

BY-LAW NUMBER - 1811 - - -

of

THE MUNICIPAL COUNCIL OF  
THE CORPORATION OF THE CITY OF NORTH BAY

being

A By-law of the City of North Bay to authorize the making of a 20 year contract for supply of water to Canadian Johns-Manville Company, Limited for use at its property in the Township of Widdifield and for the construction of an extension of a municipal watermain to the limits of the City of North Bay at Gormanville Road immediately below the North Bay By-Pass of the Trans-Canada Highway

*Canadian Johns-Manville Co. Ltd. - Limited*

WHEREAS Canadian Johns-Manville Company, Limited (herein also referred to as the "Company") is presently constructing a new plant for making Insulating Board and related products, such plant being located in the Company's property in the Township of Widdifield, in the District of Nipissing, comprising parts of the west half of Lot 23 and of Lot 24 in Concession B and part of Lot 24 in Concession C, as well as part of the lands lying to the west of Second Street within the limits of registered Plan M 167.

AND WHEREAS Application has been made under date of the 9th day of October, 1956 by the Company for approval and authorization of the entering into of a contract for supply of water from The Corporation of the City of North Bay (herein also referred to as "Municipal Corporation") to the Company, its successors and assigns, for a period of twenty years for use at the said Company's property and for such supply of water to be made available to a connection with the Company's private pipeline which is to run westerly from the boundary of the City of North Bay at the centre of Gormanville Road immediately to the south of the North Bay By-Pass of the Trans-Canada Highway, and also for approval of construction by the Municipal Corporation of an extension of a municipal watermain to such point of connection at Gormanville Road upon condition that the Company should supply, free of charge, all required pipe and fittings for such extension and

\*\* MAP TOO LARGE TO SCAN \*\*

also reimburse the Municipal Corporation for its actual cost of installation thereof and subject to an undertaking by the Company to maintain and keep in repair such extension watermain for a period of five years, all as more particularly set forth in a draft form of Agreement also submitted with the said Application or as indicated upon a Layout Plan or Drawing, numbered A-6855-1, or stipulated by engineering Specifications dated August 20, 1956 accompanying and supplementing such Drawing which shows coloured in red the intended route of the requested extension of watermain to the boundary of the City of North Bay as above mentioned and which also shows the nature, size and extent and respective connections and components and other engineering details of such requested extension.

AND WHEREAS it appears that the requested supply of water could be made available by such an extension of a municipal watermain to the boundary of the City of North Bay as above mentioned.

AND WHEREAS the Municipal Council of The Corporation of the Township of Widdifield, by its Resolution Number 11-8-56 passed on the 7th day of August 1956, has indicated that it is in accord with and approves of the proposal of the Company to obtain from the Municipal Corporation the requested supply of water to be carried through the proposed private pipeline of the Company in the Township of Widdifield.

AND WHEREAS the Department of Highways of the Province of Ontario has issued permits to enable the proposed pipeline to be carried under that Department's property leading to and abutting on the approaches to the North Bay By-Pass of the Trans-Canada Highway at Gormanville Road.

AND WHEREAS in accord with Section 101 of The Public Health Act there have been issued from the Department of Health of the Province of Ontario, under date of September

21, 1956, its Water Works Approval Certificates Number 56-B-515 as to the Company's proposed private water pipeline in the Township of Widdifield and Number 56-B-516 as to the proposed extension of municipal watermain in the City of North Bay.

AND WHEREAS the said Drawing Number A-6855-1 and accompanying Specifications dated August 20th, 1956 and the proposed Agreement for supply of water and construction of extension of municipal watermain as therein mentioned, upon being referred by this Municipal Council to them for a report thereon, have been considered by the City Manager, the City Solicitor, and the City Engineer, by whom favourable recommendation in respect thereof has been made to this Municipal Council.

