

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW #368 (1976)

Being a by-law to authorize the Mayor and Clerk to execute an agreement with Robran Construction Limited for the pickup of garbage in the Town of Pelham.

WHEREAS Council deems it desirable to enter into an agreement with Robran Construction Limited for the pickup of garbage in the Town of Pelham;

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE
TOWN OF PELHAM ENACTS AS FOLLOWS:

(1) THAT the agreement attached hereto be made part of this by-law between Robran Construction Limited and the Corporation of the Town of Pelham be and the same is hereby approved.

(2) THAT the Mayor and Clerk be and each of them is hereby authorized and instructed on behalf of the Corporation to execute the said agreement and the Clerk is hereby authorized to affix the Corporate Seal thereto.

(3) THIS By-law shall come into effect on the date of its passing, subject to the approval of the Ontario Municipal Board.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
7th. DAY OF June, 1976


MAYOR


CLERK

Proctor and Redfern Limited
Consulting Engineers and Planners
110 James Street
St. Catharines, Ontario
L2R 7E8

Project EO 76105
April 28th, 1976
PCM/tp

TOWN OF PELHAM, ONTARIO

GARBAGE COLLECTION

ADDENDUM NO. 2

This Addendum shall form part of the Contract Documents. The Tenderer shall insert the addendum behind the cover page of the Contract Documents.

1. Refer to Tendering Information -

Closing date and time shall read:

A. Up to 12:00 Noon E.D.S.T. - Thursday, April 29th, 1976.

Proctor and Redfern Limited,
Consulting Engineers and Planners,
110 James Street,
ST. CATHARINES, Ontario.
L2R 7E8

Project E.O. 76105
April 20th, 1976
PCM/tp

TOWN OF PELHAM, ONTARIO

GARBAGE COLLECTION

ADDENDUM NO. 1

This Addendum shall form part of the Contract Documents. The Tenderer shall insert the addendum behind the cover page of the Contract Documents.

1. Refer to Agreement to Bond

Amend the amount of the Performance Bond to read \$50,000.00
per year.

CONTRACT DOCUMENTS

TOWN OF PELHAM, ONTARIO

GARBAGE COLLECTION

E.O. 76105 February 1976

PROCTOR AND REDFERN LIMITED
Consulting Engineers and Planners
110 James Street
St. Catharines, Ontario
L2R 7E8

PCM:tp

TOWN OF PELHAM, ONTARIO

GARBAGE COLLECTION

Project EO 76105
PCM

February 1976

LIST OF CONTRACT DOCUMENTS

Number of
Pages

Colour of
Pages

The following shall form the Contract Documents:

Addenda Numbered	<u>1</u>	to	<u>2</u>	Green	
List of Contract Documents				Pink	1
Tendering Information				Blue	3
Form of Tender				Yellow	2
Agreement				White	1
Agreement to Bond				White	1
Performance Bond (CD-2)				White	1
Bid Bond (CD-2B)				White	1
List of Sub-Contractors (CD-3)				White	1
Tenderer's Experience (CD-4)				White	1
Tenderer's Senior Staff (CD-5)				White	1
Tenderer's Plant (CD-6)				White	1
Project Specifications				Blue	5
General Conditions				White	9

TENDERING INFORMATION

TI.01 Delivery and Opening of Tenders

- A. Sealed tenders, marked with the name of the project, will be received by:

Mr. L.C. Hunt,
Clerk-Treasurer,
Town of Pelham,
43 South Pelham Street,
Fonthill, Ontario
L0S 1E0

Up to

- B. The tenders will be opened publicly as soon after the closing time as possible.

- C. Tenders shall be made on the Form of Tender which shall not be detached from the other documents.

TI.02 Discrepancies

- A. If a tenderer finds discrepancies in, or omissions from the Contract Documents, or if he is in doubt as to their meaning, he shall notify the Engineer, who may issue a written addendum. Neither the Owner nor the Engineer will make oral interpretations of the meaning of the Contract Documents.

- B. Addenda issued during the tendering period shall be allowed for by the tenderer.

TI.03 Examination of Site

- A. The tenderer shall visit the site of the work before submitting his tender and shall by personal examination satisfy himself as to the local conditions that may be encountered during construction of the work. He shall make his own estimate of the facilities and difficulties that may be encountered and the nature of the subsurface materials and conditions.

