

CONSTRUCTION AND MAINTENANCE AGREEMENT

THIS AGREEMENT is made this day of , 2024.

BETWEEN:

CITY OF OTTAWA
(the “City”)

- and -

**HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE
OF ONTARIO, REPRESENTED BY THE MINISTER OF
TRANSPORTATION FOR THE PROVINCE OF ONTARIO**
(the “MTO” or “Ministry”)

WHEREAS:

- A. The Ministry intends to build a new bridge at Maitland Avenue in the City. The bridge will cross over Highway 417 and is more particularly set out in Schedule A attached hereto (“the Bridge”). The City is desirous of having a Cycling Facility on the Bridge (the “Cycling Facility”). The City and the Ministry agree that the Ministry shall include a Cycling Facility on the Bridge, and that any and all costs associated with the construction of the Designs shall be the responsibility of the City;
- B. The City shall pay for all additional costs, including, without limitation, construction and administration costs for the Cycling Facility on the Bridge;
- C. The Ministry and the City are jointly interested in improving urban cycling connections through the interchange to provide improved active transportation connectivity between adjacent communities, pathways, and transit facilities.

NOW THEREFORE in consideration for the terms of this Agreement and the sum of Ten Dollars (\$10.00) of lawful money of Canada paid by each of the Parties of this Agreement to the other, the receipt whereof is hereby acknowledged, and other good and valuable consideration, the City and the MTO agree as follows:

1.0 **DEFINITIONS**

In this Agreement, unless there is something in the subject matter or context inconsistent with the purpose of this Agreement:

- 1.1 **“Agreement”** means this construction agreement and includes the Schedules “A”, and “B” attached to this Agreement.

- 1.2 **“Bridge”** means the MTO bridge structures to be built at Maitland Avenue, which crosses over Highway 417.
- 1.3 **“Bridge Works”** as illustrated in Schedule “A”, means the Bridge Works described in section 1.3.1 below and including the Active Transportation and the Designs and in accordance with the criteria and standards of the Ministry and with the standards of MTO with respect to work described in item 1.3.1 (a);
- 1.3.1
- (a) Widening the Bridge to accommodate a Cycling Facility including, without limitation, piers, girders, curbs, barrier walls, granular fill, concrete sidewalk, signage, pavement markings, moving overhead signs, moving noise barrier walls, and relocating utilities;
- and
- (b) all incidentals to the activities set out above under sections 1.3.1(a).
- 1.4 **“Contractor”** means any contractor and any subcontractor(s) that may be retained by the MTO to affect the Bridge Works.
- 1.5 **“Cycling Facility”** means the raised two metre wide uni-directional cycle track and 0.9 metre wide concrete buffer components on both sides of the Bridge;
- 1.6 **“Designs”** means the engineering design for the Bridges described in section 5.0 and dated the 31 day of December 2023.
- 1.7 **“Director”** means the Director, Transportation Infrastructure Management, for the East Region of the Ministry of Transportation for the Province of Ontario or their nominee.
- 1.8 **“End Date”** means December 2027.
- 1.9 **“Project Location”** means the MTO and the City rights-of-way for Highway 417 and Maitland Ave, being Part of Lot 29, Concession 2, Geographic Township of Nepean, City of Ottawa, being Part of PIN 04004-0279, in the City of Ottawa as depicted in Schedule “A” attached hereto and forming part of this Agreement.
- 1.10 **“Traffic Management Plan/Construction Schedule”** means the design and construction of the traffic management plan/construction schedule described in Section 6.0.

2.0 **INTERPRETATION**

2.1 **Entire Agreement**

2.1.1 This Agreement and Schedules “A” and “B” to this Agreement constitute the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersede all prior commitments, statements, promises, warranties, representations, arrangements, negotiations, agreements and understandings, collateral, oral, or otherwise. There are no other agreements between the Parties in connection with the subject matter of this Agreement and the Schedules “A” and “B” except as specifically set forth in this Agreement.

2.1.2 Schedules “A” and “B” shall be agreed to between the City and the MTO prior to the execution of this Agreement.

2.2 **Conflicts**

In the event of conflict or inconsistency between any of the terms of this Agreement and any of the Schedules to this Agreement or a permit issued by the City to the MTO, the terms of this Agreement shall prevail. The document prevailed over shall be interpreted to have been amended to the extent of the conflict or inconsistency.

