



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW


Number 279-77

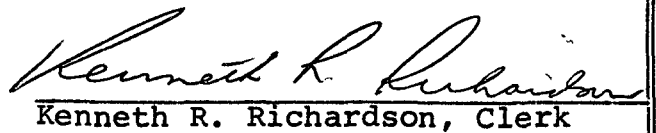
A By-law to authorize the execution of Contract No. 77-120 with Flintkote Company of Canada Ltd.

WHEREAS it is deemed expedient to enter into and execute Contract No. 77-120 with Flintkote Company of Canada Ltd; NOW THEREFORE the Council of the Corporation of the City of Brampton ENACTS as follows:

1. That the City of Brampton enter into and execute Contract No. 77-120 with Flintkote Company of Canada Ltd., attached hereto as Schedule "A".
2. That the Mayor and the Clerk are hereby authorized to affix their signatures to the said Contract No. 77-120, attached hereto as Schedule "A", with Flintkote Company of Canada Ltd.

READ a FIRST, SECOND and THIRD TIME and PASSED in Open Council this 24th day of October, 1977.


James E. Archdekin, Mayor


Kenneth R. Richardson, Clerk

This Agreement made in Quadruplicate this 19th day of OCTOBER, 1977

BETWEEN:

The Corporation of the City of
Brampton
(Hereinafter called "The Corporation")
of the First Part

-AND-

The Flintkote Company of Canada Limited
(Hereinafter called "The Contractor")
of the Second Part

WITNESSETH

That the Corporation and the Contractor in consideration of the fulfillment of their respective promises and obligations herein set forth covenant and agree with each other as follows:

ARTICLE 1

(A) A general description of the work is:

Cold Mixed, Open Graded Bituminous Pavement

(B) The Contractor shall, except as otherwise specifically provided, at his own expense provide all and every kind of labour, machinery, plant, structures, roads, ways, materials and appliances, articles, and things necessary for the due execution and completion of all the work set out in this contract and shall forthwith according to the instructions of the City Engineer commence the works and diligently execute the respective portions thereof, and deliver the works complete in every particular to the Corporation within the time specified in the General Conditions and the Tender.

ARTICLE 2

In the event that the tender provides for and contains a contingency allowance, it is understood and agreed that such contingency allowance is merely for the convenience of accounting by the Corporation and the Contractor is not entitled to payment thereof except for extra work or additional work carried out by him in accordance with the Contract and only to the extent of such extra or additional work.

ARTICLE 3

In case of any inconsistency or conflict between the provisions of this Agreement and the Plans or Specifications or General Conditions or Tender or any other documents or writing, the Provisions of such documents shall take precedence and govern in the following order namely:

- (1) This Agreement
- (2) Special and/or Supplemental Provisions
- (3) Information for Tenderers
- (4) General Conditions
- (5) Standard Specifications
- (6) Plans
- (7) Tender

The foregoing documents enumerated 1 to 7 inclusive are all the Contract documents and constitute the full agreement between the parties.

ARTICLE 4

The Corporation covenants with the Contractor that the Contractor having in all respects complied with the Provisions of this Contract will be paid for the works included herein in accordance with the unit prices as set out in the Form of Tender, forming part of this Contract, and in accordance with the Provisions as set out in the Conditions and Specifications forming part of this Contract.

ARTICLE 5

Where any notice, direction or other communication is required to be or may be given or made by one of the parties hereto, to the other or to the City Engineer, it shall be deemed sufficiently given or made if mailed by prepaid first class mail or delivered in writing to such party or to the Engineer at the following addresses.

THE CONTRACTOR:

**The Flintkote Company
of Canada Limited
P.O. Box 160,
Station N
Toronto, Ontario
M8V 3T4**

THE ENGINEER:

**J. F. Curran, P.Eng.
City Engineer
City of Brampton
24 Queen Street, East
Brampton, Ontario**

ARTICLE 6

A copy of each of the Contract documents is hereto annexed and together with the Ministry of Transportation and Communications Specifications referred to in the Contract documents and the plans listed in the Specifications, are made part of this contract as fully to all intents and purposes as though recited in full herein.

ARTICLE 7

No implied contract of any kind whatsoever by or on behalf of the Corporation shall arise or be implied from anything in this Contract contained, nor from any position or situation of the parties at anytime, it being clearly understood that the express covenants and agreements herein contained made by the Corporation shall be the only covenants and agreements upon which any rights against the Corporation may be founded.

ARTICLE 8

Time shall be deemed the essence of this contract.

