Communication plans, customer impact documents, information bulletins, notices of service disruption and public relations information will be bilingual.
- (v) Advertising, promotion, publicity will be undertaken in English and French. A list of Francophone media is available at: <http://www.ofa.gov.on.ca/en/franco-media.html>.
- (vi) The *Contractor* will have a bilingual staff available to attend consultations or public meetings.
- (vii) The *Contractor* will have a staff or procure the services of a professional translator or interpreter, accredited by the Association of Translators and Interpreters of Ontario. <http://www.atio.on.ca/>

59.0 **GC 14 CONTRACTOR WORK PERFORMANCE RATING**

59.1 Add GC 14 CONTRACTOR WORK PERFORMANCE RATING, as follows:

“GC 14 CONTRACTOR WORK PERFORMANCE RATING

- 14.1 The *Owner* shall during the term of the *Contract*, maintain a record of the performance of the *Contractor* completing *Work* for the *Owner*. This information shall be used to complete a “Contract Performance Appraisal” report, a copy of which will be forwarded to the *Contractor* upon completion of *Total Performance of the Work*. Interim “Contractor Performance Appraisal” reports may be issued, as deemed appropriate by the *Owner*, at any time during the term of the *Contract*. A copy of the Contract Performance Appraisal template can be found under “Attachments”.

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 74 of 78

- 14.2 The overall history of the *Contractor* in performing work for the *Owner*, including the *Contractor's* performance pursuant to this Contract, will be considered in the evaluation of future submissions from the *Contractor*.
- 14.3 The *Owner* reserves the right during any procurement process, to reject any submissions by the *Contractor* due to unsatisfactory performance history with the *Owner*.
- 14.4 Non-compliance with *Contract* requirements will be identified to the *Contractor*.14.5 The information contained in the "Contract Performance Appraisal" may be provided to the Ministry of Transportation, other ministries and other government agencies. Such performance reviews may be relied upon to reject the *Contractor's* submission on any procurement processes.

60.0 GC 15 CONFLICT OF INTEREST

60.1 Add GC 15 CONFLICT OF INTEREST, as follows:

"GC 15 CONFLICT OF INTEREST"

- 15.1 For the purposes of this *Contract*, a "Conflict of Interest" includes any situation or circumstances where, in relation to the performance of its contractual obligations in this *Contract*, the *Contractor's* other commitments, relationships or financial interests:
 - .1 could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment; or
 - .2 could or could be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations.
- 15.2 The *Contractor* shall:
 - .1 avoid all Conflict of Interest in the performance of its contractual obligations;

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 75 of 78

- .2 disclose to the *Owner* without delay any actual or potential Conflict of Interest that arises during the performance of its contractual obligations; and
- .3 comply with any requirements prescribed by the *Owner* to resolve any Conflict of Interest.

15.3 In addition to all other contractual rights or rights available at law or in equity, *Owner* shall have the right to immediately terminate this *Contract*, by giving *Notice in Writing* to the *Contractor*, where:

- .1 the *Contractor* fails to disclose an actual or potential Conflict of Interest;
- .2 the *Contractor* fails to comply with any requirements prescribed by *Owner* to resolve a Conflict of Interest; or
- .3 the *Contractor's* Conflict of Interest cannot be resolved.

15.4 This section shall survive any termination or expiry of this *Contract*.

61.0 **GC 16 PERFORMANCE INCENTIVE BONUS**

Not Applicable

62.0 **GC 17 LIQUIDATED DAMAGES**

62.1 Add GC 17 LIQUIDATED DAMAGES, as follows:

“GC 17 – Liquidated Damages

17.1 LIQUIDATED DAMAGES FOR FAILURE TO ACHIEVE
SUBSTANTIAL PERFORMANCE OF THE WORK

(a) Not Applicable

17.2 LIQUIDATED DAMAGES FOR FAILURE TO ACHIEVE
MILESTONES

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 76 of 78

(a) Not Applicable

17.3 LIQUIDATED DAMAGES FOR TRAIN DELAYS AND CANCELLATIONS

The Contractor acknowledges and agrees that the Owner will suffer harm in the event of a train delay or cancellation caused by such delay. In the event of, and for each and every occurrence of, an inservice Metrolinx or VIA Rail passenger train or Canadian Pacific or CN freight train, being delayed or cancelled by any act or omission of the Contractor contrary to the terms of the Contract, the Contractor shall pay to Metrolinx as liquidated damages, and not as a penalty, the following:

.1 The sum of Twenty Thousand dollars (\$20,000.00) as liquidated damages for the first five (5) minutes of each and every delay;

.2 In addition, the sum of Ten Thousand dollars (\$10,000.00) as liquidated damages for each subsequent ten (10) minute interval of each and every delay; and

.3 The lump sum amount of Thirty Thousand dollars (\$30,000) for each train delay that lasts fifteen (15) minutes or more. If a train is cancelled due to an anticipated train delay, the anticipated train delay that resulted in the cancellation shall be deemed to be a train delay that lasts for fifteen (15) minutes.

.4 For the purpose of calculating the liquidated damages payable by the Contractor in accordance with this GC 16.2, the timing of any delay and cancellation (including commencement, duration and cessation), shall be based on the train schedule and train data that is established and maintained by the GO Transit Control Centre.

.5 The maximum amount in the aggregate assessed for liquidated damages pertaining to GC 16.2 shall not be more than Seven Hundred Fifty Thousand dollars (\$750,000.00).

17.4 LIQUIDATED DAMAGES FOR TRACK CLOSURES

The Contractor acknowledges and agrees that the Owner will suffer harm in the event of the Contractor failing to complete specified Work during the scheduled track closure, or the Contractor cancelling the scheduled closure without at least three (3) weeks' notice prior to the closure. Should the Contractor fail to complete the specified Work during the scheduled track closure, resulting in the need to schedule another track closure, or if the Contractor cancels the scheduled closure without at least three (3) weeks' notice prior to the closure, the Contractor shall pay to Metrolinx the following:

- .1 The lump sum amount of Five Thousand dollars (\$5,000) for each failure to complete specified Work during the scheduled track closure; or
- .2 The lump sum amount of Ten Thousand dollars (\$10,000) for each failure to provide at least three (3) weeks' notice of cancellation prior to the track closure.

17.5 LIQUIDATED DAMAGES FOR SAFETY INCIDENTS

- .1 The Contractor acknowledges and agrees that the Owner will suffer harm in the event of any breach, contemplated breach, act or omission of the Contractor that does or can reasonably be expected to create a threat to the health, safety or security of any person or user at the Place of the Work including other members of the public (each, a "Safety Incident"). Should there be a Safety Incident, the Contractor shall pay to the Owner, the following:
 - .1 For Major Safety Incidents, the lump sum amount of \$15,000 dollars (Fifteen Thousand), and a daily amount of \$5,000 dollars (Five thousand) for every day that the Major Safety Incident is not corrected by the Contractor to the satisfaction of the Owner; or
 - .2 For Minor Safety Incidents, the lump sum amount of \$5,000 dollars (Five Thousand), and a daily amount of \$500 dollars (Five hundred) for every day that the Minor Safety Incident is not corrected by the Contractor to the satisfaction of the Owner.
 - .3 For the purpose of this section:

SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 78 of 78

.1 A Major Safety Incident is an event similar in severity and magnitude as an injury to a person at the Place of the Work.

.2 A Minor Safety Incident is an event similar in severity and magnitude as the failure to provide a qualified construction supervisor at the Place of the Work or the failure to ensure employees wear proper protective equipment.

- 17.6 The *Contractor* acknowledges and agrees that any amounts payable pursuant to this GC 17 - Liquidated Damages shall not be construed as a penalty imposed on the *Contractor* by the *Owner*. The *Contractor* agrees that it is, and shall be, estopped from alleging that any liquidated damages set out in this GC 17 are a penalty and not liquidated damages, or are otherwise unenforceable for any reason, including that such damages were not incurred. The *Contractor* acknowledges and agrees that all liquidated damages pursuant to GC 17 shall be payable whether or not the *Owner* incurs or mitigates these damages, and that *Owner* shall have no obligation to mitigate these damages.
- 17.7 The *Owner* shall have the right to deduct the amount of any and all liquidated damages assessed against the *Contractor* under this GC 17 – Liquidated Damages from any amount due to the *Contractor* at any time.
- 17.8 Except as expressly provided herein, nothing in this GC 17 shall restrict, limit, prejudice or in any other way impair the rights or remedies of the *Owner* under any other provision of the Contract.
- 17.9 This GC 17 shall not limit the *Owner's* rights in respect of any other default of the *Contractor*, or any other express rights of the *Owner* in the *Contract Documents*.

END OF SECTION

GENERAL CONDITIONS OF THE CONTRACT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Page 1 of 1

General Conditions of the Contract

The “General Conditions of the Stipulated Price Contract” of CCDC 2 2008 Stipulated Price Contract are herein called the General Conditions of the Contract and shall constitute the General Conditions of this Contract in their entirety as amended by the Supplementary General Conditions of the Contract herein. CCDC 2 2008 is available for purchase on www.ccdc.org.

END OF SECTION

GENERAL REQUIREMENTS: GENERAL INSTRUCTIONS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01000

Page 1 of 11

1.0 Documents Required

7.1 Maintain at the Place of Work, one (1) copy of following:

- (a) Contract Drawings;
- (b) Specifications;
- (c) Addenda;
- (d) Reviewed Shop Drawings;
- (e) Change Orders;
- (f) Other modifications to Contract;
- (g) Field test reports; and
- (h) Contractor's Occupational Health and Safety Policy, the program to implement the Occupational Health and Safety Policy and the Site Safety Plan.

8.0 Work Schedule

- 8.1 Interim reviews of Work progress based on schedule submitted by the Contractor will be conducted. Update Contractor's schedule and cash flow chart when requested by Consultant.
- 8.2 In the event the project is delayed, where it becomes apparent work cannot be completed by February 10, 2020, the contractor will be responsible to supply and install a temporary generator at no cost to Metrolinx. Temporary Generator requirements to be verified/approved by Metrolinx.

9.0 Hours of Work

- 9.1 The Contractor's hours of Work for this Contract are 10pm. to 5am., Monday to Friday, statutory holidays excluded. within the rail corridor right-of-way. Work done on City of Toronto property will have to be coordinated with the property owner and abide all City by-laws.
- 9.2 Hours other than those stated in 3.1 may be allowed with prior written approval from the Owner.

GENERAL REQUIREMENTS: GENERAL INSTRUCTIONS

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01000

Page 2 of 11

10.0 Subcontractors and Suppliers

10.1 The Contractor shall submit within five (5) Working Days of execution of the Contract a complete list of Subcontractors and Suppliers that shall include the names of all Subcontractors and Suppliers that will be employed to perform or supply the following Divisions or Sections of the Work:

- (a) Electrical
- (b) Mechanical
- (c) Grounding and Bonding
- (d) Electrical Distribution Equipment Supplier
- (e) Electrical Metal Clad Switchgear Equipment Supplier
- (f) Electrical Switchgear Equipment Supplier
- (g) Diesel Generator Manufacturer
- (h) Automatic Load Transfer Equipment Manufacturer
- (i) Fire Alarm Manufacturer
- (j) Power System Study Specialist
- (k) Electrical Technical Services Division Startup Contractor
- (l) Multiplex Fire Alarm System Manufacturer

10.2 Pre-qualified Subcontractors and Suppliers

- (a) Contractors shall note that for some Sections or Divisions of the Work specific Subcontractors or Suppliers may be named in the Contract Documents as having been pre-qualified to perform or supply that Section or Division of Work. In such instances only those Subcontractors or Suppliers are to be named as performing or supplying, and shall perform or supply, those Sections or Divisions of the Work. The Contractor shall not use "Own Forces" for such Sections or Divisions of the Work unless the Contractor is named in the Contract Documents as having been pre-qualified for the Section or Division of the Work.

GENERAL REQUIREMENTS: GENERAL INSTRUCTIONS

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01000

Page 3 of 11

- (b) Where more than one Subcontractor or Supplier is named as having been pre-qualified to supply a Section or Division of the Work, the Contractor shall select one of its own choice from those so named.
- (c) Only the following pre-qualified Subcontractors below, are permitted to perform the Work of this Section of this Contract. No other Subcontractor will be permitted to perform this Work. The Contractor shall not use its "Own Forces" for this section of the Work unless its name appears on the list below:
 - (i) Signals Work
 - (A) A & B Rail Services Ltd.
123623 Coleraine Drive
Bolton, Ontario
L7E 3B5
David Wilfong
davewilfong@universalrail.com
 - (B) Black & McDonald Limited
31 Pullman Court
Scarborough, Ontario
M1X 1E4
David Maniaci
416-991-4967
dmaniaci@blackandmcdonald.com
 - (C) Condor Signal & Communication Inc.
2388 Speers Road
Oakville, Ontario
L6L 5M2
John Di Donato
905-469-0226
jdidonato@condorsignal.com
 - (D) CYMI-SICE Canada Joint Venture
55 Eglinton Avenue East, Suite 803
Toronto, Ontario
M4P 1G8

GENERAL REQUIREMENTS: GENERAL INSTRUCTIONS

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01000

Page 4 of 11

Luis Carrera
647-483-4026
LCarrera@sice.com

- (A) Mass. Electric Construction Canada Co.
1405 North Service Road East, Unit 4
Oakville, Ontario
L6H 1A7
Troy Grill
905-337-4015
TGrill@MassElec.com
- (B) PNR RailWorks Inc.
65 Massey Road, Unit C
Guelph, Ontario
N1H 7M6
Wayne Barnard
519-780-3151
wbarnard@pnrrailworks.com
- (C) The Toronto Terminal Railway Company Limited
50 Bay Street, Suite 1400N
Toronto, Ontario
M5J 3A5
George Higgins
416-771-2598
George.higgins@ttrly.com

(ii) Track Work

- (A) OWS Railroad Construction & Maintenance Ltd.
4320 Discovery Line, P.O. Box 1240
Petrolia, Ontario, N0N 1R0
Contact Mr. Pat Gladwish
Phone: 519-882-4996
- (B) PNR Railworks Inc.
455 Silvercreek Parkway N.
Guelph ON N1H 8M7
David Landreth 519-763-2960

GENERAL REQUIREMENTS: GENERAL INSTRUCTIONS

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01000

Page 5 of 11

- (C) PGM Rail Services Ltd.
5881 Thorold Stone Road, Unit 5
Niagara Falls, Ontario, L2J 1A1
Peter Murdza
905-358-1805
- (D) Herzog Contracting of Canada, Ltd.
600 S. Riverside Rd.
St. Joseph MO 64507
Contact: Mr. Scott Norman
email: snorman@herzog.com
- (E) Herzog Contracting of Canada Ltd
600 S. Riverside Rd.
St. Joseph MO 64507
Contract: Mr. Scott Norman
Phone: 816-233-9001
Email: snorman @herzog.com
- (F) Cando Rail Service
Unit 400 – 740 Rosser Avenue
Brandon, MB R7A 0K9
Mr. Tim Yamashita
204-761-9488
tim.yamashita@candorail.com
- (G) Allied Track Services Inc
169A South Service Road
Grimsby On
L3M 4H6
Mr. Rick Middaugh
905 769- 1317 x104
Rick.Middaugh@alliedtrack.ca
- (H) Accurate Railroad Construction Ltd.
8888 Keele Street
Unit #25
Concord, ON L4K 2N2
Grag Machado – President
Office: 605-761-8047
Cell: 647-920-1438
gregmachado@accuraterailroad.com

GENERAL REQUIREMENTS: GENERAL INSTRUCTIONS

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01000

Page 6 of 11

(I) The Toronto Terminal Railway Company Limited
50 Bay Street, Suite 1400N
Toronto, Ontario
M5J 3A5
George Huggins
416-771-2598
George.huggins@ttrly.com

(J) Rail Term Inc
1264 North Augusta Rd.
Brockville, On k6V 5T2
Mr. David McNeill
1-613-498-9707
david.mcneill@sympatico.ca

(d) Only the following pre-qualified Subcontractors below are permitted to perform the Work of this Section of this Contract. No other Subcontractor will be permitted to perform this Work. The Contractor shall not use its "Own Forces" for this section of the Work unless its name appears on the list below.

(i) Authorized Utility Contractors

- (A) CN
- (B) Bell/360
- (C) Allstream
- (D) Enbridge
- (E) Avertex Utility Solutions

The Contractor shall not change the identified Subcontractors or Suppliers listed without written consent of Owner.

GENERAL REQUIREMENTS: GENERAL INSTRUCTIONS

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01000

Page 7 of 11

11.0 Certificate of Recognition

11.1 The Contractor shall maintain a valid CORTM "Certified" status with IHSA throughout the Term of the Contract, unless one of the following criteria has been met:

- (a) The Contractor maintains a valid OHSAS 18001 certification and has initiated the process to obtain CORTM Certified status in Ontario, through IHSA. Prior to commencement of the Work, the Contractor shall provide proof of CORTM Registered status. The Contractor shall achieve CORTM Certified status through IHSA, within eighteen (18) months from the commencement date of the Work of this Contract.
- (b) The Contractor maintains a valid Out-of-Province CORTM Certified status and has initiated the process to obtain CORTM Certified status in Ontario, through IHSA. Prior to commencement of the Work, the Contractor shall provide proof of CORTM Registered status. The Contractor shall achieve CORTM Certified status through IHSA, within eighteen (18) months from the commencement date of the Work of this Contract.

11.2 For more information about CORTM and the certification process in Ontario, please contact:

- (a) Infrastructure Health and Safety Association (IHSA)
5110 Creekbank Road, Suite 400
Mississauga, Ontario
L4W 0A1
Email: cor@ihsa.ca
Website: www.ihsa.ca/cor
Telephone: 1-800-263-5024

12.0 Contractor's Use of Site

12.1 Perform Work in a manner that will not interfere with the Owner's operations.

12.2 Storage of materials and equipment and Contractor's temporary office must be contained within designated Contractor's area(s).