2.3 **Extended Meanings**

2.3.1 Unless otherwise specified, words denoting the singular include the plural and vice versa.

2.3.2 The word “including” or “includes” and similar words shall mean “including without limitation” or “includes without limitation”.

2.4 **Capitalized Terms**

Each capitalized term has the meaning given to that term in this Agreement.

2.5 **Governing Laws**

This Agreement and each of the documents contemplated by or delivered under or in connection with this Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.

2.6 **Articles, Sections, Subsections, Schedules, and Headings**

The division of this Agreement into separate Sections, Subsections, Paragraphs and Schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

3.0 **GENERAL RESPONSIBILITIES OF THE MTO**

- 3.1 Except where stated otherwise in this Agreement, the cost of any and all Bridge Works and other work done pursuant to this Agreement shall be MTO's responsibility and shall be paid by the MTO. Notwithstanding the foregoing, the City shall be responsible for any and all costs related to the Cycling Facility, which City cost is addressed in section 4.2 of this Agreement.
- 3.2 The MTO shall invoice and provide supporting documentation to the City following substantial completion of the constructed Bridge Work as set out under this Agreement. The City will be invoiced prior to the End Date and no earlier than January 1, 2026.
- 3.3 The MTO shall effect the Bridge Works in accordance with the terms of this Agreement.
- 3.2.1 undertake the Environmental Assessment, related to the construction of the Bridges, preliminary designs, detailed designs, construction staging, field investigations, tendering, construction, contract administration, contract inspection, and contract monitoring.
- 3.2.2 as proponent, will comply with the *Environmental Assessment Act* and the Provincial Class Assessment process and obtain from the Ministry of the Environment all clearances required by the Act, if any prior to the start of construction works.

4.0 **CITY'S GENERAL RESPONSIBILITIES**

- 4.1 The City shall review in a timely manner the documents and submissions by the MTO relating to the Bridge Works.
- 4.2 The City shall within thirty (30) days of receipt of an invoice from the MTO pay to the MTO the sum payable in that invoice. The costs that will be invoiced will represent the costs associated with the portion of the work required to complete the Cycling Facility, as per attached Cost Sharing Schedule B. The City's cost and its payment to the MTO shall not exceed \$6 Million Dollars which amount shall include all appropriate taxes.

5.0 **DESIGN OF BRIDGE WORKS**

- 5.1 The MTO shall cause the Design of the Bridge Works, including engineering site surveys, to be prepared, approved, and completed by a qualified engineering consultant.
- 5.2 MTO standards shall govern and be followed when preparing the Designs.

- 5.3 The particulars of the Designs are to be read together with the Traffic Management Plan/Construction Schedule under section 6.0.

6.0 **TRAFFIC MANAGEMENT PLAN / CONSTRUCTION SCHEDULE FOR BRIDGE WORKS**

- 6.1 The MTO shall prepare the Traffic Management Plan/Construction Schedule prior to construction of the Bridge Works. The plan is to be prepared in accordance with the Ontario Traffic Manual (Book 7), the Ministry's Manual of Uniform Traffic Control Devices, the Ministry's Roadside Safety Manual, any other Ministry standards and procedures, and City standards. If there is a conflict between City standards and MTO standards, MTO standards shall govern.

The MTO shall be fully responsible for traffic management and safety during construction of the Bridge Works, including the supply, installation, relocation and maintenance of all traffic control devices, cameras, and warning signs that the Ministry and the City require, which shall be carried out in accordance with the Manual of Uniform Traffic Control Devices and in accordance with this section 7.

- 6.2 The MTO shall retain the services of a qualified engineering consultant to develop the Traffic Management Plan/Construction Schedule for the Bridge Works.

- 6.3 The Traffic Management Plan/Construction Schedule under section 6.1 shall:

6.3.1 include a completion date for the Bridge Works of on or before the End Date; and

6.3.2 require that the MTO take all necessary steps and temporary works to provide for a safe winter shutdown and for no adverse impacts to winter maintenance operations.

