

# The Corporation of the Municipality of Brockton



## By-Law 2019-085

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Being a By-Law to Accept a Tender for the Walkerton Community Centre Optimist Park Roadway Site Work for the Municipality of Brockton.

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**Whereas** the Council for the Corporation of the Municipality of Brockton Council deems it expedient to accept a tender for Walkerton Community Centre Optimist Park Roadway Site Work for the Municipality of Brockton;

**Now Therefore** the Council of the Corporation of the Municipality of Brockton enacts as follows;

- 1.0 That the Council of the Corporation of the Municipality of Brockton hereby accepts the Tender of The Murray Group Limited in the amount of \$213,717.57 for the Walkerton Community Centre Optimist Park Roadway Site Work as described in the attached Schedule "A" to this By-Law.
- 2.0 That the Mayor and Clerk are hereby authorized to sign on behalf of the Council for The Corporation of the Municipality of Brockton, any contracts and other documents required to authorize such purchase to proceed, and to affix the corporate seal of the Municipality of Brockton.
- 3.0 This By-Law shall come into full force and effect upon final passage.
- 4.0 This By-Law may be cited as the "Walkerton Community Centre and Optimist Park Roadway Tender Acceptance By-Law".

**Read, Enacted, Signed and Sealed this 30th day of July, 2019.**

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Mayor – Chris Peabody

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Clerk – Fiona Hamilton

## Agreement to Bond

(Surety's Consent)

Consent of Surety No. 7091146-19-0274

To: **MUNICIPALITY OF BROCKTON**

Should the tender of: **THE MURRAY GROUP LIMITED**

For: **3000-08-2019 // Municipality of Brockton (Walkerton) Ball Diamond Entrance Reconstruction,  
Contract No. 18282**

be accepted within the time period prescribed in the tender, or if no time period is specified, within sixty (60) days from the closing date of tender, and a written contract entered into, we the undersigned do hereby agree to become bound as Surety and will issue

**A Performance Bond equal to 100%  
A Labour and Material Payment Bond equal to 100%**

of the tender price guaranteeing faithful performance of said contract.


This Consent of Surety shall cease and be null and void after **thirty (30)** days from the award of contract.

Any suit filed against the Surety with respect to this Surety's Consent must be initiated and duly served on the Surety within seven (7) months of the date hereof.

Tender Date: 25 day of July, 2019

Dated: **July 18, 2019**

INTACT INSURANCE COMPANY

A large, stylized blue ink signature of Edith Tshowa, written over a horizontal line.

Edith Tshowa, Attorney-in-Fact

(Seal)

## FORM OF TENDER

MUNICIPALITY OF BROCKTON  
BALL DIAMOND ENTRANCE RECONSTRUCTION

CONTRACT NO. 18282

Tender by

The Murray Group Limited

residing at

83 McGivern Street, Moorefield, ON N0G2K0

a company duly incorporated under the laws of

Ontario

and having its head office at

Moorefield, ON

hereinafter called the "Bidder"

To -- Municipality of Brockton

I/We

The Murray Group Limited

having carefully examined the locality and site of the proposed works and all tender documents relating thereto, including the Form of Agreement, Special Provisions, Contract Drawings, Information to Bidders, Standard Specifications, Standard Drawings, Form of Tender, Supplemental General Conditions, General Conditions and Addendum/Addenda Numbers ~~171~~ to 1 \* inclusive, hereby tender and offer in accordance therewith to enter into a contract within the prescribed time, to construct the said work in strict accordance with the contract documents and such further detail drawings as may be supplied from time to time, and to furnish all labour, materials, tools, plant, matters and things necessary therefore, complete and ready for use within the time specified for the sum, including HST, of

Two hundred ninety nine Thousand, three hundred and four  
dollars and forty six cents (\$299,304.46)

or such other sum as is determined from the actual measured quantities at the unit prices set forth in the Tender.

\* The bidder will insert here the number of the Addenda received during the tendering period and taken into account when preparing the Tender.