12.3 Schedule deliveries to not interfere with the Owner's operations. Scheduling requires advanced notice and approvals.

GENERAL REQUIREMENTS: GENERAL INSTRUCTIONS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01000

Page 8 of 11

12.4 Park on site only within the designated Contractor's area.

12.5 The Contractor shall access the rail corridor through "Jarvis Gate"

13.0 Codes and Standards

13.1 Perform Work in accordance with Ontario Building Code, Ontario Hydro Electrical Safety Code and applicable acts administered by other authorities having jurisdiction.

13.2 Work to meet or exceed requirements of specified standards, codes and referenced documents.

13.3 Codes, specification standards, manuals and installation, application and maintenance instructions, referred to in the Contract Documents shall be of latest published editions at date of closing of Tender.

14.0 Project Meetings

14.1 Hold project meetings at times and locations approved by Consultant.

14.2 Notify parties concerned of meetings, to ensure proper co-ordination of Work.

14.3 Designated parties shall take required action on decisions made at meeting. Consultant will record minutes of meetings and distribute to parties prior to next meeting.

15.0 Sublet of Work

15.1 Administration, supply and installation of Work specified is the sole responsibility of Contractor.

16.0 Examination

16.1 Examine site of Work, and investigate all matters relating to nature of Work to be undertaken.

16.2 Examine areas to receive specific Work and ensure that conditions are satisfactory to receive subsequent Work. Do not proceed with subsequent work, until unsatisfactory conditions are corrected.

17.0 Setting Out of Work

17.1 Setting out of Work is sole responsibility of the Contractor.

GENERAL REQUIREMENTS: GENERAL INSTRUCTIONS

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01000

Page 9 of 11

- 17.2 Lay out Work in accordance with Contract Drawings.
- 17.3 Verify all grades, lines, and levels and dimensions indicated, and report errors or inconsistencies to the Consultant before commencing Work or as soon as discovered.

18.0 Location of Equipment and Fixtures

- 18.1 Location of equipment, fixtures and outlets indicated or specified are to be considered as approximate. Final actual placement location within a reasonable distance from that shown on Drawings shall be carried out at no additional cost to the Owner.
- 18.2 Locate equipment, fixtures and outlets to provide minimum interference and maximum usable space and in accordance with manufacturer's recommendations for safety, access and maintenance.
- 18.3 Obtain manufacturer's literature for roughing in and hook-up of equipment and fixtures.
- 18.4 Inform the Consultant of impending installation and obtain his approval for final actual location.
- 18.5 Submit field drawings to indicate relative position of various services and equipment when requested by Consultant.

19.0 Concealment

- 19.1 Conceal wiring in wall and ceiling construction of finished areas except where indicated otherwise.
- 19.2 Cutting, Fitting and Patching
 - (a) Execute cutting, fitting and patching required to make Work fit properly together.
 - (b) Where new Work connects with existing and where existing Work is altered, cut, patch and make good to match existing Work.
- 19.3 Obtain Consultant's approval before cutting, boring or sleeving load-bearing members.
- 19.4 Make cuts with clean, true, smooth edges. Make patches inconspicuous in final assembly.

GENERAL REQUIREMENTS: GENERAL INSTRUCTIONS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01000

Page 10 of 11

20.0 Existing Services

- 20.1 Before commencing Work, establish location and extent of service lines in area of Work and notify the Owner of findings.
- 20.2 Where unknown services are encountered, immediately advise authorities having jurisdiction and Consultant and confirm findings in writing.
- 20.3 Record locations of maintained, re-routed and abandoned service lines.

21.0 Protection

- 21.1 Contractor is cautioned to use appropriate construction methods in order to fully protect existing building(s) or plant from any damage. These facilities shall be inspected prior to construction and existing defects noted in a written report, witnessed by Consultant. Repair or restore defects resulting from construction under this Contract to the satisfaction of the Owner, at no additional expense to the Owner.

22.0 Trades Qualification

- 22.1 The Contractor shall ensure that persons (trades workers) performing work that the Trades Qualification and Apprenticeship Act (TQAA) sets out certification requirements for, are properly qualified under the TQAA.
- 22.2 The Contractor shall further ensure these trades workers can, upon request, provide written proof of TQAA trades qualification, such as a certificate of qualification or apprenticeship contract, to the Owner, the Consultant or other authority having jurisdiction.

23.0 Additional Drawings

- 23.1 Consultant may furnish additional Drawings to assist proper execution of Work. These Drawings will be issued for clarification only. Such Drawings shall have the same meaning and intent as if they were included with the Contract Documents referred to in Article A-3 of the Agreement Between Owner and Contractor.

24.0 Contract Management System

The Contractor shall use the web-based Contract Management System (CMS), as identified by Metrolinx and updated from time to time, for the administration of contract related matters, including but not limited to the submission and receipt of formal contractual correspondence,

GENERAL REQUIREMENTS: GENERAL INSTRUCTIONS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01000

Page 11 of 11

submissions and comment tracking, Contractor invoicing and purchase orders, contract variations, and progress reporting. Metrolinx will provide the appropriate CMS system administration, associated training and licenses, including appropriate CMS software license upgrades.

END OF SECTION

GENERAL REQUIREMENTS: MOBILIZATION AND DEMOBILIZATION

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01200

Page 1 of 3

1.0 General

- 1.1 Be responsible for familiarization with the Place of the Work, the location of the Work and any limitations and constraints.
- 1.2 Before commencing Mobilization, where required by the Contract Documents, obtain all required Access Permits before entering onto land impacted by the Work.
- 1.3 Commence Mobilization at the Notice to Proceed date unless otherwise required by the Contract Documents and directed by Consultant.
- 1.4 Transport personnel, equipment and supplies and materials to the Place of the Work, including Contractor's offices, buildings, and other necessary facilities, Consultant's Work Trailer and portable toilet for the Consultant's use at the Place of Work.
- 1.5 Be responsible for all required permits for transportation of the Contractor's equipment.
- 1.6 Check on any roadway and bridge loading and restricted height clearances.
- 1.7 Equipment and materials shall be mobilized and demobilized in accordance with all local, provincial and federal regulations and acts related to transportation and safety.
- 1.8 Mobilize and demobilize equipment by means of access routes as indicated by Metrolinx.
- 1.9 Upon completion of the Work, restore all access areas to the same condition as prior to the start of the Work.
- 1.10 Be responsible for security of Contractor's equipment and materials at the place of the Work. This includes responsibility for maintaining a fence or hoarding during all phases of demolition and construction to ensure security within the railyard.
- 1.11 Definitions
- 1.12 Mobilization and Demobilization: means the mobilization and demobilization of the Contractor's forces and equipment, supplies,. appurtenances and the like, manned and ready for prosecuting the Work required under the Contract, and the subsequent demobilization and removal from the Place of the Work of said equipment, materials appurtenances and the like upon completion of the Work.

GENERAL REQUIREMENTS: MOBILIZATION AND DEMOBILIZATION

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01200

Page 2 of 3

Mobilization will not be considered as work in fulfilling the Contract requirements for commencement of the Work.

2.0 Mobilization

2.1 Mobilization is deemed to include the provision of the following:

- (a) Construction permits not obtained by the Owner;
- (b) Initial Construction Schedule;
- (c) Initial Work Block Schedule;
- (d) Initial Shop Drawings and other submittal Schedules;
- (e) Initial Contractor's Cash Flow Schedule; and
- (f) Site Specific Safety Plan.

2.2 Mobilization includes assembly and delivery to the Place of the Work plant equipment, materials and supplies, necessary for the prosecution of the Work that are not intended to be incorporated into the Work; the clearing of and preparation of the Contractor's work area (Note; this activity is separate from and not considered incidental to Grading Work specified in Specifications and Drawings); the complete assembly, in working order, of all equipment necessary to perform the required work; personnel services, and all other preparatory work required to allow commencement of the actual Work on the construction items for which payment is provided under the Contract.

2.3 Mobilization is deemed not to include the provision of the following, which are deemed to be elements of the Contractor's overhead, profit and contract administration costs included and incidental to the Work and included in and incidental to the Unit Prices and Lump Sum prices as quoted in the Schedule of Prices for each Work Item:

- (a) Overhead and Profit;
- (b) Bond and insurances; and
- (c) Labour and costs.

GENERAL REQUIREMENTS: MOBILIZATION AND DEMOBILIZATION

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01200

Page 3 of 3

3.0 Demobilization

- 3.1 Demobilization includes all activities and costs for transportation of personnel, equipment and supplies and materials not used in the Contract, including disassembly, removal from the Place of the Work, the Contractor's offices, buildings, and other facilities including the Consultant's Work Trailer and portable toilet for the Consultant's use, removal and site cleanup of any offices, buildings or other facilities assembled at the Place of Work for the Contract.
- 3.2 Demobilization includes submission and acceptance of final documentation required to meet the requirements of the Contract.

4.0 Changes to the Work

- 4.1 If additional mobilization and demobilization are required during the performance of the Contract because of changes to the Work, deleted or added items of Work, the Contractor is entitled to an adjustment in the Contract Price, compensation for such costs will be included in the Price of the approved Change Order or Orders for the item or items of Work changed or added.

5.0 Management and Disposal of Mobilization and Demobilization Materials

- 5.1 Dispose of materials resulting from Mobilization and Demobilization activities from the Place of the Work within forty-eight (48) hours of Total Performance of the Work.

END OF SECTION

**GENERAL REQUIREMENTS: CONSTRUCTION SCHEDULE
CRITICAL PATH METHOD (CPM)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01225

Page 1 of 12

1.0 Planning, Scheduling and Monitoring – General

- 1.1 This section includes requirements for the preparation, monitoring and revision of construction schedules.
- 1.2 The purpose of the schedules and reports mandated in this section is to:
 - (a) Ensure adequate planning and execution of the Work by the Contractor;
 - (b) Establish the standard against which satisfactory completion of the project will be evaluated;
 - (c) Assist the Owner and the Consultant in monitoring progress; and
 - (d) Assess the impact of changes to the Work.
- 1.3 The Contractor has the obligation and responsibility at all times to plan and monitor all of its activities, anticipating and scheduling its staff, materials, plant and work methods in a manner that is likely to ensure completion of the Work in accordance with the terms and conditions of the Contract and at a rate that will allow the Work to be completed on time.

2.0 CPM Scheduling Requirements

- 2.1 The schedules required by this section shall take the form of time-scaled logic diagrams prepared using a computerized scheduling system, capable of producing resource-and/or cost-loaded Critical Path Method (CPM) schedules. To facilitate integration with Owner master schedules, the schedules shall be developed using Oracle Primavera scheduling software, version 8.2 or higher.
 - (a) The schedules required by this section shall take the form of time-scaled logic diagrams prepared using a computerized scheduling system, capable of producing Critical Path Method (CPM) schedules.]
- 2.2 General requirements applicable to all schedules include the ability to:
 - (e) Easily summarize, group, sort and filter activities by area, phase or other categorization as applicable, or any combination thereof;

**GENERAL REQUIREMENTS: CONSTRUCTION SCHEDULE
CRITICAL PATH METHOD (CPM)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01225

Page 2 of 12

- (f) Electronically compare any given schedule with any previous or subsequent update;
 - (g) Generate monthly progress reports and cash flow projections through resource and cost loading activities;
 - (h) Show schedules in bar chart, network diagram and time scaled logic diagram formats;
 - (i) Apply different calendars to applicable activities; and
 - (j) Transmit schedules electronically via e-mail attachments and/or project collaboration/document management software (where specified).
- 2.3 Provide level of detail for project activities such that sequence and interdependency of Contract tasks are demonstrated and allow coordination and control of project activities. Show continuous flow from left to right.
- 2.4 Float is defined as the amount of time between the earliest start date and the latest start date of an activity or chain of activities on the CPM schedule. Ensure activities with no float are calculated and clearly indicated on logical CPM construction network system as being on the critical path, and that all critical paths are shown.
- 2.5 Use of float suppression techniques such as software constraints, preferential sequencing, special lead/lag logic restraints, extended activity times, or imposed dates, other than as required by the Contract, shall be cause for the rejection of any schedule submitted by the Contractor.

3.0 Submittals

- 3.1 Make submittals in accordance with the Contract Documents.
- 3.2 Schedules shall be submitted to the Consultant in both hard copy and electronic forms. Electronic schedule submissions shall be in an original scheduling software data file in Oracle Primavera P6 native format that permits modification of the layouts and data.
- (a) In lieu of electronic schedule submissions, the Contractor may request approval to review live electronic schedule submissions in Oracle Primavera P6 at an in-person meeting with Owner representatives and the

**GENERAL REQUIREMENTS: CONSTRUCTION SCHEDULE
CRITICAL PATH METHOD (CPM)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01225

Page 3 of 12

Consultant. In case of a discrepancy between an electronic copy of the schedule and the corresponding hard-copy schedule, the hard copy of the schedule that has been formally submitted and reviewed in accordance with the Contract Documents, shall govern.

- 3.3 Submission of the schedules referred to in this Section shall constitute the Contractor's representation that:
- (a) The Contractor and its Subcontractors intend to execute the Work in the sequence indicated on such schedule;
 - (b) The Contractor has distributed the proposed schedule to its Subcontractors for their review and comment, and has obtained their concurrence with the schedule logic for their respective portions of the Work, milestone completion dates, and the Date of Substantial Performance of the Work and Total Performance of the Work.
- 3.4 All elements of the Work required for the performance of the Contract are included. Failure to include in the schedule any such element shall not excuse the Contractor from completing the Work within the Contract Time and within any other constraints specified in the Contract;
- 3.5 Seasonal weather conditions have been considered and included in the planning and scheduling of the Work influenced by high and low ambient temperatures and/or precipitation; and
- 3.6 The Contractor has thoroughly inspected the Place of the Work and has incorporated any other special conditions in planning the Work such as specified or required non-work periods, etc.

4.0 Quality Assurance

- 4.1 Use experienced personnel, fully qualified in planning and scheduling to provide service from the commencement of the Work through to Total Performance of the Work.

5.0 Contract Milestones

- 5.1 The Contractor shall refer to the Form of Agreement for dates specific to the Work.

**GENERAL REQUIREMENTS: CONSTRUCTION SCHEDULE
CRITICAL PATH METHOD (CPM)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01225

Page 4 of 12

6.0 Preliminary Baseline Schedule

- 6.1 Meet with the Owner and Consultant within five (5) Working Days of Contract execution, to discuss proposed approach for executing the Work, including methodology, sequencing, construction equipment to be utilized, its availability at Place of the Work, and labour resources to be utilized.
- 6.2 Prepare a detailed CPM schedule (the preliminary baseline schedule), illustrating the Contractor's plan for executing the Work, indicating the times for starting and completing the various stages of the Work and any applicable constraints. The preliminary baseline schedule should refine and amplify the Contractor's schedule at the time of tender closing and must provide sufficient detail of the critical events and their interrelationship to demonstrate that the Work will be performed within the Contract Time.
- 6.3 The preliminary baseline schedule shall cover all phases of the Work, and shall represent a practical plan to complete the Work, considering restrictions of access and availability of Work areas, and availability and use of manpower, materials and equipment. Not limited to the following, the preliminary baseline schedule shall show the activity duration, sequencing and interdependencies for the following:
 - (a) Preparation of Shop Drawings and material samples;
 - (b) Review and approval of Shop Drawings and material samples;
 - (b) Permitting;
 - (c) Material procurement;
 - (d) Fabrication;
 - (e) Temporary works;
 - (f) Installation;
 - (g) Inspection/testing; and
 - (h) Handover.

**GENERAL REQUIREMENTS: CONSTRUCTION SCHEDULE
CRITICAL PATH METHOD (CPM)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01225

Page 5 of 12

- (i) Each activity shall be coded by the performing entity such as a particular Subcontractor, Supplier, the Consultant, etc.

- 6.4 The activity durations shown in the preliminary baseline schedule shall represent the planned durations in whole Working Days. Except for non-construction activities, such as procurement, delivery or submittals, no activity durations shall exceed twenty-two (22) Working Days unless accepted by the Consultant. The durations shall be determined based upon resource planning under contractually-defined on-site Work conditions. In determining activity durations, normal inclement weather shall be considered. The Contractor shall schedule the Work to minimize the effect of adverse weather, and to allow for protection of the Place of the Work from such effects.
- 6.5 The total number of activities and the distribution of activities shall reflect the complexity of the Work and shall be finite, measurable, identify a specific function and identify the construction trade responsible for its completion.
- 6.6 Prepare a narrative to accompany the preliminary baseline schedule that provides a detailed description of the labour, materials, plant, means and methods that the Contractor intends to utilize in carrying out the Work to achieve the planned rates of production required to support the activity durations shown in the schedule. The narrative shall also provide explanations supporting the use of lead-lag relationships and, where permitted, constrained dates.

7.0 Preliminary Baseline Schedule Submission and Review

- 7.1 Within fifteen (15) Working Days after Contract execution, submit to the Consultant:
 - (a) One electronic copy of the preliminary baseline schedule, clearly labelled with data date, specific update, and person responsible for update. This copy should be in P6 Native file format and should be importable into the Owner's Oracle Primavera data base, unless the Owner has agreed to the provisions of Section 3.2(a) herein..
 - (b) Two 11x17 inch hard copies of bar chart schedule formatted in accordance with Owner requirements and including the following information for each activity:

**GENERAL REQUIREMENTS: CONSTRUCTION SCHEDULE
CRITICAL PATH METHOD (CPM)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01225

Page 6 of 12

- (i) Activity ID;
 - (ii) Activity Title (Name);
 - (iii) Original Duration;
 - (iv) Remaining Duration;
 - (v) Early/late Start and Finish dates; and
 - (vi) Total Float.
- (c) Two hard copies of network diagram (mapping diagram) showing coding, activity sequencing (logic), total float, early/late dates, current status and original durations.
 - (d) Two hard copies of written narrative as described in paragraph 7 (f) above.
- 7.2 The Owner and the Consultant will review and return the preliminary baseline schedule in a timely manner.
- 7.3 The preliminary baseline schedule must be acceptable to the Owner and the Consultant, prior to the release of the first progress payment.

