

CONSULTING ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT MADE this 15^h day of April, 2016.

BETWEEN:

The Corporation of the Town of Minto

a municipal corporation incorporated pursuant to the laws of the Province of Ontario ("Minto")

-and-

Triton Engineering Services Limited

a professional consulting engineering firm operated according to the laws of the Province of Ontario
("Triton")

WHEREAS:

1. Minto issued Request for Proposal for Engineering Services PW2016-05 (the "RFP");
and
2. Triton submitted the successful proposal in response to the RFP dated March 23, 2016 (the "Triton Submission").

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the mutual covenants and agreements herein contained, and subject to the terms and conditions set out in this Agreement, the parties hereto hereby agree as follows:

1. The terms and conditions of the RFP as well as the Use of Consulting Engineers Policy, attached as Schedule A, shall form part of and apply to this Agreement. Any term not specifically defined in this Agreement shall have the same meaning as provided in the RFP.
2. Triton is retained to provide professional consulting engineering services as set out in the RFP and as may be requested from time to time by Minto. Triton's Agreement with the Town is exclusive to the degree that Minto will notify Triton of any other professional consulting engineering firm is to be retained on matters arising during the term of this Agreement.
3. The primary contact and associated Team Members representing Triton and responsible for much of the consulting work for Minto are as follows:

Paul Ziegler – Principal and primary contact for Minto Council and staff
Christine Furlong – Senior Engineer

David Donaldson – Senior Engineer
Chris Clark – Project Manager
Jeremy Gibson – Site Inspector

4. The primary contact will manage Triton's relationship with Minto according to the attached Schedule "A" with the main contacts for Minto being the Chief Administrative Officer/Clerk and or Public Works Director. The parties agree the primary contact for Triton possesses considerable knowledge of Minto's infrastructure and approach to development and that Triton's primary contact shall not change without the written approval of Minto.
5. Triton will assign work internally to the most appropriate team member on a case-by-case basis, considering such factors as the nature of the engineering issue, continuity and familiarity with the relevant department or staff member at Minto, and the level of experience and responsibility required to complete the engineering work as effectively, expeditiously and inexpensively as possible. Junior engineering professionals with lower hourly rates, under the supervision of senior engineering professional, will be utilized as appropriate. Triton will at all times adhere to the average hourly rates provided for in the agreement unless an exception is provided in writing by Minto. Billing will be monthly or in such other fashion as the parties may agree keeping in mind the project and the flow of funds such as grant applications.
6. On a mutually convenient date, representatives of Triton and representatives of Minto will meet to discuss engineering issues facing Minto, the relevant services that Triton provides and how Triton can meet Minto's needs in the most efficient and practical manner. There will be no cost to Minto for this meeting. Following this initial meeting and on occasion through the term of this agreement Triton agrees to provide no less than one annual update to Council through the primary contact on the work completed by Triton, the condition of Town infrastructure, priority projects for the future, and other such matters as may impact Minto's short and long term financial and policy needs. Minto acknowledges that such updates are provided for information purposes only and do not constitute engineering advice unless otherwise stated. Minto agrees that such updates will be scheduled as time permits and with a view to controlling Triton's cost for such sessions.
7. For each file where engineering services are requested, Triton will obtain instructions from Minto. Oral instructions on significant matters will be confirmed in writing.
8. Triton will review every request for engineering services received from Minto within one business day and answer same within a time frame agreed upon by Triton and Minto, depending on its nature.
9. The overall average fees for services rendered for the term of this agreement shall be calculated on the basis set out in Schedule B. These rates shall remain in effect and shall not be increased during the term of the agreement.