THE AFORESAID SUM IS MADE UP AS FOLLOWS:

**SCHEDULE OF ITEMS AND PRICES**

Item	Spec. #	Description	Qty./Unit	Price	Amount
1	206, SP	Earth excavation			
	a)	Stripping topsoil	1 L.S.		\$ <u>6,650</u>
	b)	Excavation	770 m <sup>3</sup>	\$ <u>19.50</u>	\$ <u>15,015</u>
2	501, 506	Dust suppressants and compaction			
	a)	Water	150 m <sup>3</sup>	\$ <u>25.50</u>	\$ <u>3,825</u>
	b)	Calcium chloride solid	1.50 t	\$ <u>1,220</u>	\$ <u>1,830</u>
3	314, SP	Granular A	950 t	\$ <u>20.50</u>	\$ <u>19,475</u>
4	314, SP	Granular B Type I	2100 t	\$ <u>19.00</u>	\$ <u>39,900</u>
5	310, 312 SP	Hot Mix Asphalt			
	a)	Hot Mix HL-4	220 t	\$ <u>130</u>	\$ <u>28,600</u>
	b)	Hot Mix HL-4, Station 1+130 to sewage treatment plant (Provisional)	150 t	\$ <u>122</u>	\$ <u>18,300</u>
	c)	Hot Mix Miscellaneous (path & parking)	250 m <sup>2</sup>	\$ <u>42.50</u>	\$ <u>10,625</u>
6	510, SP	Removal of concrete sidewalk	52 m <sup>2</sup>	\$ <u>8.20</u>	\$ <u>426.40</u>
7	351, SP	Place concrete sidewalk (200 mm)	52 m <sup>2</sup>	\$ <u>204</u>	\$ <u>10,608</u>
8	510, SP	Removal of bituminous pavement (outside excavation)	788 m <sup>2</sup>	\$ <u>3.50</u>	\$ <u>2,758</u>
9	802, SP	Topsoil (from stockpile)	2360 m <sup>2</sup>	\$ <u>2.80</u>	\$ <u>6,608</u>
10	802, SP	Topsoil (imported) (Provisional)	500 m <sup>2</sup>	\$ <u>19</u>	\$ <u>9,500</u>
11	804, SP	Seeding and cover	2360 m <sup>2</sup>	\$ <u>1.30</u>	\$ <u>3,068</u>
12	SP	Modular concrete block retaining wall (Provisional)	30 m <sup>2</sup>	\$ <u>845</u>	\$ <u>25,350</u>

Item	Spec. #	Description	Qty./Unit	Price	Amount
13	SP	Supply and install galvanized hand railing (Provisional)	20 m	\$ <u>560</u>	\$ <u>11,200</u>
14	106, 603, a) SP	Supply and install direct buried 50 mm Type DB 2 PVC conduit for wiring to street lighting	115 m	\$ <u>36</u>	\$ <u>4,140</u>
15	401, 409, 410, 492, 517, 518, SP	Supply, excavate for and place storm pipe sewers including bedding, native or granular backfill and restoration			
	a)	300 mm HDPE CSA B182.6 or equivalent	20.6 m	\$ <u>413</u>	\$ <u>8,507.80</u>
16	410, 491, SP	Reconnect existing drains and services (up to 250 mm dia.) (Provisional)	10 m	\$ <u>387</u>	\$ <u>3,870</u>
17	405, SP	Supply and place 150 mm filter wrapped perforated subdrain including excavation	325 m	\$ <u>33</u>	\$ <u>10,725</u>
18	511, SP	Handlaid rip rap, including non-woven geotextile	15 m <sup>2</sup>	\$ <u>46</u>	\$ <u>690</u>
19	706, SP	Traffic control and pedestrian safety	1 L.S.		\$ <u>11,200</u>
20	SP	Cost of 100% Performance and 100% Labour and Material Payment Bonds and cost of insurance	1 L.S.		\$ <u>1,000</u>
21	SP	Lump sum to cover all other requirements of the contract not specifically covered by or related to the preceding items	1 L.S.		\$ <u>1,000</u>
22	SP	Contingencies	1 L.S.		\$ 10,000.00
		<b>Sub-Total</b>			\$ <u>264,871.20</u>
		13% HST			\$ <u>34,433.26</u>
		<b>TOTAL TENDER</b>			\$ <u>299,304.46</u>



## **STANDARD TENDER REQUIREMENTS**

I/We agree to complete the work within the time specified in the Information to Bidders.

I/We also agree that this Tender is subject to a formal contract being prepared and executed.