ARTICLE 9

The Contractor declares that in tendering for the works and in entering into this contract he has either investigated for himself the character of the work and all local conditions above and below ground surface where applicable that might effect his tender or his acceptance of the work, or that not having so investigated is willing to assume and does hereby assume all risk of conditions arising or developing in the course of the work which might or could make the work, or any items thereof, more expensive in character, or more onerous to fulfill, than was contemplated or known when the Tender was made or the Contract signed. The Contractor also declares that he did not and does not rely upon information furnished by any methods whatsoever, by the Corporation or its employees, being aware that any information from such sources was and is approximate and speculative only, and was not in any manner warranted or guaranteed by the Corporation.

ARTICLE 10

This Contract shall apply to and be binding on the Parties hereto and their heirs, executors, administrators, successors and assigns and each of them.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above written or caused their corporate seals to be affixed, attested by the signature of their proper officers as the case may be.

H. G. Teneycke

WITNESS AS TO SIGNATURE OF CONTRACTOR
H. G. TENEYCKE

ADDRESS

367 Hampton Heath

Burlington, Ontario

L7L 4R1

OCCUPATION

SALES, PAVING MATERIALS

DIVISION

G.C. Edwards

G.C. EDWARDS

Exec. Vice President & General Manager.

**The Flintkote Company of
Canada Limited**

CORPORATION OF THE CITY OF
BRAMPTON

James E. Archibald
MAYOR

Kenneth A. Richardson
CLERK

FORM OF TENDER
AND
SCHEDULE OF QUANTITIES AND UNIT PRICES
CONTRACT #77-120

FORM OF TENDER

FOR

CONTRACT NO. 77-120

THIS TENDER SUBMITTED BY THE FLINTKOTE CO. OF CAN. LTD.

FIRM NAME
OR
INDIVIDUAL
ADDRESS

P. O. BOX 160, Station "N", Toronto, Ont.

(416) 255-1111 ^{M8V 3T4} TELEPHONE NUMBER

TO THE MAYOR AND COUNCIL OF THE CORPORATION
OF THE CITY OF BRAMPTON

I/WE, THE UNDERSIGNED DECLARE THAT NO PERSON, FIRM OR CORPORATION OTHER THAN THE ONE WHOSE SIGNATURE OR THE SIGNATURE OF WHOSE PROPER OFFICERS AND THE SEAL IS OR ARE ATTACHED BELOW, HAS ANY INTEREST IN THIS TENDER OR IN THE CONTRACT PROPOSED TO BE TAKEN.

I/WE, FURTHER DECLARE THAT THIS TENDER IS MADE WITHOUT ANY CONNECTION, KNOWLEDGE, COMPARISON OF FIGURES OR ARRANGEMENT WITH ANY OTHER COMPANY, FIRM OR PERSON MAKING TENDER FOR THE SAME WORK AND IS IN ALL RESPECTS FAIR AND WITHOUT COLLUSION OR FRAUD.

I/WE, FURTHER DECLARE THAT WE HAVE CAREFULLY EXAMINED THE LOCALITY AND SITE OF THE PROPOSED WORKS, AS WELL AS ALL THE PLANS, DRAWINGS, PROFILES, SPECIFICATIONS, FORM OF TENDER, INFORMATION FOR TENDERERS, GENERAL CONDITIONS, AGREEMENT BY THE CITY ENGINEER, BY AND ON BEHALF OF THE CORPORATION OF THE CITY OF BRAMPTON AND HEREBY ACKNOWLEDGED, THE SAME TO BE PART AND PARCEL OF ANY CONTRACT TO BE LET FOR THE WORK THEREIN DESCRIBED OR DEFINED AND DO HEREBY TENDER AND OFFER TO ENTER INTO A CONTRACT TO DO ALL OF THE WORK AND TO PROVIDE ALL OF THE LABOUR AND TO PROVIDE, FURNISH, DELIVER, PLACE AND ERECT ALL MATERIALS MENTIONED AND DESCRIBED OR IMPLIED THEREIN INCLUDING IN EVERY CASE FREIGHT, DUTY, EXCHANGE, AND SALES TAX IN EFFECT ON THE DATE OF ACCEPTANCE OF THE TENDER, AND ALL OTHER CHARGES, ON THE TERMS AND CONDITIONS AND UNDER THE PROVISIONS THEREIN SET FORTH AND TO ACCEPT IN FULL PAYMENT THEREFORE THE SUMS CALCULATED IN ACCORDANCE WITH THE ACTUAL MEASURED QUANTITIES AND UNIT PRICES SET FORTH IN THE SCHEDULE OF QUANTITIES AND UNIT PRICES ATTACHED HERETO:-

I/WE FURTHER AGREE THAT, IF THE TENDER IS ACCEPTED BY THE CITY WE WILL EXECUTE WHATEVER ADDITIONAL WORK MAY BE REQUIRED AT THE UNIT PRICES SHOWN HEREIN, IN STRICT CONFORMITY AND IN ALL RESPECTS WITH THE REQUIREMENTS OF THIS TENDER, SPECIFICATIONS, GENERAL CONDITIONS AND FORM OF AGREEMENT HERETO ANNEXED OR TO BE ANNEXED HERETO.