- 6.4 The engineering consultant retained under section 6.2 shall consult with the City as to the criteria, standards and incidentals applicable to the Traffic Management Plan/Construction Schedule.

- 6.5 The criteria, standards, and incidentals referred to in sections 6.1 and 6.4 shall be deemed to be provisions of the Traffic Management Plan/Construction Schedule and shall be complied with by the MTO at its cost and expense.

7.0 **UTILITIES RELOCATION**

- 7.1 The MTO shall relocate all utilities that are required to be relocated with respect to the Bridge Works.

8.0 **RESPONSIBILITIES OF THE MTO FOR THE COMPLETION OF BRIDGE WORKS**

8.1 The MTO shall have the Bridge Works constructed to completion, in a careful and work person like manner, under (and in compliance with) the terms of this Agreement.

8.2 In addition to any other obligations under this Agreement, the MTO shall ensure that all the following works are completed:

8.2.1 the removals that will be set out in the contract with the Contractor;

8.2.2 the drainage system works;

8.2.3 all restoration of the Highway 417 right-of-way.

8.2.4 all zone painting/signing, as required by the City, acting reasonably;

8.2.5 the resolution of any lien matter as required by section 17.

8.3 The MTO shall cause all costs for labour, material, services, or otherwise incurred or suffered to be paid in full or otherwise resolved, and remove any liens existing or not resolved on and after the date of certified substantial completion in accordance with the provisions of the Construction Act, R.S.O. 1990, c. C. 30 as amended.

8.4 The MTO shall without limiting the provisions set out under sections 8.1, 8.2 or 8.3 advise, without delay, the City of any unforeseen matters that have or may have an impact on the MTO's performance of its obligations under this Agreement.

8.5 The City acknowledges and agrees that the MTO may subcontract some or all of its obligations to construct the Bridge Works to the Contractor, but such subcontract shall not in any way relieve the MTO of any of its obligations to the City under the terms of this Agreement.

8.6 If, pursuant to the provisions of the *Financial Administration Act*, the Ministry does not receive the necessary appropriation from the Ontario Legislature for the Bridge Works under this Agreement, the Ministry is not obligated to complete the Bridge Works and may terminate this Agreement.

9.0 **AS CONSTRUCTED DRAWINGS**

9.1 The MTO shall be responsible for submitting the final "as constructed" drawings to the City for the Bridge Works. Drawings shall be in the format provided by the Contractor.

10.0 **TIME REQUIREMENT**

10.1 The MTO shall construct and complete the Bridge Works, as set out under this Agreement, by the End Date.

10.2 Despite section 10.1, the City and the MTO may mutually agree to a reasonable extension of the End Date.

11.0 **ADDRESSES**

11.1 The address of the City under this Agreement, unless otherwise advised, is:

Mr. Andrew Eagen, P. Eng.
Project Manager, Cycling and Walking Programs
City of Ottawa
110 Laurier Ave W, Ottawa, ON K1P 1J1
Tel.: (613) 580-2424 x13256

11.2 The address of the MTO under this Agreement, unless otherwise advised, is:

Mr. Ben Munroe, P. Eng.
Senior Project Engineer, Project Delivery East
Ministry of Transportation of Ontario
1355 John Counter Boulevard
613-453-4843

11.3 Notices under this Agreement shall be in writing and sent by electronic mail. Notices by registered mail shall be deemed to have been received on the fourth business day after the date of mailing. Notices by personal delivery or by Fax shall be deemed to have been received at the time of delivery or transmission, unless delivered or transmitted on a weekend or holiday, in which case such notice shall be deemed to have been received on the next business day. In the event of an interruption in postal service, notice shall be given by personal delivery or by Fax.

12.0 **TITLE IN THE BRIDGE WORKS**

12.1 The MTO (both before and after the construction completion of the Bridge Works) owns the Bridges and the Bridge Works located inside the right-of-way of Highway 417. The City owns the roadway and the sidewalks on the Bridge and shall continue to be responsible for them including all related maintenance.

13.0 **FOUNDATIONS, PIERS, AND BRIDGE STRUCTURES**

The MTO as part of its Bridge Works will construct the foundations, piers and structures not described in this Agreement as Bridge Works.