In submitting this Tender for the work, the Tenderer further declares:

- (a) That no person, firm or corporation other than the one whose signature or seal is attached below, has any interest in this tender or in the contract proposed to be taken;
- (b) That this tender is made without any connection, knowledge, comparison of figures or arrangement with any other company, firm or person making a tender for the same work and is in all respects fair and without collusion or fraud;
- (c) That no member of the Municipal Council or any officer of the Owner will become interested directly or indirectly as a contracting party without disclosing his interest and otherwise complying with "the Municipal Conflict of Interest Act, RSO 1990";
- (d) That the offer shown in the Schedule of Items and Prices is to continue open to acceptance until the formal contract is executed by the successful Tenderer for the said work or until thirty (30) days after the tender closing date, whichever event occurs first and that the Owner may at any time within that period without notice, accept this tender whether any other tender had been previously accepted or not;
- (e) That if we, the undersigned, withdraw this tender before the Owner shall have considered the tenders and awarded the contract at any time within thirty (30) days after the tender closing date, the amount of the deposit accompanying this tender shall be forfeited to the Owner;
- (f) That the awarding by the Owner of the contract based on this tender shall be an acceptance of the tender;
- (g) The Tenderer solemnly declares that the several matters stated in the foregoing tender are in all respects true;

- (h) That if this tender is accepted, we the undersigned agree to furnish an approved surety bond for the proper fulfilment of the contract and to execute the Agreement in triplicate within ten (10) days after being notified so to do. In the event of default or failure on our part to do so, we the undersigned agree that the Owner shall be at liberty to retain the money deposited by us to the use of the Owner, and to accept the next lowest or any tender or to advertise for new tenders or to carry out the works in any other way deemed best and we also agree to pay to the said Owner the difference between this tender and any greater sum which the Owner may expend or incur by reason of such default or failure, or by reason of such acting, as aforesaid, on their part including the cost of any advertising for new tenders and to indemnify and save harmless the said Owner and its officers from all loss, damage, cost, charges and expenses which they may suffer or be put to by reason of any such default or failure on our part.

The "Agreement to Bond" of the Intact Insurance Company Company, a company lawfully doing business in the Province of Ontario, to furnish a Performance Bond and a separate Labour and Material Payment Bond, each in an amount equal to 100% of the contract price, is enclosed herewith.

A certified cheque for the sum of Twelve Thousand Dollars (\$ 12,000 ) is attached hereto.

DATED AT Markfield this Twenty-Fifth day of July, 2019.

\_\_\_\_\_  
Signature of Witness

Mark Aubeau  
General Manager  
\_\_\_\_\_  
Signature of Bidder

NOTE:

All tenders submitted must be signed by a duly authorized person and either a company seal must be affixed, or it must be signed by a witness.

## STATEMENT RE: SUB-CONTRACTORS

The following is a list of Sub-Contractors or Sub-Trades intended to be used in the execution of the contract showing the approximate portion of the work to be allotted to each.

### ITEM

### SUB-CONTRACTORS

	Name and Address	Percent of Contract
1. Excavation, Sewers, Granular.	D+F Watterton Const. Ltd. Clegg, ON.	50%
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		



**AGREEMENT TO BOND**

**(PERFORMANCE BOND AND LABOUR AND MATERIALS PAYMENT BOND)**

**\*\*** \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

PROJECT NO.  
CONTRACT NO.

TO:

Dear Sirs:

RE:

In consideration of \_\_\_\_\_  
(hereinafter referred to as "the Owner") accepting the tender of and executing an Agreement with:

\_\_\_\_\_  
(hereinafter referred to as "the Tenderer") for the construction of

\_\_\_\_\_  
subject to the express conditions that the Owner receive the Performance Bond and the Labour and Material Payment Bond in accordance with the said tender, we the undersigned hereby agree with the Owner to become bound to the Owner as surety for the Tenderer in a Performance Bond and a Labour and Material Payment Bond each in an amount equal to 100% of the contract price, in the forms of Performance Bond and Labour and Material Payment Bond provided and in accordance with the said tender, and we agree to furnish the Owner with said Bonds within seven (7) days after notification of the acceptance of the said tender and execution of the said Agreement by the Owner has been mailed to us.

Yours very truly,

\_\_\_\_\_  
(Seal)

NOTE: This Agreement to Bond must be executed on behalf of the Surety Company by its authorized officers under the company's corporate seal. Of the two forms bound herein, one shall become a part of the tender and the other shall be retained by the Surety Company.

