

**McNEELY, KELLY**  
**Barristers and Solicitors**  
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**G. Gary McNeely, Q.C.**  
Criminal Law

**William F. Kelly Professional Corporation**  
Commercial and Civil Litigation

July 10, 2018

VIA EMAIL: [Angela.McRae@hamilton.ca](mailto:Angela.McRae@hamilton.ca)

City of Hamilton,  
Office of the City Clerk  
Legislative Coordinator  
71 Main Street West, 1<sup>st</sup> Floor  
Hamilton, Ontario  
L8P 4Y5

Attention: Ms. Angela McRae

Dear Madam:

Re: Commercial Relationship vs Algoma Contractors Inc. and the City of Hamilton

Further to the above, I confirm again that our client wishes to make some brief submissions regarding the issues arising from the Rehabilitation of the York Boulevard Parkade project and our client's future relationship with the City of Hamilton.

We attach a copy of the submissions that Mr. Fortino will be submitting directly tomorrow at the hearing.

Should you require anything further from our office, please advise.

Yours truly,

*Annette Harness*

Per: William F. Kelly  
WFK/ah  
Encl.

Algoma Contractors Inc.  
11 Ontario Street, Unit 1  
Grimsby, Ontario  
L3M 3G8

Re: Commercial Relationship vs Algoma Contractors Inc. and the City of Hamilton

#### Submissions

1. Algoma acknowledges that difficulties were encountered with the contract C13-08-16 (the "contract") with respect to the Rehabilitation of the York Boulevard Parkade project.
2. Algoma further acknowledges that Algoma's failure to complete the contact caused the City of Hamilton inconvenience and delay.
3. While acknowledging the above, Algoma wishes to make the following submissions with respect to City of Hamilton's staff recommendations that the City of Hamilton not accept any bids entered into for any contacts with Algoma for a period of time.

#### History

4. Algoma has been in business since 1970 (43 years). Algoma generally employs 20 individuals.
5. The primary focus or specialty of Algoma is providing protective coatings, painting and water proofing in water and waste water treatment plants ("Protective coatings for water and waste water treatment plants") This work consists of approximately 90 percentage of Algoma's work product. This type of work is very specialized and Algoma is a very respected contactor with this field of specialty.
6. Throughout the time that Algoma has carried on business, Algoma has based its business on Municipalities, Commercial and Industrial projects.
7. The difficulty encountered with Algoma with respect to the completion of the contract was the first time 42 years that Algoma failed to complete a project to the satisfaction of the parties involved.
8. Algoma, in the recent years, completed projects for a number of Municipality. We attach a schedule setting out the projects completed by Algoma from 2012 to present all of which projects were completed without issue.

9. The schedule attached identifies several of the City of Hamilton's projects to which Algoma has provided services without issue including the Stone Church, Kenilworth and Woodward wtp projects.
10. There were no issues with respect to Algoma's performance with these other contracts.
11. As noted above, this project was the first time that Algoma found itself unable to complete its contractual obligations.

#### York Boulevard Parkade project (the project)

12. The source of Algoma's work, or Algoma's specialty, is Protective coatings for water and waste water treatment plants. With the project, Algoma undertook a contract where much of the work was beyond Algoma's principal focus. As a result of the project being beyond Algoma's usual focus, the project took significantly more time and man power than Algoma had estimated. Algoma was more dependent on subcontractors, and their availability, then Algoma is when performing coatings work for water treatment plans for which project our personality is fully trained.
13. When difficulty arose with respect to the completion of the project, Algoma first made every effort to get the project back on track to the City of Hamilton's satisfaction. Unfortunately despite Algoma's efforts were not successful.
14. When it was determined that Algoma did not have the appropriate or sufficient work force to complete the work, Algoma was proactive and approached the City of Hamilton to terminate the contract on terms agreeable to both parties.
15. Algoma acknowledged the additional costs to the City of Hamilton to complete the project and paid the City of Hamilton the agreed upon amount on the terms that were agreed to.
16. In addressing the default in the above manner, it was Algoma's intent to minimize any inconvenience or cost for the City of Hamilton. As noted above, this was the first time that Algoma was required to take such a process with any Municipality or customer.