10. Minto and Triton acknowledge that the list of engineering services as set out in Schedule B are illustrative of the type of work that falls within each category and are non-exhaustive. The parties agree that Triton shall recommend and secure a consultant to provide work required under the Drainage Act with no additional charge for procuring and managing the relationship between Minto and the firm selected for Drainage Act work. Prior to securing that firm approval in writing shall be obtained from Minto as it pertains to rate and the firm recommended.
11. Triton shall not bill for any disbursements incurred for work under this agreement on behalf of Minto or any office charges allocated to any matter unless such charges will be extra-ordinary and are approved in writing by Minto prior to being incurred. Without limiting the generality of the foregoing extra-ordinary disbursements and charges shall not include long distance calls, faxes, postage, deliveries, travel expenses, photocopies, and similar but may include Ministry of Environment approvals, public notices that can be given by Minto, unusual or one-time equipment or testing or laboratory fees not normally associated with Triton, and other such charges as may be agreed to in writing by the parties.
12. On matters that involve assembling collections of reports, documents or other information Triton may request Minto provide some administrative resources as appropriate to assist with managing costs.
13. Subject to early termination, the Retainer shall commence on the date of execution of this Agreement and shall continue for a term of five (5) years. After which the Agreement shall automatically renew for one year, unless terminated by either party with 90 days written notice, for up to a total of three (3) years additional years maximum at Minto's sole discretion.
14. Minto may terminate the Agreement at any time prior to completion of its term, either in whole or in part, upon 90 days written notice. In the event of early termination, Triton shall receive payment for the services performed to the date Triton's services are terminated and for any services performed after the date of termination.
15. Triton agrees, from time to time, and at all times hereafter, to save, keep harmless and fully indemnify Minto, its successors and assigns, its elected officials, officers, employees and agents, from and against all actions, claims and demands whatsoever which may be brought against or made upon Minto, and against all loss, liability, judgments, claims, reasonable costs, demands or reasonable expenses that Minto may sustain as a result from or arising out of Triton's negligent actions or omissions in carrying out its responsibilities under this Agreement, the RFP and Triton's response to the RFP, including but not limited to Triton's failure to exercise reasonable care, skill or diligence expected of a consulting engineering firm in the performance of any services by it.
16. Without limiting the generality of section 15, Triton agrees to save, keep harmless and fully indemnify Minto, its successors and assigns from and against all actions, claims and demands whatsoever which may be brought against or made upon Minto, its

successors and assigns, its elected officials, officers, employees and agents, for the infringement of or use of any intellectual property rights, including any copyright or patent arising out of the reproduction or use in any manner of any plans, designs, drawings, specifications, information, photographs, data, material, sketches, notes, documents, memoranda or computer software furnished by Triton in the performance of the services.

17. Upon completion of the services, or termination of the Agreement, Triton will return all materials provided by Minto to Triton in the course of the Agreement that contains confidential information of Minto. Triton will also return any materials as requested by Minto.
18. Triton will conduct itself in a professional manner consistent with any and all applicable By-Laws and Rules of Professional Conduct established for professional consulting engineering firms in Ontario and Minto agrees that nothing in this Agreement or instructions on any specific matter obligates Triton to take any steps or actions contrary to such By-laws and Rules.
19. Triton shall provide services in a professional manner, consistent with the standard of care ordinarily exercised by members of the profession, and consistent with the customer service goals set out in the Town Strategic Plan.
20. Schedules A and B form part of this Agreement. This Agreement and the RFP, including the Use of Consulting Engineers Policy, shall form the entire agreement between Minto and Triton concerning the matters set out herein and there are no warranties, representations or other Agreements between the parties in connection with the subject-matter of this Agreement except as specifically set forth herein.
21. Any notice to be given or delivered under this Agreement shall be in writing and sufficiently given by personal delivery or by registered letter, postage prepaid and mailed in a Canadian post office, addressed, in the case of notice to Minto, to

The Corporation of the Town of Minto
ATTN: CAO/Clerk
5941 Highway #89, R.R. #1
Harriston, ON N0G 1Z0

and in the case of notice to Triton

Triton Engineering Services Ltd.
ATTN: Paul Ziegler
39 Elora Street South
Unit 14
Harriston ON N0G 1Z0

22. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the

remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

23. This Agreement may be executed in any number of counterparts with the same effect as if all parties had signed the same document. All counterparts shall be construed together, and shall constitute one and the same agreement.
24. This Agreement is to be governed by and construed according to the laws of the Province of Ontario.
25. Neither this Agreement nor any rights or obligations hereunder shall be assignable by any party without the prior written consent of each of the other parties hereto. Any attempt to assign any of the rights, duties or obligations of this Agreement without written consent is void.
26. Subject to the restrictions on assignment, this Agreement shall enure to the benefit of and be binding upon the parties and their respective successors including any successor formed by reason of amalgamation of any party and permitted assigns. Any and all transfers, assigns or successors of the parties shall be subject to an assumption of the rights and obligations of this Agreement by the new owner thereof as the case may be.

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WITNESS WHEREOF the parties have signed and sealed this Agreement as of the day and year first above written.

**THE CORPORATION OF THE TOWN
OF MINTO**

Per:

George A. Bridge
Mayor

Per:

Bill White
C.A.O. Clerk
We have the authority to bind the
Corporation of the Town of Minto.

**TRITON ENGINEERING SERVICES
LIMITED**

Per:

Name
Position

Per:

Name
Position

We have the authority to bind the
Corporation

SCHEDULE A

Use of Consulting Engineers Policy

Policy Statement:

Council and senior staff shall require a registered professional consulting engineer to supply services and advice secured by contract or to act for the Town of Minto with respect to specified responsibilities of the Town as set out in this policy.

Purpose:

To set out the authority and process for the obtaining Consulting Engineering Services as set out in this agreement and referenced in RFP PW2016-05 awarded by Council March 29, 2016.