AND WHEREAS it accordingly appears desirable that the requested contract for water supply be entered into under the authority of Section 11 of The Public Utilities Act aforesaid and that an agreement for construction of the requested extension of municipal watermain be entered into under authority of Section 5 of The Public Utilities Act aforesaid.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF NORTH BAY ENACTS as follows:

1. THAT in accord with the provisions of Section 11 of The Public Utilities Act (R.S.O. 1950, C.320) as at present amended, and other statutory provisions and powers thus enabling, this Municipal Council hereby approves, undertakes, authorizes and directs the entering into and making by The Corporation of the City of North Bay with Canadian Johns-Manville Company, Limited of a contract (in such form, upon such terms, at such rates and subject to such provisions and conditions as are set forth and contained with respect thereto in the form of Agreement hereto annexed

as Schedule "A") for the supply of water by the Municipal Corporation to the Company, its successors and assigns, for a term of twenty years from the date thereof for use at the above mentioned property of the Company in the Township of Widdifield and to be supplied to the Company from an extension of a municipal watermain to the present boundary of the City of North Bay at the centre of Gormanville Road immediately to the south of the North Bay By-Pass of the Trans-Canada Highway where connection is to be made therefrom to a private service main or water pipeline to be constructed by the Company to its said property in the Township of Widdifield; and

2. THAT for provision of a supply of water as aforesaid, and in accord with the provisions of Section 5 of The Public Utilities Act as presently amended and all other statutory provisions and powers thus enabling, this Municipal Council hereby approves, undertakes, authorizes and directs the immediate construction (in such manner, according to such specifications, under such provisoes and conditions and subject to such contribution of material by the Company and payment by it of costs of installation, as respectively are set forth or referred to in the said form of Agreement hereto annexed as Schedule "A") of an extension of the municipal waterworks system of the City of North Bay to the centre line of Gormanville Road immediately to the south of the North Bay By-Pass of the Trans-Canada Highway by means of a municipal watermain of the nature and extent, with the connections and components and following the route respectively designated therefor on the said Layout Plan or Drawing numbered A-6855-1 submitted with the said Application of the Company, a copy of which Layout Plan or Drawing with accompanying Specifications dated August 20th, 1956 is attached to and forms part of the said form

of Agreement hereto annexed as Schedule "A"; and

3. THAT a contract for the supply of water, and an agreement for construction of extension of municipal watermain, being together included in the form of an Agreement as in Schedule "A" hereto annexed, shall be prepared and executed forthwith by the Municipal Corporation and by the Company, and \_\_\_\_\_, the Mayor, and \_\_\_\_\_, the City Clerk, of the Municipal Corporation be and they are hereby authorized and empowered to execute the said form of Agreement on behalf of the Municipal Corporation and to affix thereto the corporate seal of the Municipal Corporation; and

4. THAT all property and entitlement to water supply, and all benefits, powers, rights, permissions, authorities and advantages granted to, conferred upon or to be enjoyed by the Company by, under or in consequence of this By-law and/or the last mentioned Agreement may be assigned by the Company to any other company or person upon such other company or person executing and delivering to the Municipal Corporation a covenant under seal binding such other company or person to performing, observing and complying with the agreements, obligations and conditions and to assume, be responsible for and satisfy all payments and liabilities imposed on or undertaken by the Company according to the provisions of this By-law and/or the said last mentioned Agreement, but in the event that the Company should so assign the above referred to property and entitlement to water supply, and benefits, powers, rights, permissions, authorities and advantages, or any of them, the Company shall continue to be bound by all the applicable terms and conditions of this By-law and the said last mentioned

Agreement unless and except in so far as the Municipal Corporation may agree to accept such other company or person in place and stead of the Company in that respect and thus release the Company therefrom; and  
5. THAT this By-law shall come into full force and effect on the date of the final passing thereof.

Read a first time in Open Council this 22 day of October, 1956.

Read a second time in Open Council this 22 day of October, 1956.

Rules of Order were suspended and By-law read a third time, and By-law read a third time short, and ENACTED AND PASSED this 22 day of October, 1956.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Manager

THIS AGREEMENT made (in triplicate) the <sup>1<sup>st</sup></sup>  
day of *November*, 1956.