TI.04 Proof of Ability

A. The tenderer shall be competent and capable of performing the various items of work. The tenderer shall complete the following statement sheets, which shall form a part of the Contract Documents:

1. Tenderer's Experience
2. Machinery and Plant to be used
3. Tenderer's Senior Staff

B. The tenderer may be required to furnish additional statements covering other matters, including financial resources.

TI.05 Tender Deposit

A. Every tender shall be accompanied by a bid bond, or certified cheque made payable to the Town of Pelham, in an amount equal to \$4,000.00.

C.C.A. Document (S)20 shall be used for the bid bond.

The tenderer shall keep his tender open for acceptance for sixty days after the closing date. Withdrawal during this period will result in forfeiture or enforcement of the bid bond.

Upon being notified that his tender has been accepted, the Contractor shall execute copies of the Agreement, supply bonds and insurance documents as specified, and start work as specified.

Failure to execute the copies of the Agreement, or to supply bonds and insurance documents, all within two weeks of the date of acceptance of the tender, or to start work as specified, will automatically mean the forfeiture or enforcement of the bid bond.

Bid bonds of unsuccessful tenders will be returned not later than two weeks following Contract award.

The bid bond of the successful tenderer will be returned with the first progress certificate.

TI.06 Agreement to Bond

- A. Every tender shall be accompanied by an 'Agreement to Bond' in the form attached, and shall be completed by a surety company lawfully doing business in the province.

TI.07 Sub-Contractors

- A. The tenderer shall submit with his tender the names and addresses of Sub-Contractors he proposes to use for the subtrades listed in Form CD-3 'List of Sub-Contractors'.

TI.08 Acceptance of Tenders

- A. The lowest or any tender need not necessarily be accepted by the Owner.

FORM OF TENDER

FT.01 Tender Price

A. Offer by: NAME: Robran Construction Limited

ADDRESS: 151 Main Street East,
Grimsby, Ontario

DATE: April 29th, 1976

B. To The Corporation of the Town of Pelham

1. We, the undersigned, having examined the site of the work, having carefully investigated the conditions pertaining to the work and having secured all the information necessary to enable us to submit a bona fide tender, and having inspected all the Contract Documents, hereby agree to enter into a Contract and to perform all the work in a good and workmanlike manner in accordance with the Contract Documents to the satisfaction of the Engineer for the total tender price of: Fifty Thousand, Five Hundred and Forty-Six Dollars and Seventy-Six Cents

Dollars (\$50,546.76)

for the year commencing July 1st, 1976 to June 30th, 1977 and for a total tender price to be determined thereafter in accordance with the annual review of total tender price based on the above-stated total tender price.

<u>Population</u>	<u>Price per Capita</u>	<u>Total Cost per year</u>
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Tender price for five (5) year contract, once weekly collection to all properties throughout the five (5) year term (entire Town of Pelham)

9,834*	\$ 5.14	\$ 50,546.76
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* To be adjusted on publication of the Fall 1976 figures.

FT.02 ADDENDA

- A. We agree that we have received Addenda 1 to 2 inclusive, and the tender price includes the provisions set out in such addenda.

OFFERED ON BEHALF
OF THE CONTRACTOR

Total Contract Value \$ 50,546.76

Signature

Signature

Contractor's Seal

Robran Construction Limited
Company Name

Witness

151 Main Street East
Grimsby, Ontario

Address

April 29th, 1976

Date

AGREEMENT

This Agreement made in triplicate this 12th day of May 1976
between

Robran Construction Limited hereinafter called 'The Contractor',
and

The Corporation of the Town of Pelham hereinafter called 'The Owner'.

WITNESSETH, that the Contractor agrees with the Owner to perform all the work in accordance with the contract documents referred to in the tender of the Contractor dated the 29th day of April 1976 (which shall be deemed to form part of the Contract) to the satisfaction of the Engineer for the total contract price of \$ 50,546.76 which contract documents are attached hereto and which are hereby expressly made part of this Contract.

The Owner hereby agrees with the Contractor, that in consideration of the work being performed by the Contractor as specified, the Owner shall pay the Contractor for said work in accordance with the prices set out in the Form of Tender attached hereto, and in accordance with the provisions set out in the attached contract documents.

