


MEMORANDUM OF AGREEMENT
BETWEEN
ALBERTA TRANSPORTATION
AND
City of Calgary
FOR
37 Street Storm Trunk Replacement

(SW Calgary Ring Road Utility Modifications)

AGREEMENT NO. CON0016278

MEMORANDUM OF AGREEMENT made as of the 5 day of January, ²⁰¹⁵ ~~2014~~ A.D. 

BETWEEN:

HER MAJESTY THE QUEEN in right of Alberta, in this document represented by the Minister of Transportation (in this document referred to as the "Minister")

- and -

CITY OF CALGARY

in the Province of Alberta (in this document referred to as the "Municipality")

BACKGROUND:

The Minister is constructing the southwest portion of the Calgary Ring Road. It has been identified that the Calgary Ring Road Project will have impacts on the City of Calgary's existing South Richmond Storm Trunk which currently crosses the Tsuu T'ina Nation's lands south of Glenmore Trail. As per the agreement between the Tsuu T'ina Nation and the Government of Alberta, the existing South Richmond Storm Trunk will be abandoned in place. The Government of Alberta has agreed to pay for the replacement of this existing storm trunk to be replaced with a new storm trunk located on the lands to be acquired from the Tsuu T'ina Nation, to be incorporated within the Transportation and Utility Corridor and on lands within the City of Calgary.

For that portion of the new 37 Street Storm Duct to be located within the 37 Street Southwest Road Right of Way, south of Lakeview Drive, and discharging into the Elbow River, the City of Calgary will undertake the design and construction, including all necessary permits, for this work. The Municipality will undertake this work on behalf of the Minister.

In consideration of the terms and conditions specified in this document the parties agree as follows:

1. The Background forms part of this Agreement.
2. The Municipality shall undertake the design and construction of a new storm trunk within the 37 Street Road Right of Way, and extending through Glenmore Park to a new outfall that discharges into the Elbow River, based on the plans of Schedule "A" – 37 Street Storm Trunk Relocation.

3. *The Municipality shall undertake the necessary work including all appropriate regulatory approvals*

4. *The Municipality agrees that in the undertaking of the 37 Street Storm Trunk Replacement:*
 - (a) *It will utilize its own employees for general administration of the 37 Street Storm Trunk Replacement; and*

 - (b) *It will supervise the construction of the 37 Street Storm Trunk Replacement subject, but not limited to, the following documents:*
 - i) *the appropriate City of Calgary Standard Specifications and construction documents; and*

 - (c) *It will withhold at least ten (10) percent of all monies owing to the contractor for the 37 Street Storm Trunk Replacement detailed in this document until the 37 Street Storm Trunk Replacement contemplated by this Agreement is accepted by the Municipality; and*

 - (d) *It will obtain all permits, approvals, and utility agreements necessary to complete the 37 Street Storm Trunk Replacement work; and*

 - (e) *It will satisfy itself that the costs proposed and submitted by the contractor for its services in relation to the 37 Street Storm Trunk are considered fair and reasonable; and*

 - (f) *It will provide quantity and quality control information and test results to the Minister if and when requested until such time as the 37 Street Storm Trunk Replacement is completed in compliance with the Specifications; and*

 - (g) *It will provide the Minister with a summary report of quantities, and "as built" drawings on completion of construction if and when requested; and*

 - (h) *It will schedule the work to be completed by June 30, 2016; and*

 - (i) *It will provide the Minister with a copy of their letter to the contractor accepting the 37 Street Storm Trunk Replacement as completed (Final Acceptance Certificate). The date of this letter will become the official "Date of Acceptance"; and*

 - (j) *It will submit its final invoice to the Minister for all work performed and materials provided under this Agreement within 120 days of the Final Acceptance Certificate, after which no further invoices will be accepted.*