8.0 Final Baseline Schedule and Cash Flow

- 8.1 Submit all revisions and/or additional information requested by the Owner or the Consultant pursuant to their review of the preliminary baseline schedule, if the Consultant considers that these additions are necessary for the preliminary baseline schedule to comply with the requirements of this section. The required revisions must be made and the baseline schedule finalized to the satisfaction of the Owner and the Consultant (whereupon it will become the final baseline schedule, against which progress will be measured) within thirty (30) Working Days after Contract execution and prior to the release of the second progress payment, whichever is earlier.

**GENERAL REQUIREMENTS: CONSTRUCTION SCHEDULE
CRITICAL PATH METHOD (CPM)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01225

Page 7 of 12

9.0 Final Baseline Schedule Submission, Review and Approval

- 9.1 The Consultant will accept the final baseline schedule if it demonstrates that the Work will be performed in an orderly manner and in conformity with the Contract Time, subject to the constraints set out in the Contract to the satisfaction of the Consultant in its sole discretion, but such acceptance will neither impose on the Owner or the Consultant responsibility for the sequencing, scheduling or progress of the Work, nor interfere with or relieve the Contractor from the Contractor's full responsibility therefor. Acceptance of the final baseline schedule or any subsequent update by the Owner shall not be construed as a confirmation that the schedule is a reasonable plan for performing the Work.
- 9.2 Acceptance of final baseline schedule showing scheduled Contract duration shorter than specified Contract duration does not constitute a change to Contract Time.
- 9.3 Consider final baseline schedule showing Work completed in less than specified Contract duration to have float.

10.0 Compliance with Contract Schedule

- 10.1 The Contractor shall adhere to latest schedule accepted by the Consultant.
- 10.2 The express or implied acceptance by the Owner or the Consultant of the final baseline schedule and any progress schedules shall not constitute an approval or acceptance of the Contractor's construction means, methods, or sequencing or its ability to complete the work in a timely manner, and shall not place any obligation or responsibility on Owner towards the Contractor nor in any way limit the Contractor's obligations and responsibilities.

11.0 Progress Monitoring

- 11.1 Monitor progress of Work in detail to ensure integrity of critical path, by comparing actual completions of individual activities with their scheduled completions, and reviewing progress of activities that have started but are not yet completed. Monitoring should be undertaken sufficiently often (and not less than monthly) so that causes of delays are immediately identified and appropriate action taken to remove or mitigate.

**GENERAL REQUIREMENTS: CONSTRUCTION SCHEDULE
CRITICAL PATH METHOD (CPM)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01225

Page 8 of 12

- 11.2 On an ongoing basis, record "progress to date" on copy of the schedule to be available at the site. Inspect Work with the Owner and the Consultant at least monthly to establish status of all in progress activities.

12.0 Updates and Revisions to the Schedule

- 12.1 The Contractor's schedule is to be updated and resubmitted to the Consultant as a progress schedule at least once per month, on a date to be mutually agreed by the Contractor and the Consultant, and also with every application for payment, together with the related data and reports required by this Section.
- 12.2 Each progress schedule shall record and report actual completion and/or start dates for each completed or in-progress activity, activity percent complete for in-progress activities and forecast completion dates for all activities that are not yet completed. Do not automatically update actual start and finish dates by using default mechanisms found in scheduling software. The progress schedule will show the projected completion date of the Work based on the progress information inserted into it, without changes to the schedule logic or the original duration of any activity. The Contractor shall use the retained logic option when executing schedule calculations. The final baseline schedule (or an accepted revision thereto) will be shown as a target schedule to indicate whether the current progress schedule remains on target, has slipped or is ahead of schedule.
- 12.3 The Contractor may then, in a second and subsequent update to the progress schedule, incorporate any logic and duration changes that represent its revised planning, provided all such changes are identified and documented in the schedule narrative required to accompany the progress schedule, and are agreed to by the Consultant.
- 12.4 If it appears that the progress schedule submitted by the Contractor no longer represents the actual sequencing and progress of the Work the Consultant may instruct the Contractor to revise the progress schedule, whether or not the contractual milestone dates are affected.
- 12.5 In order to improve the schedule, eliminate unforeseen problems or reduce the time required for an activity, modifications to the schedule may be suggested by the Contractor, Subcontractors, Owner or Consultant during the execution of the Contract, and such modifications may be implemented by mutual agreement. The Contractor shall submit to the

**GENERAL REQUIREMENTS: CONSTRUCTION SCHEDULE
CRITICAL PATH METHOD (CPM)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01225

Page 9 of 12

Consultant for acceptance proposed adjustments to the final baseline schedule or any subsequent updates that will not change the Contract Time or any contractual milestones.

- 12.6 If, at any time, the work is behind schedule with respect to the progress schedule currently in force, and if the Consultant believes that there is a risk that, as a result of such delay, the Work will not be completed within the Contract Time and/or any contractual milestones might not be met, the Contractor shall take all necessary measures to make up for such delay either by increasing staff, plant or facilities, or by amending its work methods, whichever is applicable.
- 12.7 In all cases of delay or potential delay, the Contractor shall keep the Owner and the Consultant informed of its intentions with regard to mitigation of such delay and the Owner's Consultant may, if it is deemed necessary, require the Contractor to revise all or part of its current progress schedule, whether or not the contractual milestone dates are affected.
- 12.8 The Consultant shall set the time allowed for the submission of a revised schedule required under paragraph 12.7 above.
- 12.9 The current Contract Schedule can only be revised as agreed with the Owner and the Consultant by Change Order or an accepted revision to the logical sequence of described construction operations.
- 12.10 Once accepted, the revised schedule will become the current contract schedule (new baseline) against which progress is reported and to which subsequent updates will be compared.
- 12.11 Where the progress schedule shows completion of the Contract, or of any interim milestone, later than the required completion dates, acceptance of such progress schedules and of the monthly progress report will not constitute acceptance of the delay by the Consultant or the Owner.

13.0 Extensions of Time

- 13.1 Float shall not be for the exclusive use of either the Contractor or the Owner. Extensions to the Contract Time will be granted only to the extent that appropriate adjustments to the duration of the affected activity exceed the total float time along the affected paths of the progress

**GENERAL REQUIREMENTS: CONSTRUCTION SCHEDULE
CRITICAL PATH METHOD (CPM)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01225

Page 10 of 12

schedule in force at the time a Change Order or Change Directive is issued.

- 13.2 As part of the Contractor's submission for a Change Order, the Contractor shall submit to the Consultant, justification, project schedule data and supporting evidence for approval of extension to the Contract Time or interim milestone date when required.
- 13.3 Include as part of supporting evidence:
- (a) Written submission of proof of delay based on causes of delay for which the Contractor is not responsible; showing revised activity logic, duration and costs, showing time impact analysis illustrating influence of each change or delay relative to approved baseline schedule.
 - (b) Prepared schedule indicating how change will be incorporated into the overall logic diagram. Demonstrate perceived impact based on date of occurrence of change and include status of construction at that time.
 - (c) Any other supporting evidence requested by the Consultant.

14.0 Progress Reports

- 14.1 Monthly progress reports shall be prepared by the Contractor and submitted to the Consultant in the form of two hard copies, plus one electronic copy of the relevant schedule files, to demonstrate how the Work is actually progressing and the planned and detailed sequencing of the Work at the time of the report. The cut-off date for the monthly progress report shall be as instructed by the Consultant and the report shall be submitted no later than 10 Working Days after the cut-off date.
- 14.2 Each monthly progress report shall include:
- 14.3 An updated progress schedule, comparing actual and target progress for all milestones and activities, prepared in accordance with Section 8 (a) above.
- 14.4 Criticality report listing activities and milestones with up to five days of total float used as first sort for ready identification of near critical paths through entire project, prepared in accordance with Section 8 (a) above.

**GENERAL REQUIREMENTS: CONSTRUCTION SCHEDULE
CRITICAL PATH METHOD (CPM)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01225

Page 11 of 12

- 14.5 A look ahead schedule showing all activities due to start, to be in progress , or to finish within three months after the monthly update date, prepared in accordance with Section 8 (a) above and accompanied with remarks concerning action required.
- 14.6 a schedule narrative/report, including:
- (a) detailed descriptions of progress, including each stage of procurement, fabrication, delivery to Place of the Work, construction, installation, and testing;
 - (b) a discussion of the basis for any work sequencing, logic, interdependencies or original activity duration revisions incorporated into an updated progress schedule; and
 - (c) comparisons of actual and planned progress, with a brief commentary on any actual or forecast delays or problems that might have an impact on the completion. date of the Work, and a discussion of the measures being (or to be) adopted to mitigate the delays.
- 14.7 charts showing the status of submittals, permits and approvals, utility relocations, purchase orders, manufacturing/fabrication and construction.
- 14.8 for each fabricated item, the name and location of the fabricator, percentage progress, and the actual or expected dates of commencement of fabrication, Contractor's inspections, tests and delivery
- 14.9 Timely submission of updates is of significant and crucial importance to the management of this project. Lack of or late receipt of updates diminishes their value to the Owner and the Consultant. Submission of an up-to-date schedule acceptable to the Consultant and the Owner is a requirement with every application for payment.

15.0 Review of Monthly Progress Reports

- 15.1 The monthly progress reports and progress schedules will be used by the Owner and the Consultant to monitor the Contractor's schedule performance.

**GENERAL REQUIREMENTS: CONSTRUCTION SCHEDULE
CRITICAL PATH METHOD (CPM)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01225

Page 12 of 12

END OF SECTION

GENERAL REQUIREMENTS: SHOP DRAWINGS AND OTHER SUBMITTALS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01300

Page 1 of 7

1.0 General

- 1.1 Submit to Consultant for review, product data specified.
- 1.2 Conform to General Condition No. GC 3.10 Shop Drawings.
- 1.3 Until submission is reviewed, work involving relevant product may not proceed.

2.0 Product Data

- 2.1 Manufacturer's standard schematic drawings, catalogue sheets, diagrams, schedules, performance charts, illustrations and other standard descriptive data will only be accepted in lieu of Shop Drawings when authorized by Consultant.
- 2.2 Above will only be accepted if it conforms to the following:
 - (a) delete information which is not applicable to project;
 - (b) supplement standard information to provide additional information applicable to project;
 - (c) show dimensions and clearances required;
 - (d) show performance characteristics and capacities; and
 - (e) show wiring diagrams and controls.

3.0 Shop Drawings

- 3.1 Submit shop drawings for which submission is required in other sections of this specification.
- 3.2 In addition to shop drawings specified in other sections, submit shop drawings required by jurisdictional authorities in accordance with their requirements.
- 3.3 Within five (5) Working Days of execution of the Contract, submit for review by the Consultant, a schedule of Shop Drawings indicating dates, review dates, fabrication and lead times.
- 3.4 Drawings to be originals prepared by Contractor, Subcontractor, Supplier or Distributor, which illustrate appropriate portion of Work, showing fabrication, layout, setting or erection details as specified in appropriate Sections.

GENERAL REQUIREMENTS: SHOP DRAWINGS AND OTHER SUBMITTALS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01300

Page 2 of 7

- 3.5 Identify details by reference to sheet and detail numbers shown on Contract Drawings.
- 3.6 Maximum sheet size 48" x 36" (1220mm x 915mm).
- 3.7 Each Shop Drawing shall be prepared specifically for this project.
- 3.8 All Shop Drawings of structural components shall show all pieces, dimensions, materials, weld types and sizes, material treatments and finish to a large scale (metric) suitable to the Product.
- 3.9 Indicate on each submission changes from the contract drawings and specifications that have been incorporated in the shop drawings. The Contractor shall be responsible for changes made from the contract drawings and specifications which are not indicated or otherwise communicated in writing with the submission.
- 3.10 Shop drawing review by the Consultant is for the sole purpose of ascertaining conformance with the general design concept. This review shall not mean that the Consultant approves the detail design inherent in the shop drawings, responsibility for which shall remain with the Contractor submitting same, and such review shall not relieve the Contractor of his responsibility for errors or omissions in the shop drawings or of his responsibility for meeting all requirements of the contract documents. The Contractor is responsible for dimensions to be confirmed and correlated at the job site, for information that pertains solely to fabrication processes or to techniques of construction and installation, and for co-ordination of the work of all subcontractors.
- 3.11 Incorporate only dimensional system utilized for drawings, except where substitutes are otherwise approved. Make soft conversions from metric system to imperial, or vice versa, where required for incorporation of units of one dimensional system into construction in the other.
- 3.12 Show on shop drawings:
 - (a) Name of project, Contractor and Subcontractors.
 - (b) Clear and obvious notes of any proposed changes from drawings and specifications.
 - (c) Fabrication and erection dimensions.

GENERAL REQUIREMENTS: SHOP DRAWINGS AND OTHER SUBMITTALS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01300

Page 3 of 7

- (d) Provisions for allowable construction tolerances and deflections provided for live loading.
 - (e) Details to indicate construction arrangements of the parts and their connections and interconnections with other work.
 - (f) Location and type of anchors and exposed fastenings.
 - (g) Materials and finishes.
 - (h) Descriptive names of equipment.
 - (i) Mechanical and electrical characteristics when applicable.
 - (j) Information to verify that superimposed loads will not affect function, appearance or safety of the work detailed as well as of interconnected work.
 - (k) Assumed design loadings and dimensions and material specifications for load-bearing members.
 - (l) Dimensions and dimensioned locations of proposed chases, sleeves, cuts and holes in structural members.
 - (m) Time that fabricator considers necessary from date he receives Contractor's authority to proceed (and Shop Drawings are returned) until fabricated Work will be delivered to site, and for installation if installed by fabricator.
 - (n) All documents shall carry the seal of a Professional Engineer registered in the Province of Ontario, and be responsible for the design of connections and details, fabrication and erection of all structural components, where applicable.
- 3.13 Shop drawings which require correction will be sent back for revisions and resubmission.
- 3.14 Otherwise, shop drawings will be sent back with review comments only.
- 3.15 Only drawings noted for revision and resubmission need be resubmitted.
- 3.16 Do not add new details or information to shop drawings after they have been finally reviewed, except when approval is given.
- 3.17 Fabricate work exactly as shown on shop drawings. If shop practice dictates revisions, revise drawings and resubmit.

GENERAL REQUIREMENTS: SHOP DRAWINGS AND OTHER SUBMITTALS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01300

Page 4 of 7

- 3.18 File one copy of each finally revised and corrected shop drawing at site.
- 3.19 Review of any Drawing and any notes added to it, does not constitute authorization to proceed with any Work which, in the Contractor's or Supplier's opinion, will involve extra cost to the Owner.

4.0 Samples & Mock-Ups

- 4.1 Submit samples in sizes and quantities specified.
- 4.2 Where specified, shown or considered necessary, submit duplicate samples for Consultant's approval.
- 4.3 Where colour, pattern or texture is criterion, submit full range of samples.
- 4.4 Samples must correspond in every aspect to materials supplied for the project.
- 4.5 Construct field samples and mock-ups at locations acceptable to Consultant.
- 4.6 Construct each sample of mock-up completely, including work of all trades required to finish.
- 4.7 Do not proceed with fabrication or delivery of materials until samples are approved.
- 4.8 Reviewed samples or mock-ups will become standards of workmanship and material against which installed work will be checked on project.
- 4.9 Approval of samples does not imply acceptance of finished work.

5.0 Coordination of Submissions

- 5.1 Review Shop Drawings, Product data and samples prior to submission. Any Shop Drawing not bearing evidence of having been checked by the Contractor will not be accepted by the Consultant.
- 5.2 Indicate on Shop Drawings that they have been checked by applying stamp "checked and certified for construction", including date and Contractor's signature.
- 5.3 No claim for delay will be considered as a result of time lost for Drawings returned because the Contractor has failed to check the Drawings as stated above.
- 5.4 Check Shop Drawings and Product data sheets before submission as follows:

GENERAL REQUIREMENTS: SHOP DRAWINGS AND OTHER SUBMITTALS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01300

Page 5 of 7

- (a) Against Contract Documents and other applicable Shop Drawings to ensure that work adjacent to and affecting other work is accurately detailed.
 - (b) To ensure work conforms to requirements of Contract Documents.
 - (c) Verify field measurements, field construction criteria, catalogue number and similar data.
- 5.5 Coordinate each submission with requirements of Work and Contract Documents. Individual Shop Drawings will not be reviewed until all related drawings are available.
- 5.6 Consultant's review of Shop Drawings and data sheets pertain to general design only. Errors in dimensions, quantities or interference will be marked if noticed, but this will not in any way relieve the Contractor from his responsibility to complete the Work as shown and specified.
- 5.7 Contractor's responsibility for deviations in submission from requirements of Contract Documents is not relieved by the Consultant's review of submission, unless Consultant gives written acceptance of specified deviations.
- 5.8 Notify Consultant, in writing at time of submission, of deviations from requirements of Contract Documents.
- 5.9 Do not proceed with Work covered by Shop Drawings and data sheets until reviewed by Consultant. Any such installation will not be considered for payment until Shop Drawings are approved.
- 5.10 After Consultant's review, distribute copies to all trades affected.

6.0 Submission Requirements

- 6.1 Schedule submissions at least ten (10) Working Days before dates reviewed submissions will be needed.
- 6.2 Submissions shall be as follows:
 - (a) Four (4) white prints of Shop Drawings and Product data bearing the review stamp of the Contractor, three (3) of which will be retained by the Consultant;

GENERAL REQUIREMENTS: SHOP DRAWINGS AND OTHER SUBMITTALS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01300

Page 6 of 7

(b) The fourth set will be returned to the Contractor, who is responsible for preparing all additional copies for distribution, and distributing to all required parties; and

(c) Submit final Shop Drawings as noted in Section 01800 Project Closeout.

