

THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW NUMBER 25-74

A By-law to authorize the execution of an agreement with Mandel Sprachman, Architect, for design, working drawings and inspection related to the Chinguacousy Park Bandshell, Boathouse and Skating Pavilion.

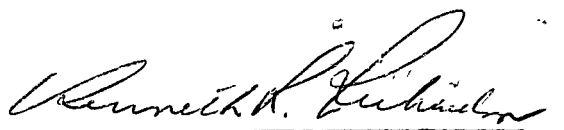
WHEREAS it is deemed expedient to enter into and execute an agreement with Mandel Sprachman, Architect, for design, working drawings and inspection related to the Chinguacousy Park Bandshell, Boathouse and Skating Pavilion;

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 an agreement, attached hereto as Schedule "A", with Mandel Sprachman, Architect, for design, working drawings and inspection related to the Chinguacousy Park Bandshell, Boathouse and Skating Pavilion.
- 2) That the Mayor and the Clerk are hereby authorized to affix their signatures to the said agreement, attached hereto as Schedule "A", with Mandel Sprachman, Architect, for design, working drawings and inspection related to the Chinguacousy Park Bandshell, Boathouse and Skating Pavilion.

READ A FIRST, SECOND and THIRD TIME and PASSED in Open Council this 11th day of March, 1974.


James E. Archdekin, Mayor


Kenneth R. Richardson, Clerk

Standard Form of Agreement between Client and Architect



ONTARIO ASSOCIATION OF ARCHITECTS

Issued by Ontario Association of Architects for use when a percentage of the cost of the work forms the basis of payment to the Architect. October 1969

Project CHINGUACOUSY - BANDSHELL, BOATHOUSE & SKATING PAVILION

Client CITY OF BRAMPTON

Architect MANDEL SPRACHMAN, ARCHITECT

**THE STANDARD FORM OF AGREEMENT
BETWEEN CLIENT AND ARCHITECT**

**ISSUED BY ONTARIO ASSOCIATION OF ARCHITECTS
FOR USE WHEN A PERCENTAGE OF THE COST OF THE WORK
FORMS THE BASIS OF PAYMENT TO THE ARCHITECT**

THIS AGREEMENT made in duplicate the 8TH day of NOVEMBER
in the year Nineteen Hundred and SEVENTY-THREE by and between
CITY OF BRAMPTON

hereinafter called the "Client",

and

MANDEL SPRACHMAN, ARCHITECT

hereinafter called the "Architect".

WHEREAS the Client intends to erect

A BANDSHELL, BOATHOUSE & SKATING PAVILION IN THE
CITY OF BRAMPTON CHINGUACOUSY PARK

Insert
description
of work

NOW THEREFORE, The Client and the Architect for the considerations hereinafter named agree as follows:

ARTICLE 1.

The Architect shall perform for the above-named work professional services as hereinafter set forth.

ARTICLE 2. THE ARCHITECT'S SERVICES

- (a) **Basic Professional Services.** The Architect's basic professional services consist of taking the Client's instructions; preparing the necessary preliminary studies; making preliminary estimates; preparing working drawings and specifications; assisting in the drafting of forms of tenders, proposals and contracts and advising on tenders and proposals; selecting, engaging and instructing consultants; furnishing to the Contractor copies of the contract drawings and specifications and large-scale detail drawings to the number hereinafter set out for the carrying out of the work; processing shop drawings; certifying and passing accounts; and issuing Certificates for Payments; and the general administration of the construction contract.
- (b) **Estimates of Cost.** The Architect shall prepare or procure estimates of the cost of the work but he does not guarantee the accuracy of such estimates. He shall review and revise such estimates from time to time as the preparation of drawings and specifications proceeds. Exact costs can only be determined when contract tenders are received.

- (c) **Administration of the Contract and Inspection of the Work.** As required by the contract between the Client and the Contractor, the Architect shall make decisions on all claims of the Client and the Contractor and on all other matters relating to the execution and progress of the work or the interpretation of the Contract Documents.

The Architect or his deputies, at regular intervals, shall provide field inspections which, in the Architect's opinion shall guard the Client against defects and deficiencies in the Contractor's work and which shall reasonably ensure that the building is being erected in conformity to drawings and specifications.

- (d) **Certificates For Payment.** Based on the Architect's observations on the site as noted above, and the Contractor's Application For Payment, he shall determine the amount owing to the Contractor and shall issue Certificates For Payment in such amounts. These Certificates shall constitute a representation to the Client, based on such observations and the data comprising the Application For Payment that the work has progressed to the point indicated. By issuing a Certificate For Payment, the Architect shall also represent to the Client that, to the best of his knowledge, opinion and belief, the quality of the work is in accordance with the Contract Documents. He shall conduct inspections to determine the dates of substantial and final completion, and shall issue a final Certificate For Payment.
- (e) **Client's Site Representative (Clerk of Works).** If constant representation of the Client on the job during progress of the work is desired by the Client, a Client's Site Representative, acceptable to both the Client and the Architect, shall be under the direction and control of the Client who shall pay the Client's Site Representative's salary. The Client's Site Representative shall co-ordinate his work with the Architect.