**\*\*** Enter the name and address of the Surety Company at the top of the page.

## PERFORMANCE BOND

Bond No. \_\_\_\_\_ Project No. \_\_\_\_\_

Amount \$ \_\_\_\_\_ Contract No. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_  
\_\_\_\_\_ hereinafter called "the Principal"

and

\_\_\_\_\_ hereinafter called "the Surety",

are jointly and severally held and firmly bound unto

\_\_\_\_\_ hereinafter called "the Oblige" its successors and assigns, in the  
sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

of lawful money of Canada, to be paid unto the Oblige, for which payment well and truly to be made we the Principal and Surety jointly and severally bind ourselves, our and each of our respective heirs, executors, administrators, successors and assigns by these presents.

SIGNED AND SEALED with our respective seals and dated this \_\_\_\_\_ day of  
\_\_\_\_\_ 20\_\_\_\_.

WHEREAS by an agreement in writing dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
the Principal has entered into a contract with the Oblige, hereinafter called "the Contract", for the construction, alteration, repair or maintenance of a public work, namely

as in the Contract provided, which Contract is by reference herein made a part hereof as fully to all intents and purposes as though recited in full herein.

NOW THEREFORE THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal shall at all times duly perform and observe the Contract including all the terms and conditions thereof, to the satisfaction of the Oblige and shall at all times fully indemnify and keep indemnified the Oblige from and against all and any manner of loss, damage, expense, suits, actions, claims, liens, proceedings, demands, awards, payments and liabilities arising out of or in any manner based upon or attributable to the Contract and shall fully reimburse and repay the Oblige for all outlay, expense, liabilities, or payments incurred or undertaken to be made by the Oblige pursuant to the Contract, then this obligation shall be void, but otherwise it shall be and remain in full force and effect.

Provided further and it is hereby agreed and declared that there shall be no liability under this instrument of the Principal and Surety for payment of any claims for labour, material or services used or reasonably required for use in the performance of the Contract to the extent the amount of such claims is paid pursuant to a Labour and Materials Payment Bond.

Provided always and it is hereby agreed and declared that the Obligee and the Principal have the right to change, alter and vary the terms of the Contract and that the Obligee may in its discretion at any time or times take and receive from the Principal any security whatsoever and grant any extension of time thereon or on any liability of the Principal to the Obligee.

Provided further and it is hereby agreed and declared that the Principal and the Surety shall not be discharged or released from liability hereunder and that such liability shall not be in any way affected by any such changes, alterations, or variations, taking or receiving of security, or extension of time, as aforesaid, or by the exercise by the Obligee of any of the rights or power reserved to it under the Contract or by its forbearance of exercise any such rights or powers, including (but without restricting the generality of the foregoing) any changes in the extent or nature of the works to be constructed, altered, repaired or maintained under the Contract, or by any dealing, transaction, forbearance or forgiveness which may take place between the Principal and the Obligee.

Provided further and it is hereby agreed and declared that the Surety shall not be liable for a greater sum than that specified in this bond.

In Witness Whereof the Principal and the Surety have executed these presents.

SIGNED AND SEALED BY THE PRINCIPAL	)	
	)	Per: _____
In the presence of:	)	
	)	Per: _____
	)	Principal
Witness	)	
	)	
Occupation _____	)	
	)	
Address _____	)	Surety

## LABOUR AND MATERIAL PAYMENT BOND

Bond No. \_\_\_\_\_ Project No. \_\_\_\_\_

Amount \$ \_\_\_\_\_ Contract No. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_

\_\_\_\_\_ hereinafter called "the Principal",

and

\_\_\_\_\_

\_\_\_\_\_ hereinafter called "the Surety",

are jointly and severally held and firmly bound unto \_\_\_\_\_

\_\_\_\_\_ as Trustee,

hereinafter called the "Obligee", for the use and benefit of the Claimants, their and each of the their heirs, executors, administrators, successors and assigns, in the amount of

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

of lawful money of Canada, for the payment of which sum well and truly to be made we the Principal and Surety jointly and severally bind ourselves, our and each of our respective heirs, executors, administrators, successors and assigns by these presents.