IN WITNESS WHEREOF the parties hereto have set their hands and seals the day and year first written above.

EXECUTION BY OWNER -

Name The Corporation of the Town of
Pelham

Officers

M. Conway (Deputy Clerk-
Treasurer)

A. E. Plack (Mayor)

Date August 11th., 1976

Seal

Seal

EXECUTION BY CONTRACTOR -

Company Name Robran Construction Limited

Signatures

Robran Cole

James Lane

Witness

Louetta Page

Date

May 28, 1976

AGREEMENT TO BOND

Date _____ 1976

*

Gentlemen:

Collection of Garbage, Refuse and Ashes
from All Households, Commercial Businesses,
Public Institutions, and Other Premises within
the Town of Pelham, Ontario

In consideration of the Owner accepting the tender of and executing
an Agreement with

(hereinafter referred to as 'the Tenderer'), for the collection of
garbage, refuse and ashes from all households, commercial businesses,
public institutions, and other premises within the Town of Pelham,
Ontario, subject to the express condition that the Owner receive
the Performance Bond in accordance with the said Tenderer, we
the undersigned hereby agree with the Owner to become bound to
the Owner as surety for the Tenderer in a Performance Bond in the
amount of \$20,000.00 per year in the form of a Performance Bond
bound herein and in accordance with the said tender; and we
agree to furnish the Owner with the said bond 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

* Enter the name of the Surety Company at the top of this page.

PERFORMANCE BOND

No.

KNOW ALL MEN BY THESE PRESENTS THAT

hereinafter called the Principal, and

as Principal,

hereinafter called the Surety, are held and firmly bound unto

as Surety,

hereinafter called the Obligee, in the amount of

as Obligee,

(\$) lawful money of Canada, for the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a written contract with the Obligee, dated the day of 19 , for Dollars

in accordance with the plans and specifications submitted therefor which contract, plans and specifications and amendments thereto, to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly and faithfully perform said Contract then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Whenever Principal shall be, and declared by Obligee to be, in default under the Contract, the Obligee having performed Obligee's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

- (1) Complete the Contract in accordance with its terms and conditions, or
- (2) Obtain a bid or bids for submission to Obligee for completing the Contract in accordance with its terms and conditions, and upon determination by Obligee and Surety of the lowest responsible bidder, arrange for a contract between such bidder and Obligee and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by Obligee to Principal under the Contract, less the amount properly paid by Obligee to Principal.

Any suit under this Bond must be instituted before the expiration of one (1) year from date on which final payment under the Contract falls due.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrators, or successors of Obligee.

IN TESTIMONY WHEREOF, the Principal has hereto set its hand and affixed its seal, and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its Attorney-in-fact, this day of 19

KNOW ALL MEN BY THESE PRESENTS THAT

hereinafter called the Principal, and as Principal,

hereinafter called the Surety, are held and firmly bound unto as Surety,

hereinafter called the Obligee, in the amount of as Obligee,

Dollars

(\$) lawful money of Canada, for the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a written tender to the Obligee, dated the day of 19 , for

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the aforesaid Principal shall have the tender accepted within sixty (60) days from the closing date of tender and the said Principal will, within the time required, enter into a formal contract and give a good and sufficient bond to secure the performance of the terms and conditions of the contract, then this obligation shall be null and void; otherwise the Principal and Surety will pay unto the Obligee the difference in money between the amount of the bid of the said Principal and the amount for which the Obligee legally contracts with another party to perform the work if the latter amount be in excess of the former.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

Any suit under this Bond must be instituted before the expiration of six months from the date of this Bond.

IN TESTIMONY WHEREOF, the Principal has hereto set its hand and affixed its seal, and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its Attorney-in-fact, this day of 19 .

LIST OF SUB-CONTRACTORS

SUB-TRADE	NAME OF SUB-CONTRACTOR	ADDRESS OF SUB-CONTRACTOR

Proctor & Redfern Limited
Consulting Engineers
June 11th, 1975
AS:hs

TENDERER'S EXPERIENCE IN SIMILAR WORK

YEAR COMPLETED	DESCRIPTION OF CONTRACT	FOR WHOM WORK PERFORMED	VALUE

Proctor & Redfern Limited
Consulting Engineers
June 11th, 1975
AS:hs

TENDERER'S SENIOR STAFF

NAME	APPOINTMENT	QUALIFICATIONS AND EXPERIENCE
C. Neal	Manager	15 Years
J. Donahue	Superintendent	16 Years

Proctor & Redfern Limited
Consulting Engineers
June 11th, 1975
AS:hs

TENDERER'S PLANT

The Tenderer shall list the plant, machinery and equipment he proposes to use on the work.