Actions:

The Public Work's Department shall manage the contract for the Town's approved Consulting Engineering Services. Senior Staff members may, with the approval of the Chief Administrative Officer/Clerk, Public Works Director or Mayor, seek advice from the contracted consulting engineering firm as per the agreement on file with the Clerk's Department. Members of Council requesting consulting engineering services shall do so by resolution of Council.

Staff will provide the C.A.O. Clerk's Department with a copy of all final reports, studies and opinions received from contracted consulting engineering firm whether provided in written or electronic format which shall be considered records and filed according to the Town's Record Retention By-law

The Public Works Director in Consultation with the C.A.O. Clerk shall ensure that Council approves all final reports and studies necessary to manage the operations and finances of the Town. Engineering reports and studies should be accompanied by a staff report summarizing the material and assisting with Council's decision making.

Invoices for contracted consulting engineering services shall be submitted directly to the Public Works Director and where necessary shall be signed off by the C.A.O. Clerk and Mayor as needed.

Prior to seeking consulting engineering advice the Senior Manager shall research the requirements with applicable staff to gain a general familiarity with the matter at hand so as to ensure conversations with the engineering contact are effective and efficient. The following section summarizes generally when legal advice might be sought on certain matters:

1. Capital project design, review, tendering, project management, and approvals including assistance with grant applications.
2. Plan review, evaluation and comment for 20 to 40 applications annually upon request
3. Waste water treatment facility advice respecting operation (Palmerston, Harriston, Clifford), capital improvements, approvals as requested and sewage collection system maintenance and improvements upon request.

4. Water treatment plant advice respecting operation (Minto Pines, Palmerston, Harriston, Clifford) capital improvements, approvals as requested, and water distribution system maintenance and improvements upon request.
5. Rural road, culvert and bridge maintenance and design as needed.
6. Drainage Act pertaining to municipal drains.
7. Storm water management.
8. Facilitating and/or completing of annual bridge and culvert inspections and roads needs study as per MTO Criteria.
9. Other duties as may be needed from time to time including structural engineering, qualified persons contaminated sites, traffic, and similar more specialized services.
taxation, drafting of by-laws where necessary, issues of liability

Responsibility:

Chief Administrative Officer/Clerk, Public Works Director, Mayor and/or Deputy Mayor, Senior Managers, Clerk's Department, Public Works Department, Registered Professional Consulting Engineer under contract.

SCHEDULE B
FEEES FOR CONSULTING ENGINEERING SERVICES

Minto shall pay consulting engineering fees according to the categorization of each matter as follows:

1. Capital project design, review, tendering, project management, approvals assistance with grant applications (Triton shall ensure the annual cost to Minto is equal to or less than the total annual average hourly rate wherever possible)

	Year 1 hourly rate	Year 2 hourly rate	Year 3 hourly rate	Year 4 hourly rate	Year 5 hourly rate	Five Year Average
Primary Contact	\$ 145.38	\$ 145.38	\$ 148.29	\$ 149.77	\$ 151.27	\$ 148.02
Service Provider	\$ 124.62	\$ 124.62	\$ 127.11	\$ 128.38	\$ 129.67	\$ 126.88
Service Provider	\$ 98.86	\$ 100.84	\$ 102.85	\$ 104.91	\$ 107.01	\$ 102.89
Service Provider	\$ 67.08	\$ 68.42	\$ 69.79	\$ 71.19	\$ 72.61	\$ 69.82
Total	\$ 108.99	\$ 109.82	\$ 112.01	\$ 113.56	\$ 115.14	\$ 111.90

2. Plan review, evaluation and comment including meetings with Council (Triton shall ensure the annual cost to Minto is equal to or less than the total annual average hourly rate wherever possible).

	Year 1 hourly rate	Year 2 hourly rate	Year 3 hourly rate	Year 4 hourly rate	Year 5 hourly rate	Five Year Average
Primary Contact	\$ 123.57	\$ 123.57	\$ 126.64	\$ 128.56	\$ 131.13	\$ 126.69
Service Provider	\$ 98.86	\$ 100.84	\$ 102.85	\$ 104.91	\$ 129.67	\$ 107.43
Service Provider	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Service Provider	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 111.22	\$ 112.21	\$ 114.75	\$ 116.74	\$ 130.40	\$ 117.06

Schedule “B”: continued

3. Waste water treatment facility operation; sewage collection system maintenance Council (Triton shall ensure the annual cost to Minto is equal to or less than the total annual average hourly rate wherever possible).