I/WE ALSO AGREE THAT DEDUCTIONS FROM THE SAID CONTRACT, IF ANY, SHALL BE MADE AT THE UNIT PRICES SHOWN IN THE SCHEDULE OF QUANTITIES AND UNIT PRICES AS HEREIN CONTAINED.

I/WE AGREE THAT THIS OFFER IS TO CONTINUE OPEN TO ACCEPTANCE UNTIL THE FORMAL CONTRACT IS EXECUTED BY THE SUCCESSFUL TENDERER FOR THE SAID WORK OR UNTIL THREE (3) MONTHS AFTER THE TENDER CLOSING DATE WHICHEVER EVENT FIRST OCCURS, AND THAT THE CITY MAY AT ANY TIME WITHIN THAT PERIOD AND WITHOUT NOTICE ACCEPT THIS TENDER WHETHER ANY OTHER TENDER HAD BEEN PREVIOUSLY ACCEPTED OR NOT.

I/WE AGREE THAT IF WE WITHDRAW THIS TENDER AFTER CLOSING AND BEFORE THE COUNCIL OF THE SAID CITY SHALL HAVE CONSIDERED THE TENDERS AND AWARDED THE CONTRACT IN RESPECT THEREOF, DURING THE TIME THAT THIS TENDER IS OPEN TO ACCEPTANCE AS SET OUT ABOVE IN THIS TENDER FORM THE AMOUNT OF THE DEPOSIT ACCOMPANYING THIS TENDER SHALL BE FORFEITED TO THE CITY.

I/WE AGREE THAT THE AWARDING OF THE CONTRACT BASED ON THIS TENDER BY THE COUNCIL OF THE SAID CITY SHALL BE AN ACCEPTANCE OF THIS TENDER.

IF THIS TENDER IS ACCEPTED I/WE AGREE TO FURNISH THE REQUIRED CONTRACT BOND, IN THE FORM ATTACHED HERETO, INSURANCE CERTIFICATE AND WORKMEN'S COMPENSATION BOARD LETTER, AND PROPERLY SIGN THE CONTRACT DOCUMENTS IN TRIPLICATE WITHIN TEN (10) DAYS AFTER BEING NOTIFIED SO TO DO. IN THE EVENT OF DEFAULT OR FAILURE ON OUR PART SO TO DO, I/WE AGREE THAT THE CORPORATION OF THE CITY OF BRAMPTON SHALL BE AT LIBERTY TO RETAIN THE MONEY DEPOSITED BY ME/US TO THE USE OF THE CITY 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 THEY DEEM BEST AND I/WE ALSO AGREE TO PAY TO THE SAID CITY THE DIFFERENCE BETWEEN THIS TENDER AND ANY GREATER SUM WHICH THE CITY 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 ADVERTISEMENT FOR NEW TENDERS; AND TO INDEMNIFY AND SAVE HARMLESS THE SAID CITY AND THEIR OFFICERS FROM ALL LOSS, DAMAGE, COST, CHARGES, AND EXPENSE WHICH THEY MAY SUFFER OR BE PUT TO BY REASON OF ANY SUCH DEFAULT OR FAILURE ON MY/OUR PART.

I/WE PROPOSE FEDERAL INSURANCE CO.

A COMPANY WHICH IS WILLING TO BECOME BOUND WITH ME/US IN THE AMOUNT DESIGNATED FOR THE DUE PERFORMANCE AND FULFILLMENT OF THE CONTRACT FOR WHICH THIS IS THE TENDER.

I/WE AGREE THAT THE DATES OF COMPLETION AS REFERRED TO IN THE GENERAL CONDITIONS SHALL BE TEN WORKING DAYS (10) FROM THE DATE OF WRITTEN ORDER TO COMMENCE WORK. THE CONTRACTOR AGREES TO PAY THE CORPORATION AS LIQUIDATED DAMAGES THE SUM OF \$100.00 (ONE HUNDRED DOLLARS) PER DAY FOR EACH AND EVERY DAY THAT ANY PORTION OF THE WORK REMAINS INCOMPLETED AFTER THE TIME OF COMPLETION AS SPECIFIED ABOVE.