B E T W E E N:

THE CORPORATION OF THE CITY OF NORTH BAY,  
hereinafter referred to as "the City"  
OF THE FIRST PART,

- and -

CANADIAN JOHNS-MANVILLE COMPANY, LIMITED,  
hereinafter referred to as "the Company"  
OF THE SECOND PART.

WHEREAS the Company is presently erecting a new Insulating Board Plant on its plant site in the Township of Widdifield, in the District of Nipissing, comprising parts of the west half of Lot 23 and of Lot 24 in Concession B and part of Lot 24 in Concession C, as well as part of the lands lying to the west of Second Street within the limits of registered Plan M 167.

AND WHEREAS it has been found that there is not available upon or in the immediate vicinity of the Company's lands a supply of water appropriate for the purposes of domestic and miscellaneous other uses in and about such plant for which the waters of a creek upon the Company's lands would seem to be unsuitable although they appear to be suitable for use in general processing operations at the said plant.

AND WHEREAS subject to the conditions, and upon the terms of payment or other contribution by the Company as hereinafter set out, the Company has made application to the City for extension of a municipal watermain to the existing boundary of the City at Gormanville Road immediately to the south of the Trans-Canada Highway so as to connect with a water pipeline, or private service main, proposed to be constructed by the Company in the Township of Widdifield,

*4.2.4*

and also for an Agreement by the City to provide, for the period of twenty years, to the Company, at such connection of the municipal waterworks system with its private pipeline, a supply of water for the Company's use at the said plant site.

AND WHEREAS, after considering the Company's proposals in connection with the foregoing, the Municipal Council of The Corporation of the Township of Widdifield on August 7th, 1956 passed a Resolution in accord with the Company's proposal to obtain a supply of water from the City and to carry it through a private pipeline to be constructed by the Company along the margin of certain roads in the Township of Widdifield.

AND WHEREAS the Department of Highways of the Province of Ontario has issued permits enabling the proposed watermain and private pipeline to be carried under that Department's present property leading to and abutting on the approaches to the Trans-Canada Highway at Gormanville Road.

AND WHEREAS the Department of Health of the Province of Ontario has issued under date of September 21, 1956 its Water Works Approval Certificates Number 56-B-515 in respect of the Company's proposed private pipeline within the Township of Widdifield and Number 56-B-516 in respect of the above mentioned extension of watermain within the City of North Bay.

AND WHEREAS the Municipal Council of The Corporation of the City of North Bay, by its By-law Number 1811 *4.2.7* passed on the 22<sup>nd</sup> day of *October* 1956, approved and authorized the making of an Agreement, upon and subject to the terms and conditions herein set forth, and extending for a term of twenty years (as provided by Section 11 of The Public Utilities Act, R.S.O. 1950, Chapter 320, as presently amended) for the supply of water to the Company, its successors and

*4.2.7*



assigns, for use for its and their purposes at the above mentioned plant site, and, by its By-law Number 1811 *D.F.* passed on the 27<sup>th</sup> day of *October* 1956, the last mentioned Municipal Council also approved and authorized (upon and subject to the conditions, and with the terms of payment and other contribution by the Company hereinafter set out) the immediate construction by the City of an extension of a municipal watermain to the boundary of the City at Gormanville Road as above mentioned.

NOW THEREFORE THIS INDENTURE WITNESSETH that, pursuant to the provisions of said By-law Number 1811 *D.F.* and in consideration of the sum of One Dollar (\$1.00) of lawful money of Canada paid by the Company to the City (receipt whereof is hereby by it acknowledged) and other considerations respectively enuring hereunder to the said parties hereto, the City and the Company each respectively agree with the other as follows:-