14.0 **COMPLIANCE WITH ALL LAWS**

The MTO shall comply with any and all applicable federal, provincial and municipal laws, ordinances, statutes, rules, regulations and orders in respect of the performance of its obligations under this Agreement.

15.0 **DEFAULT BY THE MTO**

15.2 Where the MTO does not comply with any of the terms of this Agreement (a “Default”), the City is under no obligation to correct the Default in whole or in part.

16.0 **INDEMNITY AND LIABILITY RELATED TO DESIGN, CONSTRUCTION, APPROVALS, INSPECTIONS, CERTIFICATION AND AUDIT**

16.1 Wherever in this agreement reference is made to the City providing approvals to the MTO or the Engineering Consultant, or to the City inspecting, auditing or certifying the Bridge Works or the books or records of the MTO or the Engineering Consultant, such undertaking by the City shall not relieve, insulate or exempt the MTO or the Engineering Consultant or both from or represent a waiver of any requirement, liability, covenant, agreement or obligation under this Agreement or at law or equity and shall not create or impose any requirement, liability, covenant, agreement or obligation on the City not otherwise created or imposed pursuant to the express provisions of this Agreement. In no event shall such undertaking by the City be a representation that there has been or will be compliance with this Agreement.

17.0 **LIEN**

If a lien is filed with the City or the MTO with respect to the Bridge Works within the meaning of the provisions of the *Construction Act*, R.S.O. 1990, c. C.30, as amended, the MTO, at its own cost and expense shall have the lien discharged or vacated forthwith.

18.0 **WARRANTY**

The City warrants that it has taken all necessary steps, done all acts, passed all by-laws, and obtained all approvals required to give it the authority to enter into this Agreement and do the Active Transportation design herein.

19.0 **MAINTENANCE, REPAIR AND REPLACEMENT**

Following completion of the Bridge Works pursuant to this Agreement and following the City’s payment to MTO in accordance with section 4.2, the maintenance and repair shall be governed by MTO Directive B101.

The term of this Agreement is from the date of execution of this Agreement by both parties to the date that the Ministry receives payment in full for all sums owed by the City to the Ministry under this Agreement.

IN WITNESS OF ALL contained in this Agreement.