WHEREAS by an agreement in writing dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_, the Principal entered into a contract with the Obligee, hereinafter called "the Contract", for

which Contract is by reference herein made a part hereof as fully to all intents and purposes as though recited in full herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Principal shall make payment to all Claimants for all labour and material used or reasonably required for use in the performance of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A Claimant for the purpose of this Bond is defined as one having a direct contract with the Principal for labour, material, or both, used or reasonably required for use in the performance of the Contract, labour and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment, directly applicable to the Contract provided that a person, firm or corporation who rents equipment to the Principal to be used in the performance of the Contract under a contract which provides that all or any part of the rent is to be applied towards the purchase price thereof shall only be a Claimant to the extent of the prevailing industrial rental value of such equipment for the period during which the equipment was used in the performance of the Contract.
2. The Principal and the Surety hereby jointly and severally agree with the Oblige, as Trustee, that every Claimant who has not been paid as provided for under the terms of his contract with the Principal, before the expiration of a period of ninety (90) days after the date on which the last of such Claimant's work or labour was done or performed or materials were furnished by such Claimant, may as a beneficiary of the trust herein provided for, sue on this Bond, prosecute the suit to final judgment for such sum or sums as may be justly due to such Claimant under the terms of his contract with the Principal and have execution thereon. Provided that the Oblige is not obliged to do or take any act, action or proceeding against the Surety on behalf of the Claimants, or any of them, to enforce the provisions of this Bond. If any act, action or proceeding is taken either in the name of the Oblige or by joining the Oblige as a party to such proceeding, then such act, action or proceeding, shall be taken on the understanding and basis that the Claimants, or any of them, who take such act, action or proceeding shall indemnify and save harmless the Oblige against all costs, charges and expenses or liabilities incurred thereon and any loss or damage resulting to the Oblige by reason thereof. Provided still further that, subject to the foregoing terms and conditions, the Claimants or any of them, may use the name of the Oblige to sue on and enforce the provisions of this Bond.
3. No suit or action shall be commenced hereunder by any Claimant:
  - (a) Unless such Claimant shall have given written notice within the time limits hereinafter set forth to each of the Principal, the Surety and the Oblige, stating with substantial accuracy the amount claimed. Such notice shall be served by mailing the same by registered mail, or served in any manner in which legal process may be served in the Province of Ontario, to the Principal, the Surety, and the Oblige, at any place where an office is regularly maintained for the transaction of business by such persons. Such notice shall be given:



- 1) in respect of any claim for the amount or any portion thereof required to be held back from the Claimant by the Principal under either the terms of the Claimant's contract with the Principal or under the Construction Act, R.S.O. 1990, c. C.30 applicable to the Claimant's contract with the Principal, whichever is the greater within one hundred and twenty (120) days after such Claimant should have been paid in full under the Claimants contract with the Principal.
- 2) in respect of any claim other than for the holdback, or portion thereof, referred to above, within one hundred and twenty (120) days after the date upon which such Claimant did, or performed, the last of the work or labour or furnished the last of the materials for which such claim is made, under the Claimant's contract with the Principal.
- (b) After the expiration of one (1) year following the date on which the Principal ceased work on the Contract, including work performed under the guarantees provided in the Contract.
- (c) Other than in a Court jurisdiction in the Province of Ontario, and the parties hereto agree to submit to the jurisdiction of such Court.
4. The amount of this Bond shall be reduced by, and to the extent of any payment or payments made in good faith, and in accordance with the provisions hereof, inclusive of the payment by the Surety of claims under the Construction Act, whether or not such claims be presented under and against this Bond.

PROVIDED ALWAYS and it is hereby agreed and declared that the Obligee and the Principal have the right to change, alter and vary the terms of the Contract, and that the Obligee may in its discretion at any time or times take and receive from the Principal any security whatsoever and grant any extension of time thereon or on any liability of the Principal to the Obligee.

PROVIDED FURTHER and it is hereby agreed and declared that the Principal and the Surety shall not be discharged or released from liability hereunder and that such liability shall not be in any way affected by any such changes, alterations, or variations, taking or receiving of security, or extension of time, as aforesaid, or by the exercise by the Obligee of any of the rights or powers reserved to it under the Contract or by its forbearance to exercise any such rights or powers, including (but without restricting the generality of the foregoing) any changes in the extent or nature of the works to be constructed, altered, repaired or maintained under the Contract, or by any dealing, transaction, forbearance or forgiveness which may take place between the Principal and the Obligee.

**PROVIDED FURTHER** and it is hereby agreed and declared that the Surety shall not be liable for a greater sum than that specified in this Bond.

IN WITNESS WHEREOF the Principal and the Surety have AFFIXED THEIR SIGNATURES AND CORPORATE SEALS this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**SIGNED AND SEALED BY THE PRINCIPAL**

**In the presence of:**

## Witness

## Occupation

## Address

Principal

## Surety