ARTICLE 3. THE CLIENT'S RESPONSIBILITIES.

- (a) **Surveys, Borings and Tests, etc.** The Client shall furnish the Architect with an accurate survey of the building site, including all information and all surveyor's services required for the setting out of the structure, and giving the grades and lines of streets, pavements, adjoining properties, and structures thereon, the rights, restrictions, easements, boundaries and contours of or affecting the building site. He shall provide also, or reimburse the Architect on account of direct costs for obtaining full information as to sewer, water, gas, electrical and other public utilities services. The Client shall pay also for borings or test pits and for chemical, mechanical and other tests which may be required, and for any advertising incidental to obtaining tenders, and for any permits or licences which may be required and for any necessary legal services. The Architect shall not be responsible for costs or damages arising from errors or omissions in any of this information.
- (b) **Client's Decisions.** The Client shall give due consideration to all sketches, drawings, specifications, tenders, proposals, contracts and other documents laid before him by the Architect and, whenever prompt action is necessary, he shall inform the Architect of his decisions in such reasonable time as not to delay the work of the Architect nor to prevent him from giving drawings or instructions to contractors in due season.

ARTICLE 4. PROVISIONS AND CONDITIONS.

- (a) **Definition of "Cost of the Work".** "Cost of the Work", except as hereinafter provided, means the cost to the Client of the work and approved additions thereto including Contractor's profits and expenses but not including Architect's and Engineering Consultant's fees or the fees of other special consultants or reimbursements or the salary of a Client's Site Representative. Should labour or material be furnished by the Client below its market cost or should old materials be reused, cost is to be interpreted as the cost of all materials and labour necessary to complete the work as such cost would have been if all materials had been new and if all labour had been paid for at market prices current when the work was ordered.

- (b) **Abandoned, Suspended or Deferred Work.** In the case of abandoned, suspended or deferred work, the Architect shall be entitled to payment forthwith for all services rendered by him up to the date of such abandoned, suspended or deferred work and for all services arising therefrom.
- (c) **Extra Services.** If after a definite scheme has been approved, the Client makes a decision which for its proper execution, involves extra services or expenses for changes in or additions to the drawings or specifications or otherwise, or if the Architect is required to perform extra services or pay expenses because of delays caused by the Client or a Contractor, or because of the delinquency or insolvency or death of either of such parties, or by litigation or arbitration proceedings, or as the result of damage to the work in progress by fire, lightning or tempest, the Architect shall be equitably paid for such extra services and expenses.
- (d) **Fees for Consultants.**
- (1) The cost of structural, mechanical and electrical engineering, which by professional experience and opinion is considered normal to a specific building type, shall be borne by the Architect. Where structural, mechanical and electrical engineering is in excess of normal the Architect's fees may be increased by an amount to be agreed upon by the Client and Architect to cover the additional engineering services involved.
 - (2) Where the work is of such a nature as to require the services of a special consultant, the Architect may retain such a consultant whose fees shall be paid by the Architect, and the Architect shall be reimbursed by the Client therefor, plus an amount to be agreed upon by the Client and Architect to cover co-ordination of such consulting services.
 - (3) If the Client should desire to bring in a special consultant on the work or any part of it, the Architect shall collaborate with him and the fees of such consultant shall be paid by the Client.
- (e) **Constructional Emergencies.** While the work is in progress the Architect may on behalf of, and as Agent of the Client, give orders and cause to be performed such conservatory or remedial work as in his discretion seems necessary or expedient in the Client's interest in case of constructional emergencies occurring. The cost of such work shall become part of the "Cost of the Work" (Article 4 (a)).
- (f) **No Deductions From Architect Because of Deductions From Others.** No deduction shall be made from the moneys payable to the Architect because of any penalties, liquidated damages or other sums withheld from payments to Contractors or other persons engaged on the work.
- (g) **Ownership of Documents.** All drawings, specifications and documents prepared by the Architect are instruments of service for the execution of the work and are the property of the Architect whether the work be executed or not and he reserves the copyright therein and in the work executed therefrom and they are not to be used on any other work without the written permission of the Architect.

ARTICLE 5. PROFESSIONAL CHARGES.

sert (a) **Fee for Basic Services.** The Client shall pay the Architect for his basic services a fee of (8 %) ---EIGHT----- percent of the cost of the work, plus such additional amounts as are herein expressly provided for.