#### Future work

17. While acknowledging the Algoma's default in the contract, it is, and has been, Algoma's desire to maintain a good relationship with the City of Hamilton.
18. With respect to the staff's recommendation not to accept bids, or recommendations that the City of Hamilton accepting bids from, or contracts with Algoma, it is Algoma's request that the City of Hamilton consider the above noted facts. Algoma acknowledges and

understands that the City of Hamilton may wish to place some restriction in the future. It is Algoma's request that the City of Hamilton not issue any restriction with respect to Algoma providing Protective coatings for water and waste water treatment plants services to the City Hamilton's projects. This is the focus of Algoma's work and we note that Algoma has never had any problem completing work when performing this type of work. The difficulty with the project was that Algoma step beyond its principal work.

19. Algoma understands that Algoma would undertake, if necessary, not to seek, by bid or subcontract, any work with the City of Hamilton projects outside of Algoma's principal business of Protective coatings for water and waste water treatment plants for a period of time to be set by the City of Hamilton.
20. Algoma provides a high level of expertise with respect to Protective coatings for water and waste water treatment plants work and completes such work at a very competitive rate. We are therefore hopeful that the City of Hamilton will consider Algoma for Protective coatings for water and waste water treatment plants work.

**Work Completed From 2012 to current**

<b>Alberici Const.</b>				
Stone Church, Hamilton	\$	67,000.00	<b>Mettko</b>	
Humber, Toronto	\$	48,000.00	Guelph WTP	\$ 252,000.00
Kenilworth, Hamilton	\$	137,180.00		
Woodward Low Lift Hamilton	\$	317,085.00		
New Ferguson Hamilton	\$	137,620.00	<b>Romag Const</b>	
Parkdale PS Toronto	\$	340,000.00	Ash Lagoon Miss.	\$ 430,420.00
Woodward WTP Hamilton	\$	1,542,637.00		
Hillcrest Hamilton	\$	2,596,345.00	<b>King City</b>	
Horgan Filtration Plant Toronto	\$	1,043,458.00	RL Clarke Toronto	\$ 1,560,000.00
<b>Bennett Mechanical</b>			<b>Finnbilt Const</b>	
RC Harris Toronto	\$	1,221,415.00	Galt WTP	\$ 354,750.00
Streetsville Peel Region	\$	954,154.00		
Ashbridges Bay Toronto	\$	381,264.00		
Highland Creek Toronto	\$	2,145,500.00		
Humber Toronto	\$	575,000.00		
<b>Bondfield</b>				
Ashbridges bay Toronto	\$	1,750,000.00		
<b>Christie Mechanical</b>				
Silverthorne PS Mississauga	\$	82,000.00		
<b>City of Hamilton</b>				
York Blvd. Parkade 7	\$	436,950.00		
City Hall Horseshoe Hamilton	\$	285,800.00		
<b>Graham Const.</b>				
Keswick, Keswick ON	\$	424,178.00		
Kitchener WTP	\$	1,085,000.00		
<b>City of Guelph</b>				
Guelph WTP	\$	1,024,263.00		
<b>Region of Halton</b>				
Tyandaga	\$	73,000.00		
<b>Kenaidan</b>				
RL Clarke Toronto	\$	265,000.00		
Weston Tunnel Toronto	\$	770,200.00		
Ashbridges Bay Toronto	\$	440,000.00		
Duffin Creek Toronto	\$	1,069,000.00		
Lakeview 4 Mississauga	\$	207,000.00		
Covanta Oshawa	\$	1,337,000.00		
Lakeview 8 Mississauga	\$	2,096,250.00		
Lakeview Low Lift Mississauga	\$	670,280.00		
Tim Hortons Field Hamilton	\$	910,940.00		