A CERTIFIED CHEQUE OR A BID BOND IN THE AMOUNT OF (\$ 2,000.00)

TWO THOUSAND DOLLARS /100 is

ENCLOSED. DATED ETOBICOKE THIS 3rd DAY

OF OCTOBER, 1977.

J. O. Henyke

SIGNATURE OF WITNESS

J.A. Cooper

SIGNATURE AND SEAL OF TENDERER

J.A. COOPER

CONTRACT #77-120

SCHEDULE OF ITEMS AND UNIT PRICES

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT PRICE	AMOUNT
1.	SUPPLY, PLACE, COMPACT AS PER SPECIFICAT ONS COLD MIXED, OPEN GRADED BITUMINOUS ASPHALT	24,500	SQ. YDS	1.222 ⁰⁰	29,939

ESTIMATED VALUE OF MATERIALS TO BE INCORPORATED INTO PERMANENT WORKS	\$ 21,000.00
ESTIMATED VALUE OF LABOUR	\$ 3,000.00
ESTIMATED VALUE OF OTHER THINGS	\$ 5,939.00
TOTAL (MUST INCLUDE TOTAL TENDER PRICE)	\$ 29,939.00



 (CONTRACTOR'S SIGNATURE)
 J.A. COOPER

CONTRACT NO. 77-120

CONTRACTOR'S EXPERIENCE RECORD

The Contractor is required to supply the following information concerning work done over the last two (2) years that is similar to the type of work to done under this contract.

COMPLETION DATE OF CONTRACT	NAME OF OWNER	NAME OF ENGINEER	TYPE OF WORK	APPROXIMATE VALUE OF CONTRACT
Sept. /77	Brant County	G. Spencer	Open Graded	
August /77	Town Oakville	B. Cannon	Open Graded	\$14,000.00
"	Twp. Toronto		" "	32,500.00
" "	City Kitchener		" "	14,000.00
" "	County Waterloo		" "	13,000.00
July/77 "	Twp. Sunnidale		" "	60,000.00
June/77	Twp. Sarnia		" "	50,000.00
1976	Town Oakville	B. Cannon	" "	15,000.00
	Muv. of Peel	G. Dolan	" "	24,000.00
	Cty. Peterboro		" "	39,000.00
	Town of Caledon		" "	40,000.00

PERFORMANCE AND MAINTENANCE BOND

Bond No. 8072-48-91

Contract 77- 120

Account _____

KNOW ALL MEN BY THESE PRESENTS, that we The Flintkote Compaony of
(The Contractor)

Canada Limited

hereinafter called "The Principal", and

FEDERAL INSURANCE COMPANY

(The Bonding Company)

hereinafter called "The Surety" are jointly and severally held and firmly bound unto the Corporation of the City of Brampton hereinafter called "The Obligee", its successors and assigns, in the sum of \$ 29,939.00 of lawful money of Canada to be paid unto the Obligee, for which payment well and truly to be made we the Principal and Surety jointly and severally bid 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

19th of October, 19 77.

Whereas by an Agreement in writing dated the 19th day of October 19 77, the Principal has entered into a contract with the Obligee, hereinafter called the "Contract", for the construction, alteration, repair, or maintenance of Cold Mixed,

Open Graded Bituminous Pavement

(Description of Works)

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 or as the same be changed, altered or varied as herein-after provided, to the satisfaction of the Obligee and shall at all times fully indemnify and keep indemnified the Obligee 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 Obligee for all outlay, expense liabilities, or payments incurred or undertaken to be made by the Obligee pursuant to the contract, then this obligation shall be void, but otherwise it shall be and remain in full force and effect.

Provided always and it is hereby agreed and declared that the Obligee and 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 an 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 Oblige.

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 SURETY HAVE EXECUTED THESE PRESENTS.

SIGNED, SEALED AND DELIVERED BY THE PRINCIPAL IN THE PRESENCE OF

A. C. Teneycke
Witness signs here

G. C. Edwards (Seal)
Principal signs here, and seal where applicable
G.C. EDWARDS
EXECUTIVE VICE PRESIDENT & GENERAL MANAGER.