1. The City will forthwith commence and carry to completion the construction and laying of an extension watermain (following the route thereof outlined in red on the hereto annexed copy of Drawing Number A-6855-1 prepared by Johns-Manville Corp.) starting from the westerly terminus of a certain six inch subdivision watermain (which is about to be installed by or on behalf of Pinewood Village Limited) at the intersection of Tackaberry Drive and Birchwood Road shown on a Plan of Subdivision (registered or unregistered as the case may be) being at the point marked "A" in red on said Drawing, and thence running northerly along Tackaberry Drive to the tee fitting having an easterly ten inch flange which is to be located in a turn of Tackaberry Drive at an angle in said extension watermain and being at the point marked "B" in red on said Drawing, and thence extending in reduced size as a six inch watermain from the said point marked "B" in a westerly

*D.F.*

direction across Tackaberry Drive to and across certain lands expropriated or to be expropriated by the Department of Highways of the Province of Ontario and continuing westerly to the termination of such extension watermain at the boundary between the City of North Bay and the Township of Widdifield formed by the centre line of Gormanville Road, such place of termination being marked "C" in red on said Drawing;

**PROVIDED THAT:-**

such eight inch and six inch watermains with all component fittings therefor according to the said Drawing (being hereinafter collectively referred to as "the extension main") shall be constructed and laid, under the joint supervision of the City Engineer and the Company's Engineers, at the depths shown on the said Drawing and in strict accordance with the engineering data indicated thereon and in the Specifications for Domestic Watermain dated August 20th, 1956 annexed to this Agreement, and following completion thereof shall during the period of twenty years from the date hereof be maintained and kept in good repair (including also the making of replacements or renewals if and when necessary) as hereunder stipulated, namely:-

the Company shall be responsible and bear the cost of all such maintenance and repairs to the extended main for the period of five years from the date hereof and thereafter the City shall be responsible for and bear the cost of all such maintenance and repairs.

2. The Company will promptly supply to the City without charge the stipulated Transite Pipe with all valves and fittings as referred to in the said Drawing and/or Specifications so that the City will be able to construct the extension main promptly. The excavations

*D. A. F.*

for and installation of the extension main as hereinbefore mentioned shall be commenced by the City immediately following the making of this Agreement and shall be carried on as speedily as may be within the power of the City so as to be completed, if at all possible, before the ground has become frozen, and upon the completion thereof the extension main shall be connected to the above mentioned private pipeline (which is to be constructed by the Company in the Township of Widdifield in the location shown outlined in green on said Drawing) by a connection to be of such nature and to be made in such manner as shall be decided upon by, and shall be satisfactory to, the City Engineer and the Engineers of the Company.

3. Subject to the specification and use of its product "Transite Pipe" and component fittings therefor as aforesaid and to agreement by the City to supply water to the Company at the terminus of such extension main for the period of twenty years as hereinafter mentioned, the actual cost to the City of the work of excavating for and laying, installing or otherwise constructing the extension main will be paid by the Company to the City forthwith upon completion of such extension main by the City in accord with the provisions of Clause 1 of this Agreement.

AND THIS INDENTURE FURTHER WITNESSETH that, pursuant to the provisions of said By-law Number 1811 and, in consideration of the respective considerations hereinbefore mentioned, the City and the Company each respectively further agree with the other as follows:-

4. For and during the term of twenty years from the date hereof the City shall supply water from its municipal waterworks system to the Company, its successors

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*J.S.P.*

and assigns, for its and their use and consumption, at, in and upon the above mentioned plant site of the Company in the Township of Widdifield, and such water shall be made available and delivered by the City into the private pipeline of the Company at the connection thereof with the municipal watermain extended as aforesaid to the boundary of the City at Gormanville Road, being at the point marked "C" in red on the said Drawing hereto annexed, and (save and except only in event of and during any temporary interruption of operation of the municipal waterworks system, or the making of repairs, replacements or alterations to the watermains of the City, such as despite immediate institution of all reasonable preventative or remedial action that may be able to be exerted by the City shall necessarily involve unavoidable interruption or restriction in volume of the supply of water) such water shall be made available by the City for the Company, its successors and assigns, at a rate of not less than 12,000 gallons in each twenty-four hour period or such further quantity hereafter as from time to time may be required by the Company and then on hand through the said extension main or any other watermains of the City that hereafter may connect with or otherwise serve the Company's aforesaid private pipeline and/or any additions or supplements thereto.