6.3 Additional copies of Shop Drawings, Product data, reports, procedures, plans and certificates shall be required for distribution by the Contractor.

7.0 Temporary Works and Shoring

7.1 Prepare and submit to the Consultant drawings fully describing the shoring, needling, bracing and scaffolding work, the sequence of their installation and removal and the sequence of alterations.

7.2 Each drawing submitted shall bear the signature and stamp of a qualified Professional Engineer licensed in the Province of Ontario.

7.3 Submit calculations to the Consultant if requested.

7.4 The Professional Engineer employed to design the shoring, bracing, needling and the like shall also be employed to fully supervise their installation and removal and shall submit weekly reports to the Consultant regarding these phases of the work.

7.5 Contract Documents may or may not identify the need for shoring. Contractor shall provide all necessary shoring as and where required to safely carry out the Work.

8.0 Requirements specific to electrical and mechanical shop drawings and submittals

8.1 In all instances, shop drawings shall be submitted electronically in PDF format, with the shop drawing number in the subject line and notifications (complete with attachment or link to the shop drawing file) sent to the following email address: **ContractAdmin.Toronto@smithandandersen.com**.

8.2 Any shop drawing sent directly to the contract administrator personal email (and not copied to the email address provided above) without advanced permission shall not be processed nor considered received.

8.3 As part of the Consultant's scope of the work, shop drawings shall be reviewed no more than twice. Should three or more reviews be required due to reasons of

GENERAL REQUIREMENTS: SHOP DRAWINGS AND OTHER SUBMITTALS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01300

Page 7 of 7

Contractor omissions causing resubmission requests, the Contractor shall reimburse the Consultant for time expended in these extra reviews.

- 8.4 When requested, Shop Drawings shall be supplemented by data explaining the theory of operation - for example: fire alarm controller, ATS, BAS, etc. - the Consultant may also request that this information be added to the maintenance and operating manual.
- 8.5 Submittals/Shop Drawings shall indicate clearly the materials and/or equipment actually being supplied as well as the capacity, operating characteristics and performance. Each Shop Drawing shall give the identifying number of the specific assembly for which it was prepared (e.g. SWBD-1A, AHU-1, etc.).
- 8.6 Ensure that Electrical co-ordination is complete before submitting Shop Drawings for review (e.g. with Mechanical, Communications, etc.).
- 8.7 Shop Drawings shall be organized by Specification section. Do not combine more than one section into one submission. Incorrect submissions will be returned without review.

END OF SECTION

GENERAL REQUIREMENTS: QUALITY CONTROL

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01400

Page 1 of 3

1.0 Inspection

- 1.1 Refer to GC 2.3 - REVIEW AND INSPECTION OF THE WORK.
- 1.2 The materials furnished by the Contractor shall be inspected by the Consultant at the time of delivery and at such other times as the Consultant may elect.
- 1.3 The Owner and the Consultant shall have access to the work. If parts of the work are in preparation at locations other than the Place of the Work, access shall be given to such work whenever it is in progress.
- 1.4 The Consultant may order any part of the work to be examined if such work is suspected to be not in accordance with the Contract. If, upon examination such work is found not in accordance with the Contract, correct such work and pay the cost of examination and correction. If such Work is found in accordance with the Contract, the Owner will pay the cost of examination and replacement.
- 1.5 The review of the information covering materials and equipment by the Consultant shall in no release the Contractor from his responsibility for the proper design, installation and performance of any material, equipment or arrangement or from the liability to replace same should it prove defective or deficient.

2.0 Independent Inspection Agencies

- 2.1 Independent Inspection/Testing Agencies will be engaged by the Consultant for inspecting and/or testing portions of work.
- 2.2 Cost of such services will be borne by the Contractor under the appropriate Cash Allowance item in the Form of Tender.
- 2.3 Provide samples and/or assistance required for inspection and testing by the appointed agencies.
- 2.4 Employment of Inspection/Testing Agencies does not remove the responsibility to perform Work in accordance with the Contract Documents.
- 2.5 If defects are revealed during inspection and/or testing, the appointed agency will request additional inspection and/or testing to ascertain full degree of defect. Correct defects and irregularities as advised by the Consultant at no cost to the Owner. Pay costs for retesting and re-inspection.

GENERAL REQUIREMENTS: QUALITY CONTROL

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01400

Page 2 of 3

3.0 Procedures

- 3.1 Notify the appropriate agency and Consultant a minimum of two (2) working days in advance of the requirement for tests, in order that arrangements can be made with the testing company.
- 3.2 Submit samples and/or materials required for testing, as specifically requested in Specifications. Submit with reasonable promptness and in an orderly sequence so as not to cause delay in the Work.
- 3.3 Provide labour and equipment to obtain and handle samples and materials on site.

4.0 Rejected Work

- 4.1 Refer to GC 2.4 - DEFECTIVE WORK.
- 4.2 If, in the opinion of the Consultant, it is not expedient to correct defective work, or work not performed in accordance with the Contract Documents, the Owner may deduct from the Contract Price the difference in value between the work performed and that called for by the Contract Documents, the amount of which shall be determined by the Consultant.

5.0 Reports

- 5.1 Reports on materials testing as arranged by the Consultant shall contain the following information:
 - (a) Date and time of inspection or test.
 - (b) Weather conditions and ambient air temperatures during the inspection.
 - (c) Testing method employed by proper standard reference and specific paragraph or other detailed information as applicable.
 - (d) Inspection description and detailed and other relevant information.
 - (e) Test results in detail, complete with applicable graphs and other clarifying documents and information.
 - (f) Printed name and signature of person having conducted inspection or test, and name, title and signature of Supervisor having verified the report.
- 5.2 Inspection and Testing Agency shall provide a written report for each inspection and test made, three copies to the Consultant; three copies to the Contractor

GENERAL REQUIREMENTS: QUALITY CONTROL

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01400

Page 3 of 3

direct, who shall forward one copy to the Subcontractor, supplier or manufacturer concerned.

END OF SECTION

GENERAL REQUIREMENTS: TEMPORARY FACILITIES

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01500

Page 1 of 5

1.0 Access

- 1.1 Use designated entrance for access to Project site, maintain such roads for duration of Contract and make good damage resulting from Contractor's use of roads.
- 1.2 Build and maintain temporary roads where required and provide snow removal during period of Work.

2.0 Site Offices

- 2.1 Within two (2) weeks after execution of Contract, provide a site office with temperature maintained to 22°C, lighted 750 Lx and ventilated, of sufficient size to accommodate site meetings and furnished with drawing laydown table and telephone, pay telephone not acceptable.
- 2.2 Within the site office, provide a separate area of 8 m², furnished with the following exclusively for the Consultant's use for the duration of the Contract:
 - (a) A lockable 2-drawer legal filing cabinet;
 - (b) A double pedestal executive desk with lockable drawers;
 - (c) One swivel arm chair;
 - (d) One metal, lockable storage cabinet;
 - (e) One angled drawing board;
 - (f) Internet access via portable internet;
 - (g) Duplex receptacles spaced at regular intervals throughout the space; and
 - (h) 3 in 1 colour printer/fax/copier.
- 2.3 Clean site offices weekly or as needed.

3.0 Provision For Traffic

- 3.1 The Contractor shall at all times carry on the Work in a manner that will create the least interference with traffic consistent with the performance of the Work.

GENERAL REQUIREMENTS: TEMPORARY FACILITIES

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01500

Page 2 of 5

4.0 Storage Sheds

- 4.1 Provide adequate weather-tight sheds with raised floors, for storage of materials, tools and equipment which are subject to damage by weather.

5.0 Sanitary Facilities

- 5.1 Provide sanitary facilities for work force in accordance with governing regulations and ordinances.
- 5.2 Post notices and take such precautions as required by local health authorities. Keep area and premises in sanitary condition.
- 5.3 Maintain sanitary facilities for the duration of the Project.

6.0 Parking

- 6.1 Contractor to confirm with Consultant actual location and number of spaces available. The Owner is not required to provide parking to the Contractor and their forces.

7.0 Site Enclosures and Protection

- 7.1 Contractor shall provide full protection to the public and Metrolinx customers when Work is being carried out in areas with Public Access.
- 7.2 Protection will be in the form of a 1.8 m high temporary chain link fence (fast fence/quick fence).
- 7.3 Protection for all other areas deemed required by the Consultant and the Owner will be 1.2 m high snow fence wired to rolled steel "T" bar fence posts spaced at 1.8 m oc.
- 7.4 Contractor to provide hoarding wraps per Metrolinx Requirements and Design.
- 7.5 Maintain all temporary fencing in good repair.
- 7.6 Compliance with the requirements does not relieve the Contractor from the responsibility for the provision of protection and the adequacy of such protection.

GENERAL REQUIREMENTS: TEMPORARY FACILITIES

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01500

Page 3 of 5

8.0 Power and Water Supply

- 8.1 Contractor shall be responsible for provision of water, including all required permits. Conversions or alterations to existing sources of water to meet construction requirements are the responsibility of the Contractor.
- 8.2 Contractor may connect into the Owner 's electrical power supply, if applicable for power for construction requirements. All such connections shall be first approved in writing by the Owner.
- 8.3 The Contractor shall be responsible for all claims and damages resulting from unauthorized or misuse of the Owner's electrical power supply. Verify all circuit and circuit protection capacities with the Owner before making any connections.

9.0 Heating and Ventilation

- 9.1 Pay for costs of temporary heat and ventilation used during construction, including costs of installation, fuel, operation, maintenance and removal of equipment. Use of direct-fired heaters discharging waste products into work areas will not be permitted unless prior approval is given by Consultant.
- 9.2 Provide temporary heat and ventilation in enclosed areas as required to:
 - (a) Facilitate progress of Work;
 - (b) Protect Work and Products against dampness and cold;
 - (c) Prevent moisture condensation on surfaces;
 - (d) Provide ambient temperatures and humidity levels for storage, installation and curing of materials; and
 - (e) Provide adequate ventilation to meet health regulations for safe working environment.
- 9.3 Maintain minimum temperature of 10°C or higher where specified as soon as finishing work is commenced and maintain until acceptance of structure by Consultant.
- 9.4 Ventilating:
 - (a) Prevent accumulations of dust, fumes, mists, vapours or gases in areas occupied during construction.

GENERAL REQUIREMENTS: TEMPORARY FACILITIES

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01500

Page 4 of 5

- (b) Provide local exhaust ventilation to prevent harmful accumulation of hazardous substances into atmosphere of occupied areas.
 - (c) Dispose of exhaust materials in manner that will not result in harmful exposure to persons.
 - (d) Ventilate storage spaces containing hazardous or volatile materials.
 - (e) Ventilate temporary sanitary facilities.
 - (f) Continue operation of ventilation and exhaust system for time after cessation of work process to assure removal of harmful contaminants.
- 9.5 Maintain strict supervision of operation of temporary heating and ventilating equipment to:
 - (a) Conform with applicable codes and standards;
 - (b) Enforce safe practices;
 - (c) Prevent abuse of services;
 - (d) Prevent damage to finishes; and
 - (e) Vent direct-fired combustion units to outside.
- 9.6 Use of permanent system for temporary heating and ventilating will not be permitted, unless there are savings to the Contract Price and Consultant's written permission is obtained stating conditions of use, provisions relating to guarantees on equipment and operation and maintenance of system.

10.0 Site Signs and Notices

10.1 Contractor Signboard

- (a) Direct requests for approval to erect a Contractor signboard to the Consultant. Contractor must ensure sign conforms to all governing By-laws.

10.2 Safety and Instruction Signs and Notices

- (a) Signs and notices for safety and instruction shall be in clear English and French language. Graphic symbols shall conform to CAN3-Z321-77.

10.3 Maintenance and Disposal of Site Signs

GENERAL REQUIREMENTS: TEMPORARY FACILITIES

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01500

Page 5 of 5

- (a) Maintain approved signs and notices in good condition for duration of Project, and dispose of offsite on completion of Project or earlier if directed by Consultant.

10.4 Temporary Wayfinding Signage

- (a) Temporary Wayfinding signage must be provided in the following locations:
Bay East Teamway, any other location identified by Metrolinx.

11.0 Removal of Temporary Facilities

- 11.1 Remove temporary facilities from site when directed by Consultant.

END OF SECTION

GENERAL REQUIREMENTS: RAILWAY SAFETY REQUIREMENTS

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01545

Page 1 of 7

1.0 Railway Safety, Orientation and Permits

- 1.1 The Contractor shall ensure that all persons employed or hired by the Contractor who are granted access to **CN/CPR/ and Metrolinx** right-of-way are trained and current in one of the following railway safety training courses:
 - 1.1.1 GO-Safe Railway Orientation (available at www.gotransitcontractor.com) or Metrolinx approved Canadian Railway Operating Rules and GO Transit Track Worker Safety Instructions; and
 - 1.1.2 Any other railway safety training as applicable to the Owner's property.
- 1.2 The Contractor shall maintain an up-to-date list of all such trained employees on site and ensure all such trained employees wear the sticker, issued upon successful completion of the course on a readily visible location on their hardhats, or carry the wallet card issued upon successful completion of the course, at all times when within the railway right-of-way. Authority to commence construction will only be given when this requirement has been fulfilled.
- 1.3 The Contractor shall ensure that appropriate railway entry/access permits are completed and on site prior to starting Work in the railway corridor.

2.0 Alcohol and Drug Abuse Prevention

- 2.1 The following rules shall apply to all persons while at the Place of Work and/or on the Owner's property while carrying out all aspects of the Work:
 - 2.1.1 The use, possession, distribution and/or sale of illegal drugs or drug paraphernalia is prohibited;
 - 2.1.2 The use, possession, distribution and/or sale of any form of alcohol, including alcoholic beverages;
 - 2.1.3 Workers must know and understand the possible effects of drugs, medication or mood-altering agents, including those prescribed by a doctor, which will adversely affect, in any way and to any extent, their ability to work safely;
 - 2.1.4 Individuals shall ensure that prescribed or over-the-counter medications are used responsibly and in accordance with the applicable instructions.

GENERAL REQUIREMENTS: RAILWAY SAFETY REQUIREMENTS

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01545

Page 2 of 7

Persons taking prescription drugs shall advise their supervisor if there is potential for performance to be negatively affected;

2.1.5 No distribution, offering or sale of prescription medications is permitted; and

2.1.6 Individuals must report for duty, free of the negative effects of alcohol and other drugs, including the effects of such use, and remain so during the entire period of duty.

2.2 Where a worker is suspected of being intoxicated, the following procedures must be followed:

2.2.1 The worker will be escorted to a safe location away from the work area, and asked to remain there pending further action;

2.2.2 The worker's supervision, worker health and safety representative (if applicable), union steward (if applicable) and the designated Owner Contract representative will be requested to attend;

2.2.3 The group present will determine an appropriate course of action and a means of transport to a suitable safe location;

2.2.4 Where there are differences of opinion with respect to the worker's fitness for duty, the dispute will be resolved with a view to ensuring safety, and the worker will be transported home, or required to remain in a safe location until this can be arranged; and

2.2.5 The local police may be called if the worker was operating any motorized vehicle requiring a valid driver's license.

2.3 The Owner will maintain a position of zero tolerance to any violations of these rules. At the sole discretion of the Owner, rule contraventions may result in:

2.3.1 Verbal and written reporting to the person's supervisor/employer;

2.3.2 Issuance of a written warning, and recording of same;

2.3.3 Reporting to the appropriate police department for investigation and subject to criminal prosecution;

2.3.4 An order to leave the project site temporarily or permanently; or

2.3.5 Remedies as may be specified in the Contract Documents.

GENERAL REQUIREMENTS: RAILWAY SAFETY REQUIREMENTS

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01545

Page 3 of 7

3.0 Track Protection

- 3.1 Work within the Railway corridor will be subject to the limitations stipulated within Canadian Rail Operating Rules (CROR). Track Protection by means of flagging protection will be required in accordance with CROR and Metrolinx Track Worker Safety Instructions (TWSI).
- 3.2 Flag persons/flag persons in training will be furnished by **A&B** at no cost to the Contractor, up to the date specified for the Total Performance of the Work. After this date, the Contractor will, at the sole discretion of Metrolinx be required to pay all additional flagging costs, which will be automatically deducted from the amounts due to the Contractor in the progress payments.
- 3.3 The Contractor will be responsible for ensuring that construction operations are carried out without interfering with the continued safe movement of rail traffic.
- 3.4 The Contractor shall ensure that a flag person is present at all times when work is executed within the Railway Corridor or within 10 meters of the nearest rail or above the track(s) where the work, in the opinion of Metrolinx, may be exposed to or interfere with the operation of trains. The Contractor shall arrange for a site meeting with Metrolinx no earlier than four weeks prior to flagging to confirm flagging protection requirements.
- 3.5 Equipment operators on track must be CROR/TWSI trained.
- 3.6 The Contractor shall submit the requests for flagging protection weekly with three (3) week forecast to ensure the most up-to-date information is being relayed for the scheduling of track protection. A minimum of 48 hours' notice shall be given for any cancellations of the scheduled or approved flagging protections.
- 3.7 Cancellation requested received less than 48hrs notice prior to scheduled start time shall result in costs incurred being applied to the Contractor.
- 3.8 The Contractor shall advise Metrolinx of work to be performed, using task-specific method statements, in order to schedule flagging protection. Subject to Metrolinx approval of the method statement, the Contractor shall advise Metrolinx of the scheduled flagging times on the corridor at least three weeks in advance for Metrolinx's planning and coordination purposes. Metrolinx reserves the right to make adjustments to flagging as required.
- 3.9 Ensure that a responsible person is present at all times to whom the Railway personnel will issue orders regarding work near the tracks. Comply immediately with such orders and instructions.