	Year 1 hourly rate	Year 2 hourly rate	Year 3 hourly rate	Year 4 hourly rate	Year 5 hourly rate	Five Year Average
Primary Contact	\$ 123.57	\$ 123.57	\$ 126.04	\$ 128.56	\$ 131.13	\$ 126.57
Service Provider	\$ 148.98	\$ 148.98	\$ 151.95	\$ 153.48	\$ 155.01	\$ 151.68
Service Provider	\$ 67.08	\$ 68.42	\$ 69.79	\$ 71.19	\$ 72.61	\$ 69.82
Service Provider	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 113.21	\$ 113.66	\$ 115.93	\$ 117.74	\$ 119.58	\$ 116.02

4. Water treatment plant operation (Minto Pines, Palmerston, Harriston, Clifford) and water distribution system maintenance (Triton shall ensure the annual cost to Minto is equal to or less than the total annual average hourly rate wherever possible).

	Year 1 hourly rate	Year 2 hourly rate	Year 3 hourly rate	Year 4 hourly rate	Year 5 hourly rate	Five Year Average
Primary Contact	\$ 123.57	\$ 123.57	\$ 126.04	\$ 128.56	\$ 131.13	\$ 126.57
Service Provider	\$ 148.98	\$ 148.98	\$ 151.95	\$ 153.48	\$ 155.01	\$ 151.68
Service Provider	\$ 67.08	\$ 68.42	\$ 69.79	\$ 71.19	\$ 72.61	\$ 69.82
Service Provider	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 113.21	\$ 113.66	\$ 115.93	\$ 117.74	\$ 119.58	\$ 116.02

Schedule “B”: continued

5. Rural road, culvert and bridge maintenance and design as needed (Triton shall ensure the annual cost to Minto is equal to or less than the total annual average hourly rate wherever possible).

	Year 1 hourly rate	Year 2 hourly rate	Year 3 hourly rate	Year 4 hourly rate	Year 5 hourly rate	Five Year Average
Primary Contact	\$ 145.38	\$ 145.38	\$ 148.29	\$ 149.77	\$ 151.27	\$ 148.02
Service Provider	\$ 98.86	\$ 100.84	\$ 102.85	\$ 104.91	\$ 107.01	\$ 102.89
Service Provider	\$ 67.08	\$ 68.42	\$ 69.79	\$ 71.19	\$ 72.61	\$ 69.82
Service Provider	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 103.77	\$ 104.88	\$ 106.98	\$ 108.62	\$ 110.30	\$ 106.91

6. Drainage Act pertaining to municipal drains. Storm Water Management (Triton shall ensure the annual cost to Minto is equal to or less than the total annual average hourly rate wherever possible).

	Year 1 hourly rate	Year 2 hourly rate	Year 3 hourly rate	Year 4 hourly rate	Year 5 hourly rate	Five Year Average
Primary Contact	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Service Provider	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Service Provider	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Service Provider	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Triton to secure a registered professional consulting engineering to complete work under the Drainage Act and to insert the applicable hourly rates as needed.

Schedule “B”: continued

7. Facilitating and/or completing of annual bridge and culvert inspections and roads needs study as per MTO Criteria (Triton shall ensure the annual cost to the Town is equal to or less than the total annual average hourly rate wherever possible).

	Year 1 hourly rate	Year 2 hourly rate	Year 3 hourly rate	Year 4 hourly rate	Year 5 hourly rate	Five Year Average
Primary Contact	\$ 123.57	\$ 123.57	\$ 126.04	\$ 128.56	\$ 131.13	\$ 126.57
Service Provider	\$ 125.00	\$ 127.50	\$ 130.05	\$ 132.65	\$ 135.30	\$ 130.10
Service Provider	\$ 67.08	\$ 68.42	\$ 69.79	\$ 71.19	\$ 72.61	\$ 69.82
Service Provider	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 105.22	\$ 106.50	\$ 108.63	\$ 110.80	\$ 113.01	\$ 108.83

8. Other duties as may be needed from time to time including structural engineering, qualified persons contaminated sites, traffic, and similar more specialized services (Triton shall ensure the annual cost to the Town is equal to or less than the total annual average hourly rate wherever possible).

	Year 1 hourly rate	Year 2 hourly rate	Year 3 hourly rate	Year 4 hourly rate	Year 5 hourly rate	Five Year Average
Primary Contact	\$ 145.38	\$ 145.38	\$ 148.29	\$ 149.77	\$ 151.27	\$ 148.02
Service Provider	\$ 125.00	\$ 127.50	\$ 130.05	\$ 132.05	\$ 135.30	\$ 129.98
Service Provider	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Service Provider	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 135.19	\$ 136.44	\$ 139.17	\$ 140.91	\$ 143.29	\$ 139.00

Note to hourly rates all services:

Triton may add other service providers as to their Team to assist with the required work keeping in mind the need to control costs and wherever possible ensure the average hourly rate for the work is less than or equal to the total provided in the charts above.