PLANT UNDER TENDERER'S CONTROL:

All machinery and equipment necessary to complete project to the satisfaction of this Contract

PLANT TO BE RENTED:

None

PLANT TO BE PURCHASED:

None

Proctor & Redfern Limited
Consulting Engineers
June 11th, 1975
AS:hs

PROJECT SPECIFICATIONS

SP.01 EXTENT OF WORK

- A. This Contract is for the provision of all labour, material and equipment necessary for the collection once weekly, of garbage, refuse, and ashes from all households, commercial businesses, public institutions, and other premises within the Town of Pelham.

SP.02 GARBAGE

- A. Garbage shall mean all rejected, abandoned, or discarded household waste either animal or vegetable, wearing apparel, waste paper, broken crockery and glassware, bottles, cans, grass cuttings, garden refuse, and other refuse matter shall not include weighty or bulky articles such as stoves, furnaces, bedsprings, furniture, boxes and barrels or anything of a similar nature. Ashes shall mean a solid residue of any fuel for heating or cooking purposes and soot or other cleanings from chimneys. Garden refuse shall include small bundles of cut brush, maximum length three feet.

SP.03 NON-COLLECTIBLE GARBAGE

- A. Non-collectible garbage shall mean manufacturers' waste, celluloid cuttings, moving picture film, oil-soaked or gasoline-soaked rags and any explosive or highly combustible material of any nature whatsoever, broken plaster, lumber or other waste or residue resulting from the construction, alteration, repair, demolition or removal of any building or structure, sawdust and/or wood shavings, swill or other organic matter not properly drained or wrapped, liquid waste, bandages, poultices, dressings and other such wastes, night soil, carcass or any animal, live animals or birds, furniture, stock of any wholesaler shall be regarded as manufacturers' waste, any material which has become frozen to the receptical and cannot be removed by normal shaking. The collection of Christmas trees after the Christmas holiday season shall not be part of this Contract, but shall remain the responsibility of the Owner.

SP.04 EQUIPMENT

- A. The Contractor will be responsible to provide, for the bid price in the Form of Tender, sufficient units to perform the services as herein provided. The units shall

have fully enclosed steel bodies, capable of loading, compacting and unloading garbage mechanically and shall be mounted upon adequate truck chassis. The Contractor shall at all times maintain and operate a sufficient number of collection units to properly maintain the standard of service provided for in the Contract. In addition, the Contractor must provide evidence that arrangements have been made to provide for standby units to ensure adequate performance of this Contract in the event of machine breakdown or other unforeseen problems.

SP.05 APPEARANCE OF EQUIPMENT

- A. All equipment being used by the Contractor in connection with this Contract shall be kept clean at all times. The Contractor shall be prohibited from displaying any advertising matter whatsoever on any garbage collection units operated under the provisions of this Contract except that the Owner shall require the Contractor to display such markings as the Owner may deem requisite on each of the units as will identify the said units as being operated as garbage collection units on behalf of the Town of Pelham.

SP.06 EMPLOYEES' APPEARANCES

- A. The Contractor shall require, as a condition of employment, that all employees have a neat and tidy appearance while engaged upon garbage collection services in connection with this Contract.

SP.07 CUSTOMER COMPLAINTS

- A. The office of the Municipality shall receive all calls concerning garbage collection service and messages thus received will be transmitted to the Contractor. The Contractor shall make himself or his representative, available to receive such calls as they are transmitted by the Town and the verbal transmission of messages and instructions shall be deemed to be sufficient insofar as notice to the Contractor concerning specific complaints.

SP.08 HOLIDAYS

- A. No collection shall be made on the following holidays unless approved in the collection schedule:

New Year's Day, Good Friday, Easter Monday, Victoria Day, Dominion Day, Civic Holiday, Labour Day,

Monday to Friday inclusive), Christmas Day, and Boxing Day.