GENERAL REQUIREMENTS: RAILWAY SAFETY REQUIREMENTS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01545

Page 4 of 7

- 3.10 The colour red shall not be used for safety vests or survey markers on railway right-of-way in order to avoid conflict with Railway Operational Practice. Other highly visible colours such as orange are acceptable provided they comply with the CSA Class 2 requirements for outer garments. Dark-coloured outerwear with high-visibility striping is not acceptable for use within Metrolinx railway corridors.
- 3.11 At no time shall idling equipment be left unattended by the operator.
- 3.12 The Contractor shall ensure that both rails of the same track are never connected with any conductor of electricity such as steel measuring tapes or metal traction equipment.
- 3.13 All accidents/incidents that have the potential to impact worker safety, the safe operation of trains, or damage to railway property must be reported immediately to the railway flag person. The appropriate railway authority and the GO Transit Control Center shall be advised immediately of any violations of the Canadian Railway Operating Rules.
- 3.14 The Contractor shall comply with all monthly safety reporting requirements as specified by Metrolinx Construction Management Office.

4.0 Protection of Infrastructure

- 4.1 Ensure protection of the rails, ties and ballast from falling materials (i.e. trees, rocks, debris, etc.) by use of timber mats or equivalent material. Prevent excavated material from contaminating ballast and sub-ballast.
- 4.2 The contractor shall conduct Track Monitoring for excavations next to rail, per requirements from Metrolinx Rail Corridors group
- 4.3 The Contractor shall restore any track structure that is disturbed during construction activities as follows:
 - 4.3.1 the track shall be mechanically lined, tamped, surfaced, compacted and stabilized with the appropriate equipment to ensure that the track structure is safe for train traffic at a minimum speed of 30 mph prior to the end of the closure;
 - 4.3.2 after the required tonnage has travelled over the affected area, the track shall be in such a state so as to allow for the authorized track speed as per GO Track Standards.

GENERAL REQUIREMENTS: RAILWAY SAFETY REQUIREMENTS

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01545

Page 5 of 7

5.0 Restrictions on Construction Operations

In order to ensure the continued safe movement of rail traffic, certain restrictions shall be imposed on the construction operations. Without in any way limiting the generality of the foregoing statement, the following are some of the limitations or restrictions that shall be imposed.

- 5.1 The Contractor shall acknowledge that the Works within the Rail Corridor will be carried out on or adjacent to operating railway tracks and that the productive hours of work are affected by the passage of trains and associated stoppages of work are required to ensure railway safety. The safe uninterrupted passage of trains shall take priority over the construction of the Works.
- 5.2 The Contractor shall comply fully with Metrolinx in planning, scheduling and control of the work within the Rail Corridor.
- 5.3 The Contractor shall acknowledge and agree to provide continued safe movement of rail traffic by following the restrictions that shall be imposed on the construction operations including the following limitations or restrictions included in the GO Track Standards.
- 5.4 All workers and equipment within ten (10) meters or thirty (30) feet from the nearest rail must stop working on the approach of a train and remain stopped until permission has been given to resume work by the flag person.
- 5.5 Do not work closer than four (4) meters or thirteen (13) feet from the nearest rail without the prior consent of Metrolinx and only during such times as there is track protection provided by the Railway.
- 5.6 The Contractor shall secure all scaffolding, formwork and other protective coverings to be used on the project in such a manner that they will not come loose by the movement of passing trains.
- 5.7 Prior to undertaking any work, the Contractor shall delineate the work outside of the Rail Corridor from work within the Rail Corridor with construction fences. The Contractor shall coordinate the exact location and placement of the fencing with Metrolinx.
- 5.8 In the event of an incident that may impact rail operations, the Contractor shall notify the flag person immediately for an assessment and action.

GENERAL REQUIREMENTS: RAILWAY SAFETY REQUIREMENTS

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01545

Page 6 of 7

6.0 Crossing Tracks

- 6.1 Do not cross tracks of the Railway Company with scrapers, bulldozers, trucks, barrows or other mechanical equipment at grade nor place crossing planks except by authority of Metrolinx, at locations designated by him.
- 6.2 The Contractor shall not cross the track with any equipment or vehicles without prior approval from Metrolinx. If the Contractor's schedule of operations requires construction equipment to cross the track, the Contractor shall make a request to Metrolinx for a Temporary Construction Crossing.
- 6.3 Each rail of the track shall be protected by use of rubber mats or tires, before any crawler mounted equipment is allowed to cross the track affected.
- 6.4 Construction equipment shall not cross the track except at an approved Construction Crossing designated by the Metrolinx. Crossings shall only be used by equipment when flagging protection has been provided. Refer to RC-0506-02 TRK GO Transit Track Standards; Section 13.6 Construction/Temporary Crossings.
- 6.5 If necessary, the Contractor shall be responsible for constructing and maintaining the crossing, the manually operated rising barriers and the approaches to the crossing to a standard acceptable to GO Transit Track Standards. Refer to RC-0506-02 TRK GO Transit Track Standards, Section 13.6 Construction/Temporary Crossings
- 6.6 The Contractor shall install the temporary manually operated rising barriers, approved by Metrolinx, to prevent use of the crossings by unauthorized personnel and keep gates locked when crossings are not in use. Metrolinx reserves the right to open the locks and use the gates at any time in order to access Metrolinx Lands.
- 6.7 Upon completion of all construction requiring use of the temporary crossings, the Contractor shall remove the crossing planking, the manually operated rising barriers, and the approaches and restore the track ballast section in accordance with the GO Transit Track Standards.

7.0 Site Material Storage

- 7.1 Due to the area of the work and the possibility of vandalism, all materials must be physically removed from the site or placed in secure bins or areas on a daily basis. No loose material will be allowed on site.

GENERAL REQUIREMENTS: RAILWAY SAFETY REQUIREMENTS

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01545

Page 7 of 7

- 7.2 The Contractor shall be held accountable for all damages to Owner operations or property, railway operations or property, and all persons or their property, that is found to be a result of improper materials storage practices by the Contractor or their Subcontractors.
- 7.3 The Contractor shall not store materials or equipment on the Rail Corridor. The Rail Corridor must remain clear for railway use at all times. Equipment shall not be positioned to block the railway access road, track area or any part of the Rail Corridor without prior Metrolinx approval.

END OF SECTION

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01560

Page 1 of 23

1.0 General

- 1.1 This Section covers the Contractor's responsibility for protection of the environment during the Work.
- 1.2 The Contractor to review this section and ensure that all requirements are met prior to start the construction Work.

2.0 Related sections

- 2.1 OPSS 180, OPSS 506, and Ontario Reg. 347

3.0 Contractor's Responsibilities

- 3.1 The Contractor shall be fully familiar with and comply with Applicable Laws, which include but are not limited to, applicable environmental acts, regulations and municipal by-laws for environmental requirements, and as amended from time to time, which include without being limited to:
 - (a) Federal Legislation
 - (i) Transportation of Dangerous Goods Act and Regulations (TDG)
 - (ii) Canadian Fisheries Act
 - (iii) Species at Risk Act
 - (iv) Migratory Birds Convention Act
 - (v) Canadian Environmental Protection Act (CEPA)
- 3.2 Ontario Legislation:
 - (a) Environmental Protection Act (EPA) and Regulations
 - (b) Ontario Water Resources Act (OWRA) and Regulations
 - (c) Clean Water Act
 - (d) Endangered Species Act
 - (e) Ontario Heritage Act
 - (f) Noise Pollution Control Publication 300

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01560

Page 2 of 23

- (g) Technical Standards and Safety Act
 - (h) Energy Act
 - (i) Occupational Health and Safety Act (OHSA)
 - (j) Cemeteries Act, R.S.O. 1990 cC.4 (as amended 2012)
 - (k) Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33
- 3.3 Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses, O.Reg. 166/06.
- 3.4 GO Transit Environmental Management System Performance Standards.
- 3.5 No later than 60 days prior to commencing work on at the Place of the Work, the Contractor shall provide to the Consultant a copy of the Contractor's Environmental Policy, as required by the Environmental Protection Act, and an Environmental Protection Program to implement the policy.
- 3.6 The Contractor shall complete the Work in a manner that:
 - (a) Protects health and the environment;
 - (b) Complies with the requirements of the Contract Documents;
 - (c) To the extent that is not inconsistent with the Contract Documents, complies with the Contractor's Environmental Management Plan, once approved by the Consultant;
 - (d) Adequately anticipates, protects and plans for impacts to the environment, including spills, erosion and sedimentation, waste disposal and the use, storage and disposal of Hazardous Materials; and
 - (e) To the extent that is not inconsistent with the Contract Documents, uses all commercially reasonable efforts to reduce, reuse or recycle non-hazardous and non-radioactive waste.
- 3.7 The Contractor shall provide all plans, reports and other documents identified herein, in accordance with the Contract Documents.
- 3.8 The Contractor shall review and be fully familiar with the following documents, where available and applicable:

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 3 of 23

- (a) Species at Risk (SAR) Screening Memo;
 - (b) Arborist Reports, including estimated vegetation removals;
 - (c) Stormwater Management Reports;
 - (d) Geotechnical Data Reports;
 - (e) DFO Request for Review Forms; and
 - (f) Proposed Erosion and Sediment Control Plans;
- 3.9 The Contractor shall ensure and warrant that all employees possess and will maintain in effect all licenses, permits, authorizations, insurance and any other documents that the acts and/or regulations pertaining to environmental protection require it to have for the performance of the Work.
- 3.10 The Contractor shall be solely responsible for the cost of all Work carried out to correct any environmental contamination caused by the Contractor, their sub-contractors or employees at the Place of Work, on the Owner's locations or otherwise. If the Contractor fails to correct any environmental contamination resulting from the Work, the Owner may perform such work by its employees or agent. The Owner may charge the Contractor for all cost incurred in correcting such environmental contamination, plus thirty percent (30%) for overhead, and the Contractor shall pay the Owner's invoice(s) for such cost under the same terms and condition as would otherwise apply to the Work for Contractor invoices to the Owner, or the Owner may otherwise choose to set-off such costs as allowed under the Contract. In the event such remedial work is carried out by any public authority, the cost shall be borne by the Contractor.
- 3.11 Failure by the Contractor, Subcontractors or employees to respect the established environmental protection program following best management practices may lead to temporary stoppage of the Work, suspension of an employee from working on the Owner's property, closure of the site until the situation is corrected or removal of the Contractor from the Place of Work. Delays resulting from such closings and any resulting penalties shall be charged to the Contractor. The Contractor will not issue any claims against the Owner for these delays. No extension of the date of Substantial Performance of the Work under the Contract will be granted as a result of any Work stoppage associated with environmental spills and/or incidents.
- 3.12 Prior to the Commencement of Work, the Contractor shall provide to the Consultant a Waste Audit and Reduction Program and Source Separation

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 4 of 23

Program, as required by O.Reg. 102/94 and O.Reg. 103/94, which shall be implemented throughout the Work.

4.0 Contractor Environmental Protection Program

- 4.1 The Contractor shall provide, for Consultant's acceptance, a comprehensive environmental protection program which shall include the spill prevention and contingency plan (adhering to O.Reg. 224/07), waste control and management plan, emergency response and communications plan, dust and mud control plan, complaint response protocol and erosion and sediment control plan. These shall clearly explain the whole process of dust control, effluent (water) control and spill prevention and response.
- 4.2 The Contractor shall submit the environmental protection program no later than sixty (60) days prior to commencing work on Site, for the Consultant's approval and make appropriate changes as requested.
- 4.3 The Contractor's personnel accepted by the Consultant as the environmental specialist for the Work shall be vested with single point responsibility for all environmental matters, and shall coordinate all environmental regulatory requirements with the Consultant.
- 4.4 The Contractor's environmental specialist shall have the appropriate reporting authority within the Contractor's organization.
- 4.5 The responsibilities of the environmental specialist shall include:
 - (a) Providing the environmental protection program;
 - (b) Ensuring regulatory compliance to applicable environmental legislation and Applicable Law;
 - (c) Ensuring compliance with all environmental requirements as outlined in the GO Transit Class EA, supplementary approvals, studies, permits and approvals;
 - (d) Comprehending and approving all environmental related Submittals prepared by other personnel in the Contractor's project team prior to submitting to the Consultant and coordinating all such Submittals and activities to provide a coherent process;
 - (e) Pre-construction, construction and post-construction environmental monitoring / inspection as required in the Owner's sole discretion;

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 5 of 23

- (f) Enforcing adherence within the Contractor's organization, including Subcontractors and Suppliers, to the accepted Environmental Protection Program; and
 - (g) Documenting all environmental and compliance issues and resolution of follow-up actions.
- 4.6 The Contractor shall keep onsite a list of hazardous materials, toxic products, Work procedures and contaminants used in the Work and clearly display at the Site the lists and Material Safety Data Sheets (MSDS).

5.0 Designated Substances

- 5.1 The Occupational Health and Safety Act (OHSA) imposes a duty on the Owner to inform the Contractor of any designated substances, as defined in the OHSA, present at the Place of Work, where it is reasonable for the Owner to have known about the substance.
- 5.2 The Contractor shall be responsible for the removal, abatement, management and all costs and expenses related thereto, of all designated substances, mould, asbestos and polychlorinated biphenyls found within the Place of Work in accordance with all Applicable Law and Standard of Care. The existence of designated substances, mould, asbestos and polychlorinated biphenyls at the Place of Work shall not constitute a concealed or unknown condition pursuant to GC 6.4.
- 5.3 The Contractor shall notify the Consultant immediately if any material that is suspected to contain designated substances, mould, asbestos or polychlorinated biphenyls is discovered during demolition or construction and recommend additional investigations or sampling if deemed appropriate. Such recommendations are subject to acceptance by the Consultant.
- 5.4 According to O. Reg. 490/09, the following are currently listed as designated substances
 - (a) Asbestos;
 - (b) Lead;
 - (c) Ethylene oxide;
 - (d) Mercury;

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 6 of 23

- (e) Silica (free crystalline silica);
- (f) Vinyl chloride;
- (g) Benzene;
- (h) Arsenic;
- (i) Coke oven emissions;
- (j) Acrylonitrile; and
- (k) Isocyanates.

5.5 The Contractor shall take appropriate health and safety precautions to protect human health and the environment, including recommending additional investigations or sampling if deemed appropriate. Such recommendations are subject to acceptance by the Consultant.

5.6 Asbestos:

- (a) The Contractor shall notify the Consultant immediately if any material that is suspected to contain asbestos is discovered during demolition or construction;
- (b) For any such discoveries the Contractor shall cease work in the area and barricade the area to prevent entry until such time as the Consultant confirms the actual presence and/or absence of asbestos;
- (c) The Contractor shall comply with all provisions of the OHSA and its regulations and any other Applicable Laws respecting Asbestos on construction projects and in buildings and repair operations'.

5.7 Mould:

- (a) The Contractor shall notify the Consultant immediately if any material that is suspected to contain mould is discovered during demolition or construction that was not identified;
- (b) For any such discoveries the Contractor shall cease work in the area and barricade the area to prevent entry until such time as the Consultant confirms the actual presence and/or absence of mould;

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 7 of 23

- (c) The Contractor shall comply with all provisions of the 'OHSA and 'Metrolinx Health and Safety Guidelines'.

5.8 Spill Prevention and Response

- (a) The Contractor shall be solely responsible and liable for, without being limited to, all testing documentation, clean-up, reporting, repairs, removal, damages and associated costs, and any other actions arising from any spill.
- (b) The Contractor shall provide the Consultant with a spill prevention and contingency plan to ensure proper mitigation measures are in place for construction and operation.
- (c) The Contractor shall provide the Consultant, with an emergency response and communications plan that includes proper mitigation and notification procedures are in place regarding groundwater quality during construction and operation.
- (d) The Contractor shall ensure all staff is trained on the emergency response and communications plan. Copies of training records shall also be provided.
- (e) Refuelling of equipment and fuel storage shall be conducted over a contained area (at minimum an impermeable surface) in designated areas at least 30m from any watercourse with spill protection. Gas and diesel storage shall be stored in a contained area, protected from the elements. The Contractor shall submit a proposal for all storage areas proposed for approval prior to proceeding to stockpile the construction material and equipment.
- (f) The Contractor shall provide the appropriate quantity of 'spill response kits' for the Place of Work for the use by any personnel at the Place of Work, including but not limited to Subcontractors and the Consultant. The spill response kit shall be maintained through a documented inspection program. The spill response kit shall contain materials and equipment capable of containing and disposing of any Spill that could occur during the course of the Work. All Site staff shall be trained in the use of the Spill Response Kit.
- (g) All spills shall immediately be reported to the Rail Operations Control Centre at (416) 601-2174, the Ontario Spills Action Centre at 1-800-268-6060, The Contractor shall immediately notify the Consultant who will report to the Owner's System Safety Department.

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 8 of 23

- (h) In the event of a spill, the Contractor shall carry out the following steps, as a minimum:
 - (i) Follow the spill and prevention and contingency plan (adhering to O.Reg, 224/07).
 - (ii) Notify the Consultant, who will communicate to the Owner. The spill must also be reported to the GTCC and System Safety.
 - (iii) Quickly locate the source of contamination and, if possible, neutralize it.
 - (iv) Cut the supply of electrical current and turn off all sources of ignition. Extinguish any flame.
 - (v) Restrict access to the spill area and set up a secure zone.
 - (vi) Use a spill kit or any other barrier (sand, peat, moss, snow) to contain the spill.
 - (vii) Prevent seepage into watercourse, storm drains, sewer systems etc. Use plastic tarps or other materials to build a retention pond.
 - (viii) Immediately communicate the details to the Consultant and report on the type of spill, the quantity of spill, the location of the spill and whether or not the contaminant has entered a sewer line or flood drain or if the spill has occurred on unpaved ground.
- (i) The recovered products and contaminated soil must be stored, treated recycled or disposed only by authorized carriers.
- (j) Provide the necessary testing for contaminant levels and secure the necessary documentation for clean-up and disposal. The clean-up contractor and consultant hired by the Contractor must be approved by the Consultant and the Owner. Any remediation or verification sampling must be overseen by a Qualified Person (QP), as per O.Reg. 153/04.