Insert (b) **Fee For Additional Services —**

Insert (1) **Co-ordinating Fees** (here insert appropriate provisions where such fees are to be paid)

Insert (2) **“Cost Plus” Contract.** If the work or any part of the work is let on any “cost plus” basis, the Architect’s fee shall be increased in proportion to the additional services required of the Architect and shall be not less than the fee plus 1% of the cost of the work.
Fee for Cost Plus Contract (1 %) -----one----- percent.

(3) **Separate Contracts.** If the work or any part of the work is let under separate contracts, the Architect's fee shall be increased in proportion to the additional services required of the Architect and shall be not less than the fee plus 1% of the cost of the work.
Fee for Separate Contracts (1 %) ---one----- percent.

Insert

(c) **Disbursements.** The Client shall reimburse the Architect for the following disbursements in addition to other disbursements herein provided for:

(1) The cost of blueprinting or reproduction of documents beyond the following: —

Insert

Working Drawings	Twelve	copies
Specifications	Twelve	copies
Working Details	Twelve	copies
Large Scale Details	Twelve	copies

(2) The cost of transportation and living expenses incurred by him or his assistants while travelling in discharge of duties connected with the work beyond _____ miles from the Architect's office, computed on the actual cost of travel by rail or air, and at ϕ per mile for travel by automobile.

Insert

(3) The cost of telegrams and long distance calls made in the interests of the Client.

ARTICLE 6. PAYMENT TO THE ARCHITECT.

(a) **Schedule.** The Architect shall have been deemed to have earned on account of his fee and payment shall be made as follows:

- (1) Upon completion of the schematic design phase a sum equal to (12.5%) twelve and one-half percent of his basic fee computed upon a reasonable estimated cost;
- (2) Upon completion of design development and sketch drawings, a further sum sufficient to increase payments on the fee to (25%) twenty-five percent of his basic fee computed upon a reasonable estimated cost;
- (3) Upon completion of approximately 75% of the working drawings and specifications a further sum sufficient to increase payments on the fee to (62.5%) sixty two and one-half percent of his basic fee computed upon a reasonable estimated cost;
- (4) Upon completion of contract documents to a point where they might be submitted for tender a sum sufficient to increase payments on the basic fee to (75%) seventy-five percent of the basic fee computed upon a reasonable estimated cost or if tenders are received, then computed upon the tender or tenders approved by the Client, or if no tender has been approved by him then upon the lowest bona fide tender or tenders received;
- (5) From time to time during the execution of the work and having regard to the total services to be rendered by the Architect in connection therewith and the extent to which such services have been rendered, payments shall be made until the aggregate of all payments made on account of the basic fee shall equal the total fee.
- (6) Payments on account of the Architect's fee within the limits above-mentioned may be made to the Architect in the course of preparation of preliminary studies or working drawings or specifications, monthly or otherwise, as may be agreed upon between the Architect and the Client.

(b) **Accounts.** Accounts for payment are due and payable when rendered. Overdue accounts are subject to interest charges at ----one----- percent per month or any part thereof.

Insert

ARTICLE 7. GENERAL.

- (a) This Agreement shall enure to the benefit of and be binding upon the Parties hereto, and except as hereinafter otherwise provided, their executors, administrators, successors and assigns.
- (b) If the Architect party hereto is an individual and dies or becomes incapacitated before his services hereunder have been completed, this Agreement shall be cancelled as of the date of his death or incapacity, and the Client shall pay for the services rendered and disbursements made to the date of cancellation.
- (c) If a party to this Agreement who is an individual should desire to bring in a partner or partners, or if a Party which is a partnership should desire to bring in a new partner or partners to share the benefit and burden of this Agreement, he or they may do so and he or they shall promptly notify the other party of such action.
- (d) Except as aforesaid neither party may assign this Agreement without the consent in writing of the other.

ARTICLE 8. ADDITIONAL TERMS.

The following additional terms are added and shall become a part of this Agreement:



Insert

ARTICLE 9. ARBITRATION.

- (a) All matters in dispute under this Agreement shall be submitted to arbitration at the instance of either party.
- (b) No one shall be nominated or act as arbitrator who is in any way financially interested in the conduct of the work or in the business affairs of either party.
- (c) The laws of the Province of **ONTARIO** shall govern the arbitration.
- (d) The award of the arbitrator or arbitrators shall be final and binding upon the Parties and this covenant to submit to arbitration is to be construed as an integral part of this Agreement between the parties.

Insert

IN WITNESS WHEREOF the Parties hereto have executed this Agreement.

James E. Archdekin
James E. Archdekin, Mayor
Kenneth R. Richardson
Kenneth R. Richardson, Clerk
CITY OF BRAMPTON
Client

WITNESS

J. McDonough
WITNESS

Manuel Sprachman
MANDEL SPRACHMAN, ARCHITECT
Architect