SIGNED, SEALED AND DELIVERED BY THE SURETY IN THE PRESENCE OF

A. Payne
Witness signs here

FEDERAL INSURANCE COMPANY
S. E. Russell (Seal)
Surety Company Officer signs here with seal
S. E. Russell, Attorney-in-Fact

POWER OF ATTORNEY

Know all Men by these Presents, That the FEDERAL INSURANCE COMPANY, 100 William Street, New York, New York, a New Jersey Corporation, has constituted and appointed, and does hereby constitute and appoint S. Bruce Garlick, Peter B. Smith, T. H. Lynde, R. MacDonald, J. E. Bracken, S. E. Russell, Roberta Green, and F. C. Mayfield of Toronto, Ontario, Canada

each its true and lawful Attorney-in-Fact to execute under such designation in its name and to affix its corporate seal to and deliver for and on its behalf as surety thereon or otherwise, bonds or obligations given or executed in the course of its business and any instruments amending or altering the same, and consents to the modification or alteration of any instruments referred to in said bonds or obligations

In Witness Whereof, the said FEDERAL INSURANCE COMPANY has, pursuant to its By-Laws, caused these presents to be signed by its Assistant Vice-President and Assistant Secretary and its corporate seal to be hereto affixed this 3rd day of February 1977

FEDERAL INSURANCE COMPANY
By



Handwritten signature of George McClellan

George McClellan
Assistant Vice-President

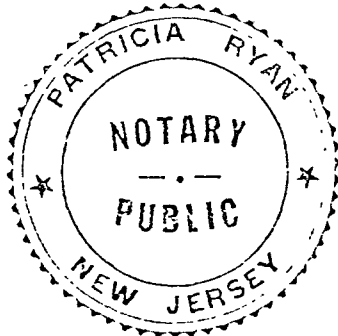
Handwritten signature of Richard D. O'Connor

Richard D. O'Connor
Assistant Secretary

STATE OF NEW JERSEY
County of Essex } ss

On this 3rd day of February 1977, before me personally came Richard D. O'Connor to me known and by me known to be Assistant Secretary of the FEDERAL INSURANCE COMPANY, the corporation described in and which executed the foregoing Power of Attorney, and the said Richard D. O'Connor being by me duly sworn, d.d. depose and say that he is Assistant Secretary of the FEDERAL INSURANCE COMPANY and knows the corporate seal thereof; that the seal affixed to the foregoing Power of Attorney is such corporate seal and was thereto affixed by authority of the By-Laws of said Company, and that he signed said Power of Attorney as Assistant Secretary of said Company by like authority, and that he is acquainted with George McClellan and knows him to be the Assistant Vice-President of said Company and that the signature of said George McClellan subscribed to said Power of Attorney is in the genuine handwriting of said George McClellan and was thereto subscribed by authority of said By-Laws and in deponent's presence.

Acknowledged and Sworn to before me
on the date above written



Handwritten signature of Patricia Ryan
Notary Public

PATRICIA RYAN
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires December 11, 1978

CERTIFICATE OF LIABILITY INSURANCE

LIBERTY MUTUAL INSURANCE COMPANY, 1200 EGLINTON AVENUE EAST, DON MILLS, ONTARIO.
(INSURANCE COMPANY)

TO: THE CORPORATION OF THE CITY OF BRAMPTON

ADDRESS: 24 QUEEN STREET, EAST, BRAMPTON, ONTARIO, L6V 1A4

THIS IS TO CERTIFY THAT The Flintkote Company of Canada Limited
(CONTRACTOR)

Whose Address is P.O.Box 160, Station N, Toronto, Ontario

has comprehensive liability insurance in this Company under Policy
No. LG1-621-004110-067 covering legal liability for damages because
of:

- A. Bodily injury, sickness or disease, including death
at any time resulting therefrom.
- B. Damage to or destruction of property of others caused
by accident.

Subject to a limit of liability of not less than \$1,000,000.00
inclusive for any one occurrence or accident which insurance applies
in respect of all operations, including liability assumed under
contract with the Corporation. The policy does not contain any ex-
clusions or limitations in respect of the use of explosives or in
respect of shoring, underpinning, raising or demolition of any
building or structure, pile driving, caisson work, collapse of any
structure, or subsidence of any property, structure, or land from
any cause.

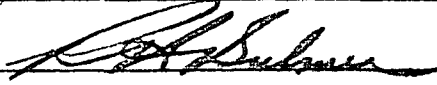
THE POLICY EXPIRES ON JULY 1, 1978

AND WILL NOT BE ALTERED, CANCELLED OR ALLOWED TO LAPSE WITHOUT
THIRTY (30) DAYS PRIOR NOTICE TO THE CORPORATION.

With respect to Contract No. 77-120 for the Construction of
Cold Mixed, Open Graded Bituminous Pavement

We certify that the Corporation will be coinsured with the Contrac-
tor.

DATE: OCTOBER 20, 1977

COUNTERSIGNED: 

LIBERTY MUTUAL INSURANCE CO.

PASSED October 24 19 77



BY-LAW

No. 279-77

A By-law to authorize the execution
of Contract No. 77-120 with Flintkote
Company of Canada Ltd.