6.0 Fires

- 6.1 Fires and burning of rubbish on-site is not permitted.

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 9 of 23

7.0 Disposal of Waste and Excess Materials

- 7.1 The Contractor shall not bury rubbish, waste, debris and excess materials on site and shall dispose of it in accordance with all Applicable Law.
- 7.2 The Contractor shall not dispose of chemicals, liquid waste, volatile materials, etc, on the ground surface, in excavations, into waterways, surface drainage features, sanitary or storm sewers.
- 7.3 Hazardous materials shall be handled, managed and disposed of in accordance with all Applicable Law, including Ontario Regulation 347, as amended and Transportation of Dangerous Goods Acts and Regulations.
- 7.4 The Contractor shall be responsible for the characterization, testing and/or analysis of soil and/or groundwater that may be re-used at the Place of Work or that requires removal from the Place of Work for re-use or disposal to the satisfaction of the receiver or disposal site and in accordance with all Applicable Law.
- 7.5 In the absence of background information or soil characterization results that indicate otherwise the Contractor shall assume all soil encountered at the Place of Work to be impacted in excess of the MOECC Table 3 Site Condition Standards for Industrial/Commercial/Community Land Uses but is Non-Hazardous (as defined by O.Reg. 347, as amended) and also may contain debris, ballast stone and other contaminants.
- 7.6 The Contractor shall be entitled to an increase in Contract Price through a Change Order for compensation for the incremental, increased costs for the disposal of any soil and/or groundwater found to be Hazardous (as defined by O.Reg. 347, as amended), however discovery, testing, storage and disposal of Hazardous soil and/or groundwater (as defined by O.Reg. 347, as amended) shall not be cause for an extension of Contract Time.
- 7.7 In advance of commencement of the Work the Contractor shall submit a Soil Management Plan, prepared by a Qualified Person (as defined by O. Reg. 153/04, as amended), for the Work and incorporate all pertinent details, background information, recommendations, mitigation and monitoring measures presented herein and/or by the Consultant or Contractors own investigations. The Soil Management Plan shall include, at a minimum, detailed discussion on the following topics:
 - (a) Project Description

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 10 of 23

- (b) Relevant Legal Requirements, Standards, Guidelines
- (c) Strategy for Minimizing Disposal and Promoting Beneficial Re-use of Soil
- (d) Alignment with "MOECC Excess Soil - A Guide to Best Management Practices" (2014)
- (e) Role of the Qualified Person (QP)
- (f) Baseline Site Conditions
- (g) Existing Characterization
- (h) Health and Safety Plan
- (i) General Excavation
- (j) Procedure for Encountering Previously Unknown Contaminated Soil
- (k) Soil Stockpiling
- (l) Characterization for On-Site Re-use (frequency and COC)
- (m) Characterization for Off-Site Re-use (frequency and COC)
- (n) Characterization for Disposal (frequency and COC)
- (o) Importation of Soil
- (p) Groundwater Management
- (q) Inspections and Record Keeping

7.8 The implementation of the soil management plan shall be overseen by the Contractors Qualified Person (as defined by O. Reg. 153/04, as amended) and all records of soil management activities shall be consolidated in a monthly report prepared by the Contractors Qualified Person and provided to the Consultant, all records shall also be made available for review by the Owner or an authority having jurisdiction.

7.9 Excess soils shall be managed in accordance with all Applicable Law, and Standard of Care, including but not limited to:

- (a) The Environmental Protection Act Ontario Regulation 153/04, as amended

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 11 of 23

- (b) OPSS 0180 General Specification for the Management of Excess Materials Management of Excess Soil; and
 - (c) A Guide for Best Management Practices (MOECC, 2014)
- 7.10 Except as indicated otherwise, surplus materials shall become the property of the Contractor and shall be removed from the Place of Work promptly as they become surplus, at the cost of the Contractor.
- 7.11 The Contractor is responsible for the proper disposal of surplus or unsuitable materials from the Place of Work. The Contractor shall arrange for and pay for any additional testing required by the receiver site as a condition of acceptance of the material and submit to the Consultant the forms provided under OPSS 0180, signed by the receiver site.
- 7.12 The Contractor shall make all reasonable attempts to maximize the beneficial re-use of excess soil at the Place of Work, while ensuring the integrity of environmental and geotechnical considerations. Should re-use at the Place of Work not be possible or suitable the Contractor shall make all reasonable attempts to locate a suitable off-site beneficial re-use receiver. Only as a last resort shall disposal of excess soil at landfill be undertaken. Re-use at off-site beneficial re-use receivers shall be communicated to the Consultant and the Contractor shall verify and document that the receiver is operating under appropriate by-laws, permits and regulations and that the quality of material being re-used is suitable for their operation. Copies of all agreements, bills of lading, weigh bills, analytical results shall be forwarded to the Consultant.
- 7.13 Should disposal of excess soil at a waste management or waste treatment facility licensed by the Ministry of Environment and Climate Change (MOECC) be required, the Contractor shall inform the Consultant in writing of all such facilities that will be used prior to removing waste from the Site. The Contractor will provide the Consultant with weigh bills and any other applicable documentation, from the receiving facilities for all wastes leaving the Site.
- 7.14 The Contractor must notify the Consultant of any suspected Hazardous Materials (as defined by O.Reg. 347, as amended) discovered at the Place of Work within 24 hours.
- 7.15 The Contractor must provide temporary drainage and pumping as necessary to keep excavations and Site free from water. Outfall from pumping operations must be directed away from creeks onto approved areas, (eg, splash pads or retention).

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01560

Page 12 of 23

- 7.16 The Contractor must not pump water containing suspended materials into waterways, sewer or drainage systems.
- 7.17 The Contractor must control disposal or runoff of water containing suspected materials or other harmful substances in accordance with local authority requirements.
- 7.18 The Contractor shall ensure that water used for cleaning of equipment does not drain into streams, lakes or water courses. Fuel, lubricants and/or pesticides shall not be emptied into any watercourse, or on the ground.
- 7.19 The Contractor must make provisions to contain any spill that may occur on-site.

8.0 Site Clearing and Plant Protection

- 8.1 Contractor must limit vegetation disturbance to the Owner's property as per extents indicated in Contract Documents.
- 8.2 In relation to the Migratory Bird Convention Act, tree/vegetation removal must not take place between March 31 and August 31 of any year. Where removal of tree/vegetation cannot be avoided, during that period a qualified biologist hired by and at the Contractor's expense shall be retained to conduct an avian survey to document the absence of migratory birds and/or nests at those sites (including both vegetation and structures) at the time of clearing. If the area is cleared by the qualified biologist, vegetation removal should occur within 24 hours of the completion of the avian survey; otherwise an additional survey will be required.
- 8.3 In relation to the Endangered Species Act (ESA), 2007, tree/vegetation removals must not take place between April 30 and September 1 of any calendar year with a strict no tree/vegetation removal from June 1 to July 31 in order to avoid the bat breeding season. Cavity tree removal may occur between April 30 and May 31 or August 1 to September 1 provided a night exit survey is completed 24 hours prior to each tree being removed. Exit surveys are to be conducted for each candidate cavity tree and will occur from 30 minutes before dusk until 60 minutes after dusk. Each identified cavity requires one surveyor to be present (i.e. if a tree has been identified to have three cavities then three surveyors are required to complete the survey for this individual tree). If no bats are observed exiting the cavity tree, the tree may be removed immediately the following day. In the event that the tree is not removed the following day, another exit survey is required prior to tree removal. However, the preferred approach as per the Ministry of Natural Resources and Forestry (MNR) so as to not potentially contravene Section 9 of the ESA, is to remove vegetation outside of the bat breeding season (April 30 to September 1). Contact Environment Canada - Ontario Region at

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01560

Page 13 of 23

(905)336-4464 or wildlife.ontario@ec.gc.ca, if SAR are encountered at any time during the project.

- 8.4 The Contractor must not conduct any site clearing or tree/vegetation removal without written confirmation from the Consultant indicating that clearance from private property owners, and MNRF has been received. All reports, permits and correspondence related to the Migratory Birds Convention Act and clearing operations must be provided to the Consultant for review prior to commencing any clearing operations.
- 8.5 Ash trees infested with Emerald Ash Borer (EAB) beetles, shall be identified and removed by the Contractor in accordance with the applicable Municipal Code and comply with all necessary permitting processes. This includes providing a minimum of two (2) weeks of notice to the Owner. Infested trees shall be chipped on site for removal to a diameter less than three inches (3") so that they may be accepted at a registered Waste Facility. Trees shall be removed from the site in a manner that will prevent the emergence and spread of EAB from the infested tree material and such that no trees or wood chips shall be moved outside of the EAB quarantine zone as defined by the Canadian Food Inspection Agency.
- 8.6 The Contractor must protect trees and plants on-site and adjacent properties, where indicated, adhering to local by-laws. A Certified Arborist is to be present for any construction activities that may have an impact on trees.
- 8.7 Silt fencing and/or tree protection fencing shall be installed prior to grubbing and excavation where appropriate to protect existing vegetation, and no closer than the dripline. Taller tree protection fencing (i.e. hoarding around trees) shall be installed in these areas to protect tree limbs from equipment in adjacent areas. Root/tree pruning is required as a tree protection/preservation measure and should be conducted by a Certified Arborist or under the supervision of a Certified Arborist.
- 8.8 The Contractor must minimize stripping of topsoil and vegetation. Existing vegetation on embankments must be maintained as long as possible. All topsoil shall be stockpiled separately in the laydown areas and used for restoration to facilitate natural regeneration of native species.
- 8.9 The Contractor must restrict tree removal to areas indicated or designated by the Consultant.

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01560

Page 14 of 23

9.0 Wildlife Protection

- 9.1 The Contractor shall not harass, harm or kill any wildlife encountered during construction.
- 9.2 The Contractor shall not block or prohibit wildlife access to culverts. Passage for wildlife through culverts must be maintained throughout construction.
- 9.3 All construction equipment and vehicles shall give right-of-way (ROW) to wildlife, allowing wildlife to pass and proceed to a safe distance prior to construction equipment/vehicles commencing construction activities.
- 9.4 In the event wildlife is injured during construction activities, the Contractor shall immediately cease work activities and notify the Consultant.
- 9.5 No additional compensation shall be made for work delays as a result of encounters with wildlife.

10.0 Watercourse/Fisheries Protection

- 10.1 The Contractor shall submit a detailed plan for the work related to watercourses two months in advance prior to starting the work. The plan shall include drawings, work procedures, protection measures and emergency plans.
- 10.2 The Contractor will provide a construction and restoration schedule, including any temporary restorations works, prior to starting any work.
- 10.3 When working near regulated areas, the Contractor is required to submit a proposal for the storage area (materials and equipment) for approval prior to proceeding to stockpile any construction materials and equipment.
- 10.4 Site access should be primarily through the Owner's lands.
- 10.5 The Contractor will provide details of dewatering plans stamped by a Professional Engineer licensed to practice in the Province of Ontario (P. Eng.) for review and approval 20 business days in advance prior to construction of the Work.
- 10.6 The Contractor shall provide drawings for their review and approval twenty (20) Working Days prior to commencement of the Work, showing site specific details for all by-pass pumping and work area isolation methods, and details of the timing and durations of these works.

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01560

Page 15 of 23

- 10.7 A geotechnical engineer will be engaged by the Contractor during construction to design bank restoration and stabilization works if required.
- 10.8 An Erosion and Sediment Control Plan will be prepared by the Contractor and submitted for review and approval twenty (20) Working Days prior to commencement of the Work.
- 10.9 A flood contingency plan will be updated by the Contractor in accordance with their method of construction and will be provided for review and approval twenty (20) Working Days prior to Commencement of Work
- 10.10 The Contractor is required to submit a detailed plan for any Work related to water courses two months in advance of starting the Work. The plan shall include drawings, work procedure, protection measures and emergency plans.
- 10.11 Any documentation from Fisheries and Oceans Canada (DFO), shall be kept at the Place of Work while any works at or near water crossings are in progress.
- 10.12 The Contractor must put in place control operations so as to prevent the entry of deleterious materials into watercourses.
- 10.13 In-water work is permitted July 16th to March 14th of any given year in order to avoid the most sensitive periods for fish spawning, rearing and migration life processes.
- 10.14 The Contractor must provide erosion and sedimentation controls and protection of environmentally sensitive areas downstream.
- 10.15 The Contractor must not operate equipment in watercourses or on watercourse banks unless required under the Contract.
- 10.16 Where the Contract requires Work in watercourses or on watercourse banks, the Contractor must:
 - (a) keep the operation of equipment within such areas to the minimum necessary to perform the specified Work;
 - (b) comply with operational constraints that may be specified elsewhere in the Contract Documents;
 - (c) otherwise proceed in a continuous fashion to minimize the duration of such work; and

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 16 of 23

- (d) not store equipment within 30m of the watercourse.
- 10.17 The Contractor must store construction material, excess material, construction debris, and empty containers at least 30 m away from watercourses and watercourse banks.
- 10.18 Where an area enclosed by cofferdams is being dewatered, the following shall apply:
- (a) Discharge dewatering effluent so as to prevent the entry of sediment to the watercourse and comply with the Ontario Water Resources Act.
 - (b) Fish salvage should be undertaken by a qualified professional within the isolated areas prior to any in-water works and dewatering activities. A Fish Salvage Permit will be required and the Contractor will need to adhere to the requirements. Fish located within the Place of Work should be removed and relocated to appropriate habitat downstream of the Place of Work.
 - (c) Stage the works such that there is minimal disruption to downstream flows during the project.
 - (d) Pumps should have a fish screen that meets Fisheries and Oceans Canada's (DFO) Freshwater Intake End-of-Pipe Fish Screen Guideline to prevent entrainment or impingement of fish. Extra pumps should be onsite and in position in the event of pump malfunction.
 - (e) Ensure that the raw concrete to be poured at the culvert outlets is securely isolated from the stream flows at all times until the concrete has set. In addition, the isolated containment area must be of sufficient size to hold all of the concrete used during the Work in the event of a leak. Ensure that wet concrete does not contact the ground surface and that excess concrete is stored in impermeable containers for recycling or appropriate disposal.
- 10.19 If the Consultant determines that controls are unacceptable, the Contractor must cease those operations as identified by the Consultant that are causing the entry of deleterious material into watercourses. Such operations shall remain suspended until otherwise directed by the Consultant in writing. Such suspension shall not require the cessation of work required for such essential operations as continuous concrete pours for structures, unless otherwise instructed by the Consultant.
- 10.20 Provide acceptable means to allow water flow in the original watercourse to continue downstream at all times.

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01560

Page 17 of 23

- 10.21 Remove all earth, stones, boulders, topsoil and organic materials in excess of Contract requirements to the appropriate receiver site willing to accept these materials outside Contract limits. The Contractor shall provide all documentation from the receiver site to the Consultant.

11.0 Work Adjacent to Waterways

- 11.1 The Contractor must not use waterway beds for borrow material without the Consultant's approval.
- 11.2 The Contractor must not dump excavated fill, waste material or debris in waterways and stockpiled material shall be stored and stabilized at a safe distance from the waterway to ensure that no deleterious substances enter the water.
- 11.3 If dewatering is required, the Contractor will complete dewatering in accordance with the Permit To Take Water. Where dewatering is required, water shall be pumped into a sediment filter bag or sedimentation pond or diffused onto vegetative areas a minimum of 30 metres from the watercourse and not pumped directly into the watercourse.
- 11.4 For isolation areas that require pumping to maintain work-in the dry conditions, contingency planning (i.e. extra pump, fuel etc.) must be in place.
- 11.5 Pumps should have a fish screen that meets DFO's Freshwater Intake End-of-Pipe Fish Screen Guideline to prevent entrainment or impingement of fish. Extra pumps should be onsite and in position in the event of pump malfunction.
- 11.6 During dewatering activities, fish salvage should be undertaken by a qualified professional within the isolated areas prior to any in-water works and dewatering activities. Fish located within the project site should be removed and relocated to appropriate habitat downstream of the project site.
- 11.7 The Contractor must design and construct temporary crossings to minimize erosion to waterways.
- 11.8 The Contractor must not skid logs or construction materials across waterways.
- 11.9 All material and equipment storage and fuelling areas must be at least 30m away from waterways, in locations approved by the Consultant. During pile cut-off at water level, the Contractor must ensure that there is adequate protection in place to prevent all debris and contaminants from entering the watercourse.
- 11.10 Wet weather restrictions shall be applied during site preparation and excavation.

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01560

Page 18 of 23

12.0 Erosion and Sediment Control

- 12.1 Prior to the commencement of any Work that might cause erosion and/or sedimentation, the Contractor must receive approval from the Consultant for an Erosion and Sedimentation Control Plan that the Contractor develops and proposes to use. This plan must be in accordance with Ontario Provincial Standard Specifications (OPSS).
- 12.2 Sediment and erosion control measures shall be installed prior to Place of Work clearing, grubbing, excavation filling or grading works and shall be maintained during the construction period and until after construction of the Works when the site had been stabilized. Disturbed areas shall be stabilized and re-vegetated as soon as conditions allow. Extra silt fence/turbidity curtain shall be on site, should additional sediment control be required as per OPSD 219.130.
- 12.3 The stockpiling of topsoil must be restricted to outside the limits of flood plains, where feasible. Approval is required for any storage proposed to occur within the limits of the floodplains.
- 12.4 All concrete washouts must be contained by the Contractor and removed as waste.