- B. The Contractor shall advertise changes in garbage collection, due to holidays, in the local newspapers (i.e., the Welland Tribune and the St. Catharines Standard). The advertisement shall appear in each newspaper three consecutive publishing days ending two days prior to the holiday.

SP.09 LOSS OF WORKING DAY

- A. In the event of a holiday which has caused the loss of a working day, accelerate operations so as to complete the normal collection scheduled in the same week in which the holiday occurred.

SP.10 COLLECTION SCHEDULE

- A. The Contractor shall within four (4) weeks of the award of tender, submit to the Owner for approval, a complete list of daily routes for collection to cover a normal week's operation showing the number of men and vehicles per route for the entire Town. The implementation of and any subsequent changes to a collection schedule shall be approved by the Town before the same becomes effective and the Contractor shall be responsible to advise the general public by a notice published in the local paper of any changes in the days of garbage collection.

SP.11 GARBAGE DISPOSAL SITE

- A. All garbage picked up under the terms of this Contract must be deposited on the "joint" sanitary landfill site provided under a Contract between the Owner and the Town of Grimsby. This sanitary landfill is located off Park Road in Lot 2, Concession VI (Former Township of North Grimsby) and shall operate between the hours of 8:00 a.m. and 6:00 p.m. on Tuesday, Wednesday, Thursday, Friday and on Saturday from 8:00 a.m. to 4:00 p.m., holidays list in Section 8 excluded.

SP.12 METHOD OF PAYMENT

- A. Payment for the work done under this Contract will be made in monthly installments of 1/12th of the total per annum bid price.

SP.13 POPULATION

- A. The population of the Town of Pelham as established by the Regional Assessment Commissioner for 1976 is 9,834. This figure shall be used as a total population figure for the purpose of establishing the per capita bid

price in the tender.

The annual census made by the Regional Assessment Commissioner each Fall shall be used as the basis of payment during the next calendar year commencing January 1st.

SP.14 ANNUAL REVIEW OF 'TOTAL TENDER'

- A. The 'Total Tender' price quoted in the Form of Tender shall be reviewed annually to reflect the changes in cost of doing business in this type of work covered in this Contract and to reflect the changes in the population of the municipality. For details refer to Clause 15.

SP.15 ANNUAL REVIEW OF CHANGES IN COSTS OF OPERATION

- A. The 'Total Tender' price will be adjusted using the following components and respective weights in the following table:

<u>Index Components</u>	<u>Factor Weight</u>
Labour	40%
Equipment	20%
Other operating expenses	20%
Overhead (shall not change year to year)	20%

Schedule of Items to Compute Labour Index Components:

<u>Reference Item No.</u>	<u>Labour</u>	<u>Ratio</u>	
1.	Average Hourly Earnings* of Hourly-rated Wage Earners - Manufacturing for Niagara Falls	January/ Initial Yr. \$	January/ Current Yr. \$
2.	Actual Hourly Rate of Town of Pelham Works Department Employee - Truck Driver	\$	\$
3.	Actual Hourly Rate of Contractor's Employee - Truck Driver	\$	\$

* As reported in publications of Statistics Canada.

<u>Reference Item No.</u>	<u>Labour</u>	<u>January/ Initial Yr.</u>	<u>January/ Current Yr.</u>	<u>Ratio</u>
4.	Average Hourly Wages* in Manufacturing in Dollars, Current at dates shown, for Canada	\$	\$	
5.	Average Weekly Earnings* of Hourly-rated Wage Earnings for Ontario Highway and Bridge Maintenance	\$	\$	
LABOUR - RATIO (arithmetic average)				

Calculation of Increase in Cost

	<u>Weight in Factoring to Unity</u>
From above: Labour - Ratio	40%
6. Equipment - Capital*	20%
7. 'Other Operating Expense'*	20%
Overhead (no increase by definition)	1.0000
	20% 0.20000
RESULTING FACTOR FOR ADJUSTING CONTRACT	

* As reported in publications of Statistics Canada.