5. *The Minister agrees to pay the costs incurred by the Municipality for this work to a maximum of seventeen million and four hundred thousand dollars (\$17,400,000.00) including engineering and the Municipality's administrative costs, calculated at 8% of project cost. Cost over-runs above this amount, plus 5 % contingency, materials estimate, engineering estimate, or other items will only be accepted if approved by the Minister.*
6. *The Municipality agrees to provide written notice and advise the Minister of anticipated costs in excess of the amount immediately upon becoming aware of the potential cost increases*
7. *The parties agree that:*
 - (a) *Costs incurred for the 37 Street Storm Trunk Replacement will be based on fair unit prices and actual quantities utilized, and in addition will include the actual detailed costs incurred for engineering and other approved eligible items directly related to the 37 Street Storm Trunk Replacement, to the maximum amounts shown in Section 5; and*
 - (b) *The Municipality will receive from suppliers and contractors, progress and other billings for eligible costs of the 37 Street Storm Trunk Replacement; that it will certify them in the manner prescribed by the Minister as valid costs of the 37 Street Storm Trunk Replacement; and that it will render to the Minister at the end of each month a billing, with sufficient detail and explanation, equal to the sum of the progress and other billings received during that month; and*
 - (c) *The Minister certifies that the goods and/or services ordered/purchased hereby are being purchased by the Alberta Crown and are therefore not subject to the Goods and Services Tax; and*
 - (d) *The Municipality will pay all progress and other billings.*
7. *The Municipality agrees that the Minister shall have the right at all times to inspect the cost records of the Municipality, the additional work specified in this document, and any and all materials supplied or used in connection with the 37 Street Storm Trunk Replacement.*
8. *The Municipality shall ensure that any contractor or subcontractor with any involvement in the construction and completion of the 37 Street Storm Trunk Replacement has and maintains a "Certificate of Recognition" recognized by Alberta Human Resources and Employment, Workplace Health and Safety, or its successor as the case may be.*


The Municipality acknowledges that a contractor or subcontractor does not comply with the obligation immediately above if the contractor or subcontractor holds and maintains a Small Employers Certificate of Recognition (for employers with less than 10 employees.)

The Municipality shall ensure that each contractor and each subcontractor engaged in relation to the 37 Street Storm Trunk Replacement complies with the requirements of the Workers Compensation Act, RSA 2000, c. W-15 and the Occupational Health and Safety Act, RSA 2000, c. O-2 ("OHSA").

The Municipality agrees that the Minister is not the prime contractor of the work site associated with the 37 Street Storm Trunk Replacement.

The Minister acknowledges that the Municipality will enter into an agreement with a Contractor to make the Contractor the prime contractor; however, the Municipality further acknowledges that Minister will continue to look to the Municipality to fulfill or cause all obligations under the OHSA to be fulfilled.

- 9. The Municipality shall indemnify and hold harmless the Minister, his employees and agents from any and all claims, demands, actions and costs whatsoever that may arise, directly or indirectly, out of any act or omission of the Municipality, its employees or agents, in the performance by the Municipality of this Agreement. Such indemnification shall survive termination of this Agreement.
- 10. The parties agree to give this Agreement a fair and liberal interpretation and to negotiate with fairness and candour, any modification or alteration that may be rendered necessary by changing conditions.



 Witness JINTONG ZHAO


**SIGNED ON BEHALF OF HER MAJESTY IN
RIGHT OF ALBERTA**

by: 
 Manon Plante
 ADM, Delivery Services
 Assistant Deputy Minister, Delivery Services Division
 Alberta Transportation


 Witness

**SIGNED ON BEHALF OF
City of Calgary**

by: 
 General Manager, Utilities and Environmental
 Protection

APPROVED AS TO CONTENT
 Water Resources 

LW HO

Schedule "A" – 37 Street Storm Trunk Relocation



37 ST. SW STORM TRUNK RELOCATION NTS

--- CITY LIMITS
--- EXIST. TBA STORM
--- PROPOSED STORM