13.0 Restoration

- 13.1 The Place of Work must be restored to as near pre-construction of the Works conditions as soon as possible after completion of construction of the Works. The post-construction of the Works landscaping and rehabilitation plans shall be undertaken by the Contractor and in a manner that is sympathetic to the overall setting.
- 13.2 The Contractor shall use approved seed mix that consists of native, non-invasive, salt-tolerant vegetation to the extent possible.

14.0 Air quality and Dust control

- 14.1 The Contractor shall comply with air pollution requirements established by local agencies and the MOECC and shall provide adequate measures to control dust in accordance with OPSS 506.
- 14.2 The Contractor must take such steps as may be required to prevent dust nuisance resulting from operations. Prior to construction of the Works, the Contractor must submit for approval, a dust and mud control plan describing the mitigation measures which will be put in place to avoid contributing to air pollution. The

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 19 of 23

Contractor shall verify compliance with the dust and mud control plan four times per year.

- 14.3 The Contractor shall monitor particulate emissions during construction by obtaining air quality samples four times per year and comparing results to acceptable standards and bylaws.
- 14.4 The Contractor shall use new or well-maintained heavy equipment and machinery, fitted with fully functional emission control system/exhaust system, baffles and engine covers. All such equipment and machinery shall be operated within regulatory requirements.
- 14.5 The Contractor shall maintain all emission control devices on machinery in good working condition.
- 14.6 The Contractor shall regularly inspect and maintain all equipment emission control devices to ensure air emissions are within manufacturer and legislative limits.
- 14.7 The Contractor shall implement dust suppression on exposed soils to reduce the potential for airborne particulate matter during construction activities. Where feasible, the Contractor shall apply biodegradable dust suppressant materials.
- 14.8 The Contractor must cover or wet down dry materials and rubbish to prevent blowing dust and debris. Provide dust control for temporary roads and unprotected ground surfaces.
- 14.9 The Contractor will be responsible for all dirt and mud that is tracked onto the roadways and parking lots from vehicles entering or leaving the Place of Work. The Contractor must, upon request from the Consultant, immediately proceed with cleanup operation at their expense, or if in the opinion of the Consultant, the Contractor has not or cannot sufficiently remove the mud from the road, the Consultant will proceed with the necessary clean up with all costs being charged to the Contractor.
- 14.10 Where work requires the sawing of asphalt or the sawing or grinding of concrete, blades and grinders of the wet type must be used together with sufficient water to prevent the incidence of dust, wherever dust would affect traffic or wherever dust would be a nuisance to residents of the area where the work is being carried out.
- 14.11 A Complaint Response Protocol for air quality and dust control shall be submitted, approved and implemented to the Consultant, prior to commencement of the Work.

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 20 of 23

15.0 Statutory Approvals

- 15.1 The Contractor will ensure that all approvals required under Applicable Law are obtained prior to commencement of construction of the Works by the Contractor.

16.0 Construction Operations

- 16.1 Mitigation to be employed during construction for Milk snake (*Lampropeltis Triangulum*) includes:
- (a) Avoid leaving covered objects (e.g., corrugated metal sheets, plywood, particle boards, carpets, etc.) in and around the construction area that might attract Milk snakes; and
 - (b) If a snake is encountered during construction of the Works, staff should try to herd it away safely from the construction area.
- 16.2 The Contractor must avoid unnecessary traffic, dumping and storage of materials. The Contractor must keep movement of equipment and machinery to the construction side of the Owner's Property.
- 16.3 The Contractor's construction operations must comply with the requirements of the GO Transit Class EA as well as supplemental environmental studies and permits and approvals.

17.0 Archaeological Resources

- 17.1 All archaeological resources including fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered at the Place of Work shall be as between the Owner and Contractor the absolute property of the Owner, and the Contractor shall take all reasonable precautions and any precautions required by the Consultant to prevent his workmen or other persons from removing or damaging any such article or thing and shall notify the Owner and Consultant immediately upon discovery thereof and before the removal.
- 17.2 The Contractor shall ensure that no land is disturbed outside of the Owner's Property. If such disturbance cannot be avoided, the Contractor must notify the Consultant and Owner to arrange for further archaeological assessment.
- 17.3 If any archaeological and/or historical resources are discovered during Construction, there may be a new archaeological site and therefore subject to Section 48(1) of the Ontario Heritage Act. If discovered, the construction of the

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01560

Page 21 of 23

Works must cease immediately, the Consultant and the Owner must be notified and a licensed archaeologist must be retained to carry out archaeological fieldwork in compliance with Section 48(1) of the Ontario Heritage Act. Work in the area cannot resume until cleared by the Ministry of Tourism, Culture and Sport. In addition, the Contractor shall undertake immediate measures to protect the site.

- 17.4 The Cemeteries Act, R.S.O. 1990 c.C.4 (as amended 2012) and the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33 (when proclaimed in force) require that any person discovering human remains must notify the police or coroner.

18.0 Noise Control Measures

- 18.1 A construction noise management plan will be prepared by the Contractor to address the construction noise from this project. The Construction Noise Management Plan should include the following details:
- (a) The Contractor shall comply with the requirements of MOECC Publication NPC 300 and, as well as local noise by-laws except where exemptions have been obtained by the Contractor.
 - (b) The Contractor shall prevent excessive noise which may be disturbing to nearby residential areas. Noise levels outside of construction areas should be limited to a maximum of 85 dBA to be compliant with Occupational Health and Safety Requirements Machine tools which are set up in fixed locations shall be so located to minimize noise and suitable sound deflectors shall be used if directed by the Consultant. The Contractor shall ensure that all equipment and vehicles are compliant with noise and air emission standards for applicable equipment.
 - (c) Noise control measures shall be implemented, where required during the construction phase, such as restricted hours of operation and the use of appropriate machinery and mufflers.
- 18.2 Where the Consultant or Owner determines the noise levels to be excessive, the Contractor shall take special precautions and apply noise abatement measures to reduce public noise exposure, including, but not limited to:
- (a) Shields or other physical barriers to restrict the transmission of noise;
 - (b) Soundproof housings or enclosures for noise producing machinery such as compressors, pumps, motors, generators or vac trucks;

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01560

Page 22 of 23

- (c) Efficient intake and exhaust silencers on air equipment
- (d) Efficient intake and exhaust mufflers on internal combustion engines
- (e) Sound deadening lining material on hoppers and storage bins
- (f) Conducting truck loading, unloading and hauling operations, so that noise is kept to a minimum;
- (g) Use air compressors and pneumatic hammers only with the expressed authorization of the Consultant.
- (h) The Contractor shall advise nearby residents of significant noise generating activities to minimize disruption.
- (i) A Complaint Response Protocol for Noise shall be submitted, approved and implemented to the Consultant, and the Owner, prior to Construction of the Work.

19.0 Vibration Control Measures

- 19.1 The Contractor shall operate in accordance with local by-laws except where exemptions have been obtained by the Contractor.
- 19.2 Vibration Zone of Influence study may be required for the construction permit in accordance with local by-laws.
- 19.3 Consideration should be given to the use of alternative construction equipment, where practical, that would generate lower vibration levels than typical methods or equipment.
- 19.4 The Contractor shall complete the following:
 - (a) Phase demolition, earthmoving, and ground-impacting operations so as not to occur in the same time period.
 - (b) Avoid nighttime activities near sensitive areas.
 - (c) Avoid impact pile driving where possible in vibration sensitive areas.
 - (d) Select demolition methods not involving impact, where possible.
 - (e) Avoid vibratory rollers and packers near sensitive areas.

GENERAL REQUIREMENTS: ENVIRONMENTAL PROTECTION

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01560

Page 23 of 23

END OF SECTION

GENERAL REQUIREMENTS: SAFETY REQUIREMENTS (METROLINX AS CONSTRUCTOR)

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01600

Page 1 of 11

1.0 The Owner as Constructor

- 1.1 The Owner shall be the “Constructor” for the Work as defined in and in accordance with the *Occupational Health and Safety Act* (Ontario) (the “OHSA”).
- 1.2 As Constructor, the Owner shall file the “Notice of Project” with the Ontario Ministry of Labour if required and in accordance with O.Reg.213/91, the Regulation respecting Construction Projects.
- 1.3 Without limiting the generality of the foregoing, the Contractor shall meet the responsibilities of the Constructor with respect to its Work Area(s) and contractors, including but not limited to the following actions:
 - (a) Ensure that a Competent Supervisor, as defined by Ontario’s Occupational Health and Safety Act, is present at the workplace at all times during the Work.
 - (b) Establish and/or participate in the Joint Health and Safety Committee (JSHC).
 - (c) Perform health and safety inspections at least weekly or more often as necessary.
 - (d) Report any near-miss, incident or accident at the Place of Work causing personal or possible personal injury to any individual as follows:
 - (i) Verbal report to the Owner immediately after the event or as soon as it becomes known;
 - (ii) Initial written report to the Owner within twenty-four (24) hours after the accident including the location and time of the accident, the identity of the personnel, the nature of the injuries which were suffered or may have been suffered and any other information as the Owner may require or request;
 - (iii) A complete detailed written report with corrective actions to the Owner within forty-eight (48) hours after the accident;
 - (iv) Report reportable injury to the Workplace Safety and Insurance Board within seventy-two (72) hours after the accident; and,

GENERAL REQUIREMENTS: SAFETY REQUIREMENTS (METROLINX AS CONSTRUCTOR)

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01600

Page 2 of 11

- (v) Report close out and follow up to the Owner within twenty-one (21) calendar days after the accident

- 1.4 The Contractor shall participate in or provide to all of its employees, its subcontractors and their employees, its suppliers, its consultants and all others for whom it is responsible for in law engaged in the performance of the Work, including without limitation the Construction Manager/Site Supervisor (collectively, the “Contract Personnel”), such health and safety training and site orientation as required by the Contract Documents or that the Owner may reasonably require prior to the commencement of the Work and from time to time during the performance of the Work.
- 1.5 Contractors and their sub-trades must meet the requirements of the most recent version of the Owner’s Construction Safety Management Program (CSMP), Constructor Stream.

2.0 Metrolinx Construction Safety Program

- 2.1 The Owner will issue an appropriate number of copies of its CSMP to the Contractor at the pre-construction meeting.
- 2.2 Contractors are responsible for familiarizing themselves and all Contract Personnel with the contents of this manual.
- 2.3 Contractors shall distribute copies of the CSMP to their subcontractors and shall ensure that they, and their employees, are familiar with its content.
- 2.4 The requirements of this manual shall apply to the Work and the Place of the Work.

3.0 Deliverables

- 3.1 The Contractor shall, within five (5) Working Days of the date of final execution of the Agreement between Owner and Contractor, submit the following to the Owner for its review:
 - (a) A copy of the Contractor’s Occupational Health and Safety Policy and Program, which shall comply with all applicable legislation; and
 - (b) A copy of the Contractor’s Site-Specific Safety Plan that includes site-specific hazard and risk assessment plans that will effectively prevent and control incidents and/or accidents.

**GENERAL REQUIREMENTS: SAFETY REQUIREMENTS (METROLINX AS
CONSTRUCTOR)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01600

Page 3 of 11

- 3.2 Work shall not commence at the Place of Work until the Owner has reviewed and accepted the above document. The Owner shall not entertain any claim on the part of the Contractor for any extension to the Contract Time or the Contract Price as a result of the Contractor's failure to submit a Site-Specific Safety Plan that is acceptable to the Owner.
- 3.3 The Contractor shall, within five (5) Working Days of the date of final execution of the Agreement Between Owner and Contractor, deliver to the Owner copies of all training records for Occupational Health and Safety related courses taken by a "competent person" as defined by the *Occupational Health and Safety Act*, paragraph 1(i) and designated as the Site Supervisor as per 5.0 of this Section. Relevant course subjects may, without limitation, include or be similar to the following:
- (a) Certified Joint Health and Safety Committee Member Training;
 - (b) Basics of Supervising;
 - (c) Construction Health and Safety Representative;
 - (d) Occupational Health and Safety Act;
 - (e) Due Diligence;
 - (f) Accident Investigation and Reporting; and
 - (g) Any other courses that relate directly to the *Occupational Health and Safety Act*.
- 3.4 The Contractor shall deliver to the Owner as required:
- (a) A copy of all inspection reports made by the Contractor in compliance with O.Reg.213/91, the Construction Projects Regulation.
 - (b) A copy of all safety information pertaining to the Contract made and furnished by the Contractor's own "Safety Officer" or outside consultants/advisers engaged for the purpose of inspecting the workplace for occupational health and safety.
 - (c) A copy of the Contractor's Emergency and Evacuation Plans for review by the Owner.

**GENERAL REQUIREMENTS: SAFETY REQUIREMENTS (METROLINX AS
CONSTRUCTOR)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01600

Page 4 of 11

- (d) A copy of Access / Traffic Control Plans for review by the Owner.
- (e) A copy of the Contractor's risk assessment documents.
- (f) Where requested, copies of all injury and accident reports for occurrences on site. This shall include copies of all remedial measures taken to prevent recurrence.
- (g) Copies of all weekly safety talks shall be maintained on file for review by the Owner upon request.
- (h) Statistical information for the purpose of determining injury frequency and severity rates (hours worked, first-aid injuries, medical aid/reportable injuries, lost time injuries, restricted workday injuries, incident/accident and significant occurrence data), in a timely manner on a monthly basis or as required by the Owner.
- (i) The Owner reserves the right to require additional or amended deliverables pertaining to safety during the duration of the Work at no additional cost to the Owner.

4.0 Safety Requirements

- 4.1 Safety of the Contract Personnel, persons at or near the Place of Work and the public is of paramount concern to the Owner. In the performance of the Work the Contractor shall not in any manner endanger the safety of, or unlawfully interfere persons at or near the Place of Work, including the public.
- 4.2 Without limiting the generality of Section 1.1 herein or any requirement to comply with applicable law, the Contractor specifically covenants and agrees that:
 - (a) The Contractor shall comply with the best industry practices and exercise due diligence in matters respecting health and safety in a manner that recognizes and minimizes the risk to all Contract Personnel, other individuals, property and the operations of the Owner and the host and operating Railways, to the extent that such practices are not inconsistent with any express instruction set out in the Contract Documents or provided by the Owner.
 - (b) The Contractor shall comply and shall ensure that all Contract Personnel comply in all regards with the requirements of the OHSA, and any and all

**GENERAL REQUIREMENTS: SAFETY REQUIREMENTS (METROLINX AS
CONSTRUCTOR)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01600

Page 5 of 11

applicable legislation and any and all amendments or new legislation that may come into effect during the term of this Contract.

- (c) The Contractor shall comply and shall ensure that all Contract Personnel comply, in all regards with the safety requirements set out in the Contract Documents.
- (d) The Contractor shall maintain, strictly enforce and comply, and ensure that all Contract Personnel comply, in all regards with the Contractor's own health and safety program to the extent not inconsistent with the requirements of the Contract Documents.
- (e) The Contractor shall comply and shall ensure that all Contract Personnel comply with any and all safety-related directives and/or instructions issued by the Owner or the Railway personnel.
- (f) The Contractor shall take all steps necessary in the circumstances to ensure the health and safety of all those for which it has responsibility under the OHSA.
- (g) The Contractor shall make available, at the Owner's request, such policies and procedures relating to its occupational health and safety policy and program as the Owner may from time to time request, and hereby covenants that all Contract Personnel have been properly trained and are knowledgeable with respect to these policies and procedures.
- (h) In accordance with the CSMP, the Contractor shall immediately report to the Owner any and all of the following:
 - (i) health, safety or environmental incident that is reportable to an external government agency,
 - (ii) any incident that could affect rail or bus operations,
 - (iii) any incident involving a member of the public.
 - (iv) any incident requiring medical aid, and
 - (v) any incident resulting in damage to the Owner's or public property.

GENERAL REQUIREMENTS: SAFETY REQUIREMENTS (METROLINX AS CONSTRUCTOR)

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01600

Page 6 of 11

- (i) The Contractor shall ensure that any person required to attend the site successfully completes GO Safe Railway training and the Owner's CMO Contractor Orientation training program.
- 4.3 The Contractor shall document any and all identified instances of non-compliance with the safety requirements by the Contract Personnel. Where any of the Contract Personnel breaches any safety requirement and thereby creates a risk of injury or death to any person, including themselves, the Contractor shall expel that individual from the Place of Work for the duration of the Work. Where any of the Contract Personnel breaches any of the safety requirements for a total of three (3) times the Contractor shall expel that individual from the Place of Work for the duration of the Work.
- 4.4 Prior to the commencement of any of the following activities, the Contractor must initiate the work permit process with the CMO in accordance with the CSMP:
 - (a) Hot Work
 - (b) Use of Explosives
 - (c) Work on Electrical Equipment (live or not)
 - (d) Signals
 - (e) Shut down of HVAC Equipment, Electric Power, Fire Sensors, Fire Alarms, Fire Suppression Systems or Elevators
 - (f) Trenching or Excavation
 - (g) Confined Space Entry
 - (h) Work Requiring Use of Fall Protection
 - (i) Crane or Hoist Operations
 - (j) Tunneling
- 4.5 Prior to the commencement of any activities that interface with the public, adjacent construction projects or rail operations, the Contractor shall submit a Work Plan in accordance with the CSMP.