GENERAL CONDITIONS

GC.01 TENDERS

- A. All tenders for the execution of the work herein set forth or referred to must be made on the printed form supplied for that purpose. Such tenders must be made without any knowledge, comparison of figures, or arrangements with any other person making any tender or estimate for the same purpose, and that it is in all respects far and without collusion or fraud, and that no member of the Corporation, Council or any other officer of the Corporation, is, shall be, or become interested directly or indirectly, as contracting party, partner, stockholder, surety or otherwise in, or in the performance of, the Contract, or in the supplies, work or business to which it relates, or in any portion of the profits to be used therein or thereof, or any of the monies to be derived therefrom. Tenders must cover the cost of the completion of the work in every respect in accordance with the Contract. Contractors are required to fully satisfy themselves as to the practicability of the works, and every part thereof before tendering thereon and the Contractor, by his signature thereto, assumes all responsibility in respect thereof.

GC.02 DEFINITION OF CONTRACT

- A. The work required to be done by the Contractor under this Contract comprises the collection of garbage within the Town limits in accordance with the specifications, instructions and regulations attached hereto, and the dumping of same at disposal grounds maintained by the Town and in accordance with the attached specifications. The Contractor will be required to provide at his own expense, all and every kind of labour, vehicles, tools, equipment, articles and things necessary for the due execution of the work set out or referred to in the specifications.

GC.03 CONTRACTOR'S LIABILITY

- A. The Contractor shall assume the defence of and indemnify and save harmless, the Corporation and its officers and agents from all claims relating to labour, materials and equipment furnished for the work, and to inventions, patents or patent rights used in doing the work.

The Contractor shall be responsible for any and all damages, or claims for damages, or injuries, or accidents done to, or caused by him, or his employees, or relating from the prosecution of the works, or any of his operations, or caused by reason of the existence or location, or condition of any materials, plant or machinery, used thereon or therein, or which may happen by reason thereof, or arising from any failure, neglect or omission on his part, or on the part of any of his employees, to do, or perform, any or all of the several acts, or things required to be done by him, or them, under and by these conditions and covenants, and agrees to hold the Corporation harmless and indemnified for all such damages and claims for damages.

GC.04 INSURANCE

- A. Prior to the commencement of operations, the Contractor shall produce evidence satisfactory to the Town Solicitor that the Contractor has obtained insurance in the amount of \$500,000.00 from an insurance company authorized to carry on business in Canada, to cover its liability in this Contract.

GC.05 WORKMEN'S COMPENSATION

- A. The Contractor, shall at all times pay, or cause to be paid, any assessment or compensation required to be paid pursuant to the Workmen's Compensation Act, and upon failure to do so, the Corporation may pay such assessment or compensation to the Workmen's Compensation Board and shall deduct or collect such expenses under the provisions of Section 9 of this condition. The Contractor shall, at the time of entering into any Contract with the Corporation, make a Statutory Declaration that all assessments or compensations payable to the Workmen's Compensation Board have been paid, and the Corporation may, at any time during the performance or upon completion of such Contract, require a further Declaration that such assessments or compensations have been paid.

GC.06 SUBLETTING

- A. The Contractor shall keep the work under his personal control, and shall not assign, transfer or sublet any portion without first obtaining the consent of the Corporation expressed by By-law. The consent of the Corporation of any such assignment, transfer or subletting, shall not, however, relieve the Contractor of any responsibility for the proper commencement, execution and completion of

the work according to the terms of the Contract; and the Contractor shall, either in person or through an accredited agent, receive all notices, communications, orders, instructions or legal services, as if he were performing the work with his own plant and his own men.

GC.07 PAYMENTS

- A. The Contractor is entitled to receive monthly payments at the rate of 100 percent of the stipulated monthly payment, less all stipulated forfeitures and deductions.

All payments to the Contractor shall be made out of funds under the control of the City, in its public capacity, and no member of City Council, or officer of the City, is, or to be held, personally liable to the Contractor under any circumstances whatever.

Before making any payment for the work to be performed hereunder, the Corporation may require the Contractor to satisfy the Corporation that all claims against the Contractor for labour, materials, or things hired, or supplied upon or for the works, have been paid or satisfied, or if any such claims are found to exist, may pay such sum and the Contractor shall repay the same within two days, or the Corporation may, at its option, withhold from the payment due sufficient amounts to satisfy the same.

GC.08 MONEYS DUE CORPORATION

- A. All moneys payable to the Corporation by the Contractor under any stipulation herein, or to the Workmen's Compensation Board, as provided hereunder, may be retained out of any moneys then due or which may become due from the said Corporation to the said Contractor under this or any other Contract with the Corporation, or otherwise howsoever, or may be recovered from the Contractor or his surety, in any court of competent jurisdiction, as a debt due to the Corporation; and the Owner shall have full power to withhold any progress payment if circumstances arise which may indicate to them the advisability of so doing, though the sum to be retained may be uncertain.