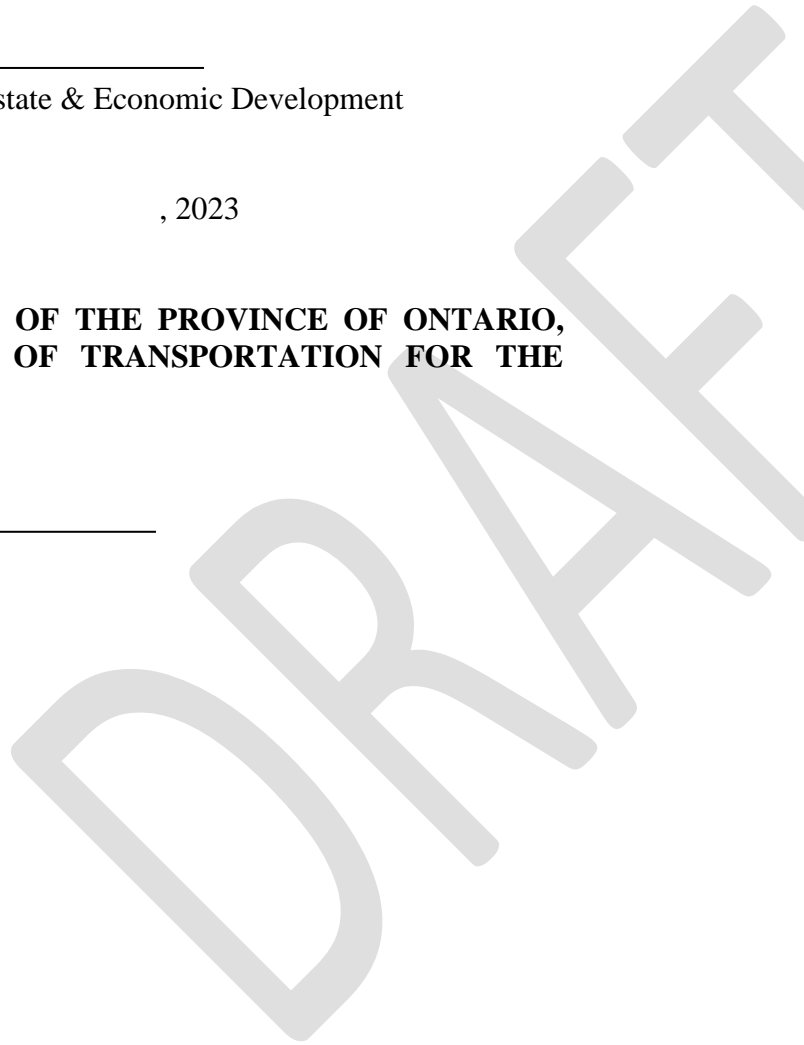
Dated this day of , 2023

CITY OF OTTAWA

Vivi Chi, General Manager, Planning, Real Estate & Economic Development

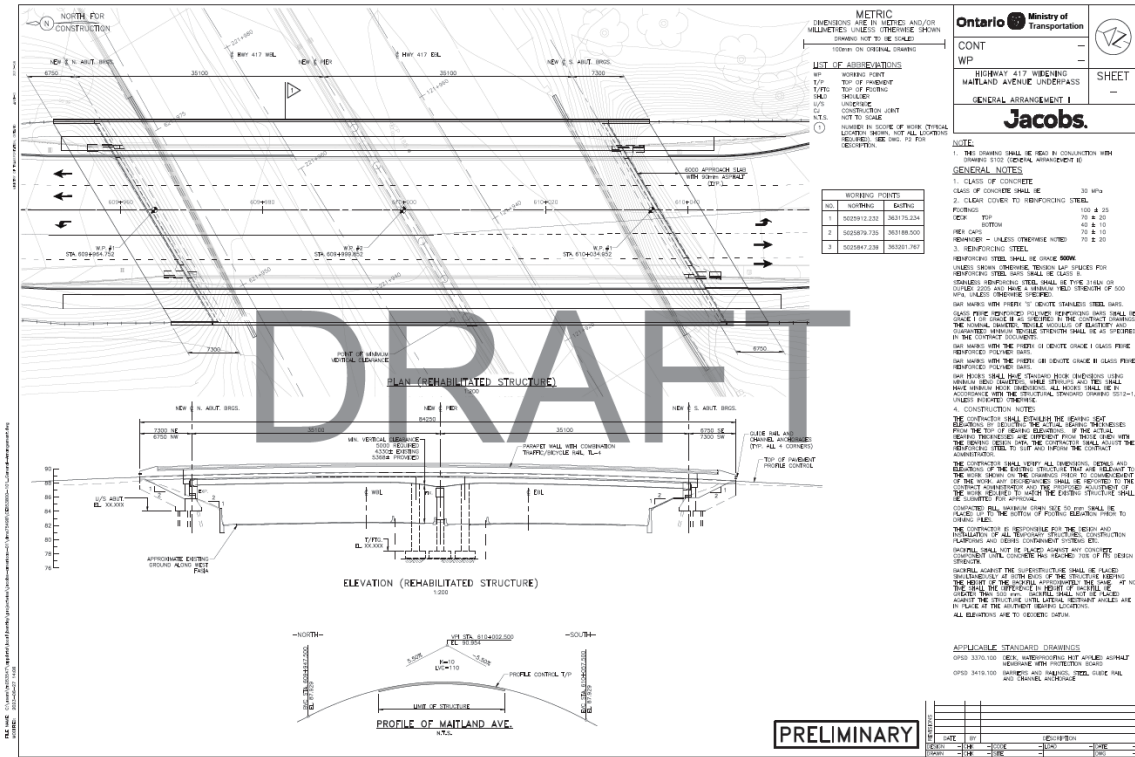
Dated this day of , 2023

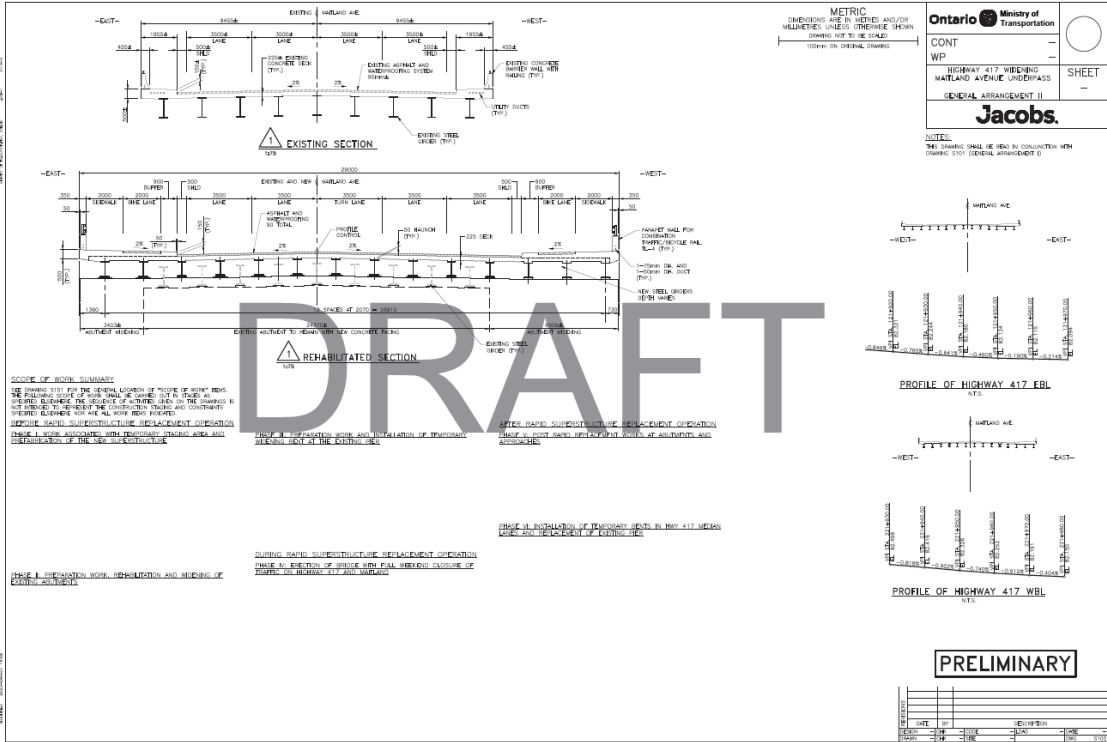
**HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF ONTARIO,
REPRESENTED BY THE MINISTER OF TRANSPORTATION FOR THE
PROVINCE OF ONTARIO**



SCCHEDULE "A" to an Agreement dated , 2024 between the City of Ottawa and His Majesty the King in Right of the Province of Ontario Represented by the Minister of Transportation for the Province of Ontario

THE BRIDGE WORKS





SCHEDULE “B” to an Agreement between the City of Ottawa and His Majesty the King in Right of the Province of Ontario, Represented by the Minister of Transportation for the Province of Ontario

Cost share amounts for BRIDGE

Maitland Ave Bridge Cost Sharing		Estimate	Actual
Criteria:			
Cost of the new Maitland Rd. Structure		\$19,166,646	
Cost of widening bridge approx. 4m to accommodate AT (20%)		\$3,833,329.13	
Breakdown:			
City Portion of Structure Cost		\$3,833,329	
City's Portion of Civil work			
Other			
Design Cost (City portion 20%)		\$250,000	
CA Cost (City portion 20%)		\$230,000	
Total Cost		\$4,313,329	
<u>HST@13%</u>		\$560,733	
Total City Cost Estimate		\$4,874,062	

Maitland Avenue Underpass (SN. 03X-0042/B0)