5.0 Contractor's Site Supervisor

GENERAL REQUIREMENTS: SAFETY REQUIREMENTS (METROLINX AS CONSTRUCTOR)

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01600

Page 7 of 11

- 5.1 Safety of the Contract Personnel, persons at or near the Place of Work and the public is of paramount concern to Metrolinx. In the performance of the Work the Contractor shall not in any manner endanger the safety of, or unlawfully interfere with persons at or near the Place of Work, including the public
- 5.2 The Contractor shall designate a Site Supervisor who shall be defined as and perform all the functions of the “Supervisor” of the “Constructor” for the “Project”, where these terms have the same meanings as defined in Section 1 of the OHSA.
- 5.3 The Contractor’s Site Supervisor shall be a “competent person” within the meaning of the OHSA and shall provide proof of the same to the Owner prior to commencing the Work.
- 5.4 The Contractor’s Site Supervisor shall be present at the Place of Work during the performance of the Work. In the case of the Contractor’s Site Supervisor’s absence, the Contractor will name another person, in writing to the Owner, who is competent to assume these responsibilities as the Contractor’s Site Supervisor. The Site Supervisor shall not be changed except for valid reason.
- 5.5 The Contractor and the Contractor’s Site Supervisor shall ensure that:
 - (a) All measures and procedures prescribed by the latest versions of the following documents are carried out at the Place of Work;
 - (i) The *Occupational Health and Safety Act* and applicable Regulations made thereunder;
 - (ii) The *Rail Safety Act* and applicable Regulations made thereunder;
 - (iii) The Smoke-Free Ontario Act and Regulation;
 - (iv) Metrolinx' Construction Safety Management Program (CSMP); and
 - (v) Any other legislation, regulations and standards as applicable.
- 5.6 The Contractor’s Site Supervisor shall perform a health and safety inspection of the Place of Work at least weekly and, as part of such inspection, record their observations on an inspection form and provide a completed copy of the inspection to the Owner immediately upon completion of the inspection.

6.0 Site Safety Personnel

GENERAL REQUIREMENTS: SAFETY REQUIREMENTS (METROLINX AS CONSTRUCTOR)

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01600

Page 8 of 11

- 6.1 In the event the Owner deems it necessary, because of the Work and/or Safety Performance, the Contractor shall assign to the Place of Work a full time “Safety Officer” to assist the Contractor’s representative in the discharging of safety responsibility on site, at no additional costs.
- 6.2 The Safety Officer shall have the training, experience and credentials to ensure compliance to the Occupational Health and Safety Act at the Place of Work.

7.0 Smoking in the Workplace

- 7.1 The Contractor shall comply with, and enforce, all the provisions of the *Smoke Free Ontario Act* at all times while on the Owner’s property.
- 7.2 A designated smoking area may be created at the Place of Work providing the Owner and the Contractor can mutually agree that one can be provided within the provisions of the *Smoke Free Ontario Act*. The Contractor shall be responsible for providing any and all signage required for the designated smoking area in the event a designated smoking area is created.

8.0 Barricades

- 8.1 Observe all necessary precautions and provide, erect and maintain suitable signs, barricades and lights to protect all persons from injury and all vehicles from damage during the progress of the Work, in accordance with the CSMP, all to the approval of the Owner.
- 8.2 Provide all means necessary to prevent the entrance of unauthorized personnel onto the work site and from using access roads.
- 8.3 Protect the Work in conformity with the Contract.

9.0 Vehicle Traffic Protection

- 9.1 Provide qualified signal persons to protect vehicular and pedestrian traffic during the operations, at any time when workers or equipment could endanger such traffic, all to the complete satisfaction of the Owner and any other authority having jurisdiction at the Place of Work;
- 9.2 Accept responsibility for any damage to vehicles and damage and injury to pedestrians or occupants of vehicles resulting from the operations or the operating of equipment by others. Provide adequate protection to the satisfaction of the Owner;

GENERAL REQUIREMENTS: SAFETY REQUIREMENTS (METROLINX AS CONSTRUCTOR)

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01600

Page 9 of 11

- 9.3 Wherever the Place of Work is intersected by public or private roads, provide convenient openings to pass and maintain all crossings in a condition so they can be used safely and without any just grounds for complaint during the progress of the work to the satisfaction of the Owner and the respective Road Authority; and
- 9.4 Apply for and obtain any permits as may be requested by the Owner or the respective Road Authority.

10.0 Site Security

- 10.1 The Contractor shall ensure all personnel employed at the Place of Work, whether its own employees or a subcontractor's, wear an identification badge. At Owner locations where access is restricted the Owner shall supply the identification badges. At all other locations it shall be the Contractor's responsibility to provide the identification badges.
- 10.2 A daily site log shall be maintained of all persons granted access to the "Place of Work" under the control and custody of the Contractor.
- 10.3 The Contractor shall ensure that all required documentation is available upon request by the Owner's Construction Management Office.
- 10.4 The Contractor shall not allow unauthorized persons to access the Place of Work. The Contractor shall escort such unauthorized persons off site or request assistance from the Owner or the police to do so.
- 10.5 The Contractor shall immediately correct any conditions that the Owner may identify as a "Security Threat" to Owner operations and shall carry out such additional security inspections of the Place of Work as may be requested by the Owner's Construction Management Office.

11.0 Situations of Public Complaint, Accident, or Incident - General

- 11.1 In the event of a complaint being made by a member of the Public, of a safety related nature, the Site Supervisor shall instruct all parties to retreat to a designated safe position and shall notify the Owner immediately. The Owner will direct the Site Supervisor of further action, including resumption or postponement of the Work.
- 11.2 In the event of a complaint being made by a member of the Public, of a non-safety related nature, the Site Supervisor shall notify the Owner immediately. The

GENERAL REQUIREMENTS: SAFETY REQUIREMENTS (METROLINX AS CONSTRUCTOR)

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01600

Page 10 of 11

Owner will direct the Site Supervisor of further action to be taken. Work shall continue until directed otherwise by the Owner.

- 11.3 In the event that a breach of safety occurs, the Site Supervisor shall instruct all parties to retreat to a designated safe position and re-brief them on the Plan. Further breaches shall result in the expulsion of the offending party from the Site. Such expulsion shall be undertaken in a safe manner, with Work suspended and all parties placed in a position of safety whilst the expellee is escorted from the Site.
- 11.4 In the event of an accident or incident, all Work shall be suspended, unaffected equipment, tools and plant shall be removed to a designated safe position and all parties shall retreat to a designated safe position as directed by the Site Supervisor and/or the Flag person. The Site Supervisor shall implement the Emergency Measures and Contingency Arrangements section of the Plan and notify the Owner immediately that the situation has arisen.
- 11.5 The Owner will provide, no later than five (5) Business Days in advance of the Work, all relevant the Owner contact details for use in situations of Public Complaint, Accident or Incident.
- 11.6 Notwithstanding the above the Contractor and Contract Personnel shall comply with the requirements of the Metrolinx Construction Safety Management Program.

12.0 Due Diligence

- 12.1 The Contractor acknowledges that it has read and understands the measures and procedures relating to occupational health and safety as prescribed by this section. The Contractor acknowledges and understands its duties as therein set out and hereby expressly undertakes and agrees to comply with all such requirements and standards in their entirety and at the Contractor's expense.
- 12.2 The Contractor further agrees to fully cooperate with all health and safety requirements, rules, regulations, standards and criteria set out in the Contract Documents, which agreement is in furtherance of the Contractor's duties and responsibilities under occupational health and safety legislation.
- 12.3 The Contractor agrees that if, in the opinion of the Owner, the health and safety of a person or persons is endangered or the effective operation of the system put in place to ensure the health and safety of workers on the Place of Work is not being

**GENERAL REQUIREMENTS: SAFETY REQUIREMENTS (METROLINX AS
CONSTRUCTOR)**

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01600

Page 11 of 11

implemented, the Owner may take such action as it deems necessary and appropriate in the circumstances, including, without limitation, the following:

- (a) Require the Contractor to correct the condition forthwith at no expense to the Owner;
- (b) Require that the Place of Work be shut down in whole or in part until such time as the condition has been corrected. The Owner will not reimburse the Contractor for any costs caused by such a delay nor will the Owner extend the time to complete the Work of the Contract because of such a delay;
- (c) Correct the problem and deduct the cost thereof from any payment then or thereafter due the Contractor; and/or
- (d) Terminate the Contract in whole or in part.

END OF SECTION

GENERAL REQUIREMENTS: MATERIALS AND EQUIPMENT

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01700

Page 1 of 3

1.0 General

- 1.1 Provide material and equipment of specified design and quality, performing to published ratings and for which replacement parts are readily available.
- 1.2 Use products of one manufacturer for equipment or material of same type or classification unless otherwise specified.

2.0 Manufacturer's Instructions

- 2.1 Unless otherwise specified, comply with manufacturer's latest printed instructions for materials and installation methods.
- 2.2 Notify the Owner in writing of any conflict between these Specifications and manufacturer's instructions. The Owner will designate which document is to be followed.

3.0 Fastenings

- 3.1 Provide metal fastenings and accessories in same texture, colour and finish as base metal in which they occur. Prevent electrolytic action between dissimilar metals. Use non-corrosive fasteners, anchors and spacers for securing exterior work.
- 3.2 Space anchors within limits of load bearing or shear capacity and ensure that they provide positive permanent anchorage. Wood plugs are not acceptable.
- 3.3 Keep exposed fastenings to minimum, space evenly and lay out neatly.
- 3.4 Fastenings which cause spalling or cracking of material to which anchorage is made are not acceptable.
- 3.5 Do not use explosive-actuated fastening devices.

4.0 Fastening Equipment

- 4.1 Use fastenings of standard commercial sizes and patterns with material and finish suitable for service.
- 4.2 Use heavy hexagon heads, semi-finished unless otherwise specified.
- 4.3 Bolts may not project more than one diameter beyond nuts.

GENERAL REQUIREMENTS: MATERIALS AND EQUIPMENT

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01700

Page 2 of 3

- 4.4 Use plain type washers on equipment, sheet metal and shaft gasket lock type washers where vibrations occur. Use resilient washers with stainless steel.

5.0 Delivery and Storage

- 5.1 Deliver, store and maintain packaged material and equipment with manufacturer's seals and labels intact.
- 5.2 Prevent damage, adulteration and soiling of material and equipment during delivery, handling and storage. Immediately remove rejected material and equipment from the site.
- 5.3 Store material and equipment in accordance with suppliers' instructions.
- 5.4 Touch-up damaged factory finished surfaces to the Owner's satisfaction. Use primer or enamel to match original. Do not paint over name plates.

6.0 Origin of Materials

- 6.1 Materials, plant and equipment supplied for Work shall be as far as possible and unless otherwise specified, of Canadian manufacture.

7.0 Ownership of Materials

- 7.1 Unless otherwise specified, materials existing on site at time of signing Contract shall remain the property of Owner.
- 7.2 Equipment and materials delivered on site to form part of Work shall be property of the Owner but the Owner shall not be liable for any loss or damage from any cause.
- 7.3 Contractor shall remove surplus or rejected materials off-site when notified by Consultant as required by site conditions.

8.0 Specified Material and Equipment

- 8.1 Materials and equipment shall be as specified.

9.0 Substitutions After Contract Execution

- 9.1 Request for substitutions of specified materials and equipment other than alternatives accepted during the in-market tendering period and prior to tender closing, will not be considered unless the request is accompanied by a written statement from Contractor giving reasons why specified item cannot or should not

GENERAL REQUIREMENTS: MATERIALS AND EQUIPMENT

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01700

Page 3 of 3

be used, evidence of quality of substitution and amount of change in Contract amount.

- 9.2 Written statement shall include full details, stating clearly name of manufacturer or supplier, together with a detailed description of substitutions, and stating reduction from or addition to the Contract Price, if any for the use of alternative material or equipment.
- 9.3 The Consultant reserves right to accept or reject substitution as he sees fit and also to claim for the Owner financial benefit of substitution if accepted. Rejection by Consultant of proposed alternative material or equipment is final and does not become obligated to give any reason for his action.
- 9.4 Approved equipment substitutions must not exceed space requirements allocated on Drawings. Be responsible for additional cost resulting from acceptance of a substitute piece of equipment for this Division of Work.
- 9.5 Substitutions shall not be considered accepted unless authorized in writing by the Consultant.

10.0 Date-Related Compliance

- 10.1 All materials, equipment, systems and components thereof used in connection with the provision of the Work, individually or in combination as the case may be, shall accurately and automatically process any and all date and date-related data including, but not limited to calculating, comparing and sequencing when used in accordance with the documentation provided by the Contractor.

END OF SECTION

GENERAL REQUIREMENTS: PROJECT CLOSEOUT

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01800

Page 1 of 1

1.0 General

- 1.1 Conduct cleaning and disposal operations to comply with local ordinances and anti-pollution laws.
- 1.2 Store volatile wastes in covered metal containers, and remove from premises daily.
- 1.3 Prevent accumulation of wastes which create hazardous conditions.
- 1.4 Provide adequate ventilation during use of volatile or noxious substances.

2.0 Products

- 2.1 Use only cleaning materials recommended by manufacturer of surface to be cleaned, and as recommended by cleaning material manufacturer.

3.0 Execution

3.1 Cleaning During Construction

- (a) Ensure that the work site is kept clean and tidy at all times throughout the construction period. Remove all rubbish and debris promptly as it accumulates. Ensure that all sub-trades conform similarly.
- (b) Promptly remove from site and dispose of surplus materials.
- (c) Do not accumulate scrap piles at any time. Fires will not be permitted on the site.
- (d) Provide on-site containers for collection of waste materials, and rubbish.
- (e) Vacuum clean interior work areas when ready to receive finish painting, and continue vacuum cleaning on an as-needed basis until work area is ready for substantial completion or occupancy.
- (f) Schedule cleaning operations so that resulting dust and other contaminants will not fall on wet, newly painted surfaces.

END OF SECTION

GENERAL REQUIREMENTS: PROJECT CLOSEOUT

**Union Station
Emergency Generator
Tender Number PT-2017-CUS-345**

Section 01800

Page 1 of 4

1.0 Final Cleaning

- 1.1 Remove dust and soil from all surfaces affected by Work by vacuuming, damp mopping, washing or scrubbing, as required.
- 1.2 Clean all equipment and accessories.
- 1.3 Remove all temporary labels, protective coatings, markings and tags, and thoroughly clean adhesive off surfaces.
- 1.4 Avoid contamination of surrounding surfaces with cleaning fluids. Install temporary protection, if required, and remove same immediately upon completion of cleaning operation involved.
- 1.5 Methods of cleaning shall be in accordance with Manufacturer's recommendations of the finishes involved.
- 1.6 Soaps, detergents, waxes, and other cleaning materials and methods shall be as recommended by Manufacturer of finish surface material involved.
- 1.7 Use a heavy duty type industrial machine for all vacuum cleaning.
- 1.8 Exercise extreme care with abrasive and chemical cleaning agents and verify their compatibility with finish and material to be cleaning.

2.0 Systems Demonstration

- 2.1 Prior to final inspection, demonstrate operation of each system to the Owner.
- 2.2 Instruct personnel in operation, adjustment, and maintenance of equipment and systems, using provided operation and maintenance data as basis for instruction.

3.0 Project Record Drawings

- 3.1 The Consultant will provide one set of white prints for each major trade section of this Contract for recording "as constructed" information.
- 3.2 The Contractor shall co-ordinate and maintain project "as-constructed" record drawings and record accurately significant deviations from Contract Documents caused by site conditions and changes ordered by Consultant and approved by the Owner.

GENERAL REQUIREMENTS: PROJECT CLOSEOUT

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01800

Page 2 of 4

- 3.3 Record following information:
- (a) field changes of dimension and detail; and
 - (b) changes made by Change Order or Field Instructions.
- 3.4 At each project meeting "as-constructed" record drawings shall be reviewed for completeness.
- 3.5 At completion of project and prior to final inspection, submit "as-constructed" drawings to Consultant.

Operations and Maintenance Data

- 3.6 On completion of project, submit to Consultant four (4) copies of Operations Data and Maintenance Manual, made up as follows:
- (a) bind data in vinyl, hard covered, three-ring, loose leaf binder for 215 x 280mm-sized paper;
 - (b) enclose title sheet, labelled "Operation Data and Maintenance Manual", project name, date and list of contents; and
 - (c) organize contents into applicable sections of work. Mark each section by labelled tabs protected with celluloid covers fastened to hard paper dividing sheets.
- 3.7 Include following information plus data specified:
- (a) description operation and maintenance instructions for equipment and systems, including a complete list of equipment and parts list. Indicate nameplate information such as make, size, capacity, serial number;
 - (b) names, addresses and phone numbers of subcontractors and suppliers;
 - (c) guarantees, warranties and bonds showing:
 - (i) name and address of projects;
 - (ii) guarantee commencement date (date of Final Certificate of Completion);
 - (iii) duration of guarantee;

GENERAL REQUIREMENTS: PROJECT CLOSEOUT

Union Station
Emergency Generator
Tender Number PT-2017-CUS-345

Section 01800

Page 3 of 4

- (iv) clear indication of what is being guaranteed and what remedial action will be taken under guarantee; and
- (v) signature and seal of Contractor; and
- (vi) additional material used in project listed under various sections showing name of manufacturer and source supply.

- 3.8 Neatly type lists and notes. Use clear Drawings, diagrams or manufacturer's literature.
- 3.9 Include four complete sets of final Shop Drawings, bound separately, indicating corrections and changes made during fabrication and installation.

4.0 Inspection/Takeover Procedures

- 4.1 Procedures for Substantial and Total Performance of Work and completion takeover procedures shall be according to OAA/OGCA Document No. 100, December 12, 2007.

5.0 Date-Related Compliance

- 5.1 The Owner may, at no additional cost to itself, require the Contractor to demonstrate Date-Related Compliance as specified by General Requirements: Material and Equipment and/or compliance techniques and test procedures the Contractor followed in order to comply with these requirements.

6.0 Requirements specific to electrical and mechanical sections

- 6.1 Comply with the requirements of the following specification sections, which contain discipline specific requirements:
- (a) 21 05 02 – As-Constructed Drawings.
 - (b) 21 08 03 – Operating and Maintenance Instructions.
 - (c) 26 01 00 – Operating and Maintenance Instructions.
 - (d) 26 05 03 – As-Constructed Drawings.

GENERAL REQUIREMENTS: PROJECT CLOSEOUT

Union Station

Emergency Generator

Tender Number PT-2017-CUS-345

Section 01800

Page 4 of 4

END OF SECTION