GC.09 LIENS

- A. The parties hereto and their surety or themselves, their executors, administrators, successors and assigns and any and all other parties in any way concerned, shall

fully indemnify the Corporation and all its officers, servants and employees from any and all liability or expenses by way of legal costs or otherwise in respect to any claim which may be made for a lien or charge at law or in equity or to any claim or liability under the Mechanic's Lien Act or to any attachment for debt, garnishee process or otherwise. The Corporation shall not in any case be liable to any greater extent than the amount owing by it to the Contractor, his executors, administrators, successors and assigns.

GC.10 DISCHARGE OF EMPLOYEE

- A. Should any overseer, mechanic, driver or workman employed on or about the work or in connection therewith, give any just cause for complaint (of which the Owner shall be the sole judge), the Owner shall notify the Contractor in writing, stating the reasons therefore, and the Contractor shall dismiss such person forthwith, and he shall not again be employed by the Contractor on any Corporation work without the consent, in writing, of the Owner.

GC.11 TERMINATION OF CONTRACT

- A. The Owner may terminate the employment of the Contractor if sufficient cause exists to justify such action. Such termination of employment may be made:

1. if the Contractor should be adjudged a bankrupt, or
2. if he should make a general assignment for the benefit of his creditors, or
3. if a receiver should be appointed on account of his insolvency, or
4. if he should take the benefit of any Act relating to insolvent debtors, or
5. if a winding up order be made against the Contractor, or
6. if he should refuse or fail to supply enough plant, properly skilled labour or proper materials after having received seven (7) days' notice in writing from the Owner so to do, or
7. if he should fail to make prompt payment to Sub-Contractors and suppliers, or

8. if he should persistently disregard laws, ordinances or the instructions of the Owner, or
 9. if he should otherwise be guilty of a substantial violation of the provisions of the Contract.
- B. Should the Owner terminate the employment of the Contractor, as provided in subsection A. above, he shall give the Contractor seven (7) days' written notice of such termination of employment.
- C. Should the Owner terminate the employment of the Contractor, as provided in subsection A above, he may take possession of the premises and of all materials and plant on the premises, and may finish the work by any method he may deem expedient, but without undue delay or expense. In such case, the Contractor shall not receive any further payment until the work is complete.
- D. If the unpaid balance of the Contract Price exceeds the expense of finishing the work (including compensation to the Owner for his additional services), such excess shall be paid to the Contractor. If such expense exceeds the unpaid balance, the Contractor shall pay the difference to the Owner. The additional expense incurred by the Owner due to the Contractor's default shall be certified.

GC.12 OTHER RIGHTS

- A. The Contractor, his agents and all workmen and persons employed by him or under his control shall use due care that no person is injured and that no property is damaged in the prosecution of the work and the Contractor shall be solely responsible for all damages and to person or property including theft, whether the property is owned by the Corporation or any of its employees.

GC.13 BRIBERY

- A. Should the Contractor, or any of his agents give, or offer any gratuity to, or attempt to bribe, any member of the Corporation, Council, officer or servant of the Corporation, the Corporation shall be at liberty to cancel the Contract forthwith, or to direct the Owner to take the whole or any part of the works out of the hands of the Contractor, under the same provisions as those specified in Section 13 herein.

GC.14 NOTICES

- A. Any notice or communication to the Contractor shall be deemed to be legally well and sufficiently given and served, if:
1. handed to the Contractor or any of his clerks or agents, or
 2. posted or sent to the address given in the Tender, or
 3. posted or sent to the Contractor's domicile or usual place of business, or
 4. posted or sent to the place where the work is, or is to be, carried on, or
 5. posted to or left at his last known address.

- B. In any notice to the Contractor with respect to work and repairs of any nature required to be done under the Contract (or with respect to any other matter), it shall not be obligatory for the Owner to specify minutely and in detail everything required, nor to specify by measurement the exact extent or place where the work and repairs are to be carried out.

Reference may be made in such a notice to the clauses in the Contract bearing upon the matter, the general location, and the general description of the work and repair to be done.