Assignment No. 4021-E-0023
Rapid Bridge Replacements on Highway 417



Contract No.						
4124-14-00 STRU						
Item No.	Item Code	Title	Unit	Quantity	Unit Price	Total
1	0314-0190	Granular B, Type II	T	8,975	\$25.00	\$224,373.09
2	0510-9010	Removal of Bridge Structure	LS/m3	100%	\$650,000.00	\$650,000.00
3	0902-0010	Earth Excavation for Structure	m3 (P)	3,448	\$45.00	\$155,160.00
4	0903-0010	Supply Equipment for Driving Piles	LS/m	433.00	\$140.00	\$60,620.00
5	0903-0054	H-Piles (HP 310 x 110)	m	433.00	\$450.00	\$194,850.00
6	0903-0120	Driving Shoes	each (P)	70	\$450.00	\$31,500.00
7	0903-0130	Rock Points	each (P)	70	\$580.00	\$40,600.00
8	0903-0150	Retlapping Piles	lump sum	100%	\$22,130.00	\$22,130.00
9	0904-0035	Mass Concrete	m3 (P)	40	\$1,250.00	\$50,000.00
10	0904-0055	Concrete in Footings	m3 (P)	135.0	\$850.00	\$114,750.00
11	0904-0085	Concrete in Substructure	LS/m3	307.00	\$2,100.00	\$644,700.00
12	0904-0105	Concrete in Deck	LS/m3	744.00	\$2,400.00	\$1,785,600.00
13	0904-0125	Concrete in Parapet Walls	LS/m3	43.00	\$4,500.00	\$193,500.00
14	0904-0135	Concrete in Approach Slabs	LS/m3	84.00	\$1,400.00	\$117,600.00
15	0905-0015 SP	Reinforcing Steel Bar, Grade 500W	LS/rt	157.00	\$5,450.00	\$855,650.00
16	0905-0025	Stainless Steel Reinforcing Bar	LS/rt	77.00	\$16,200.00	\$1,247,400.00
17	0906-0011 SP	Fabrication of Structural Steel	LS/rt	656.00	\$5,400.00	\$3,542,400.00
18	0906-0020	Delivery of Structural Steel	LS/rt	656.00	\$290.00	\$190,240.00
19	0906-0030	Erection of Structural Steel	LS/rt	656.00	\$1,800.00	\$1,180,800.00
20	0908-0030	Parapet Wall Railing	m (P)	158	\$320.00	\$50,560.00
21	0911-0012 SP	Coating New Structural Steel	LS/m2	4,191.00	\$200.00	\$838,200.00
22	0913-0010	Embedded Work in Structure (Ministry)	LS/m	1,180.00	\$85.00	\$100,300.00
23	0914-0011 SP	Bridge Deck Waterproofing	LS/m2	1,299.00	\$75.00	\$97,425.00
24	0914-0031 SP	Form and Fill Grooves	m (P)	66.00	\$55.00	\$3,630.00
25	0914-0040	Membrane Reinforcement	m (P)	71.00	\$25.00	\$1,775.00
26	0920-0010 SP	Deck Joint Assemblies, Installation	LS/m	66.00	\$5,010.00	\$330,660.00
27	0922-0030 SP	Bearings - Elastomeric, Laminated	each (P)	42	\$3,600.00	\$151,200.00
28	0928-0055	Access to Work Area, Work Platform and Scaffolding	lump sum	100%	\$213,900.00	\$213,900.00
29	0928-0070 SP	Concrete Removal - Partial Depth - Type C	m3	28.0	\$11,000.00	\$308,000.00
30	0929-0030	Abrasive Blast Cleaning of Reinforcing Steel	m2	214	\$110.00	\$23,540.00
31	0930-0131	Concrete Refacing, Form and Pump	m3	28.0	\$7,900.00	\$221,200.00
32	0935-0110	Anode Mesh	m2	214	\$180.00	\$38,520.00
33	0942-0012	Production Anchor	m	396	\$670.00	\$265,320.00
34	0942-0014	Post-Grouting of Bond Length	kg	2,732	\$3.00	\$8,196.00
35	0999-0165 SP	Dowels Into Concrete	each (P)	64	\$40.00	\$2,560.00
36	0999-9100	Concrete Sealer	m2	383	\$40.00	\$15,320.00
37	9999-9010	Bridge Replacement - Rapid Lift Method	lump sum	100%	\$1,500,000.00	\$1,500,000.00
38	9999-9011	Construction Staging Area	lump sum	100%	\$500,000.00	\$500,000.00
		SUBTOTAL:				\$15,972,204.69
		20% CONTINGENCY:				\$3,194,440.94
		TOTAL :				\$19,166,645.63