GC.15 DURATION OF THE CONTRACT

- A. The obligations under this Contract will deem to be commenced on the first day of July 1976 and will be terminated on the 30th day of June 1981.

GC.16 ARBITRATION OF DISPUTES

- A. In the event of a dispute as to whether the Contractor has refused or omitted to perform any obligation hereunder or has made or caused to be made any breach of this agreement, then before the Owner shall be at the liberty to cancel this agreement or any part thereof, an arbitrator shall be appointed who shall investigate the alleged refusal or omission to perform or alleged breach of this agreement and shall determine whether or not there has been a refusal or omission to perform or breach of the agreement and whether or not the same is sufficiently substantial as to justify the cancellation by the Owner of this agreement or any part thereof.

The decision of the Arbitrator shall be final, binding upon and accepted by both Parties hereto without right of appeal to any court.

The cost of arbitration shall be apportioned against the Parties hereto or against any one of them as the Arbitrator may decide.

The Arbitrator shall be in succession either

1. the acting Senior County Judge of the Judicial District of Niagara North, or
2. the appointee of the acting Senior County Court Judge of the Judicial District of Niagara North.

Pending the outcome of the arbitration, the Owner may take such steps as may be deemed necessary and advisable and in his sole discretion to ensure the continuation of the garbage collection services according to the specifications set out herein.

If the provisions of this paragraph be inconsistent with any other covenant contained in this agreement, the provisions of this paragraph shall govern.

GC.17 HEIRS AND ASSIGNS

- A. The provisions of this agreement shall ensure to the benefit of and be binding upon the Parties hereto, their successors and assigns.

EO 76105 SEC GC

Page 7.

GC.18 DEFINITIONS

- A. Owner - means the Corporation of the Town of Pelham.

Contract - the word 'contract' herein and in any agreement, bond, specification, condition or plan herein referred to means the agreement to do the work entered into with the Owner and includes bond or security, the specifications, the general conditions, the tender and other documents referred to or connected with the said Agreement.

Contractor - 'Contractor' or a pronoun in place thereof, means the person or persons who have undertaken to carry out this Contract.

Regional Assessment Commissioner - an Assessment Commissioner appointed under Subsection 1 of Bill 174, shall be deemed for the purpose of this and every other Act to be the assessor and assessment commissioner of and for every municipality and locality in the assessment region for which he is appointed.

Statistics Canada - Statistics Canada shall mean the Prices Division of Statistics Canada, Ottawa, Canada.

Engineer - Engineer shall mean Proctor and Redfern Limited or other such persons acting on behalf of the Owner as Town Engineer.

GC.19 STATUTES

- A. In all matters affecting the performance of the work, the Contractor shall comply with all relevant statutes, by-laws and ordinances of Federal and Provincial Governments and of Municipal Corporations. The Contractor shall also comply with all relevant regulations made under such statutes, by-laws and ordinances.

- B. Unless otherwise specified, the Contractor shall pay all fees, procure all licenses and certificates, deposit all drawings and give all notices required by any of the foregoing statutes, by-laws, ordinances and regulations.

GC.20 OPERATIONAL RISKS

- A. All damage, loss, expense and delay incurred or experienced by the Contractor in the prosecution of the work, by reason of unanticipated difficulties, bad weather, strikes,

wars, acts of God, or other mischances, shall be borne by the Contractor and shall not be the subject of a claim for additional compensation.

GC.21 ASSIGNMENT

- A. The Contractor shall not assign the Contract, or any part of it without the written consent of the Owner, nor shall the Contractor assign any monies due, or to become due, to him without the written consent of the Owner.

GC.22 FAILURE TO EXECUTE CONTRACT

- A. If the Contractor fails to enter into the Contract within seven (7) days of being requested to so do by the Town, the Contractor shall forfeit the tender deposit.

GC.23 PERFORMANCE BOND

- Payment for bond paid*
- A. The Contractor, together with a surety company approved by the Owner and authorized by law to carry on business in the Province in which the work is to be performed, shall furnish a Performance Bond to the Owner in the form attached in the amount of \$50,000 for the 5-year life of the Contract. The Bond shall unconditionally guarantee the performance of the Contract, shall be at the expense of the Contractor, and shall remain in effect until the issue by the Engineer of the Final Payment Certificate.