5. The amount of water supplied by the City to the Company hereunder shall be measured and recorded by a water flow meter of such type and capacity, and placed at such location (subject to the provisions of Clause 13 hereof), as may be respectively specified and selected by the City Engineer in conjunction with the Company's Engineers, and the Company, at its own expense, shall supply and so install such a meter and during the term of this Agreement shall maintain and keep in repair and good working order or if necessary replace such meter to which full access

*J. A. H.*

shall at all reasonable times be given for inspection and examination thereof by the duly authorized servants or employees of the City, and also at least twice in every year such meter shall be tested, at the expense of the Company, by a qualified Engineer (or such other competent or authoritative meter testing technician or institution as from time to time may instead be agreed upon between the Company's Engineers and the City Engineer) and a copy of the certificate or report of such engineer, technician or institution as to the result of each such testing shall without delay be given to each of the parties hereto.

6. The Company will install in its plant a storage or "surge tank" of not less than 3,000 gallon capacity which is proposed to be filled in such off-peak hours each day as the City Engineer may from time to time advise as a means of reducing the Company's draw of water from the municipal system during peak hours of general demand thereon.

7. A reading of the said meter shall be arranged to be made by or for the City upon such day in each calendar month as from time to time may be designated by it and within 15 days following each such reading the City shall deliver by ordinary mail to the Company a bill stating the number of gallons of water supplied to it by the City during the monthly period stated to be covered by such bill, and thereupon payment for the quantity of water so billed shall be made by the Company to the City at its presently current manufacturing or industrial consumers' monthly rate, namely:-

22¢ per thousand gallons for the first 50,000 gallons consumed in such month;  
20¢ per thousand gallons for the next 50,000 gallons consumed in such month; and  
17¢ per thousand gallons for all water supplied in such month in excess of the first 100,000 gallons  
(but subject to deduction of a discount of 10% thereon where payment is made within 10 days of

*D. G. K.*

the date of rendering of the respective monthly bill therefor, or at such subsequent respective gallonage rates, and with such discounts, allowances and penalties as hereafter from time to time may be officially fixed and put into general effect by the City, or by its authority, as the manufacturing or industrial consumers' water rate then currently to be payable by all such consumers supplied from the waterworks system of such City or, if at such time there is no such general manufacturing or industrial consumers' water rate (or there are any businesses, industries or other consumers - apart from railways, public bodies or institutions - exempted from it or otherwise charged at a lower rate) then at the same rate as from time to time may hereafter be charged to the most favoured business, industry or other non-public consumer using water from the municipal waterworks of the City, or save if and in so far as the provisions of Clause 14 hereof may be deemed to be operative to amend or qualify the application of the foregoing provisions.

8. The cumulative register of the said meter shall be prima facie evidence of the quantity of water supplied to the Company through such meter, but in the event of any difference or dispute arising between the Company and the City as to the sufficiency or accuracy or state of repair or effective condition of the said meter or as to the actual quantity of water supplied through such meter such difference or dispute shall be referred to and settled and determined by the decision of a suitably qualified engineer to be mutually selected and appointed by the said two parties as the Referee of such dispute between them, and the decision of such a Referee thereon shall be final and conclusive and binding upon both of the said parties and shall not be required to be subject to arbitration; PROVIDED HOWEVER THAT if, by the expiry of 30 days from the date that a formal notice requiring appointment of a Referee in the dispute concerned has first been delivered by either of the said parties to the other, such dispute still exists and the said two parties have not been able to agree on and appoint an engineer as the one to be selected by them as the Referee of the matter then each of the said two parties shall at

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once appoint its own engineer and such two engineers shall forthwith appoint a third qualified engineer to act with them and the decision of the majority of the three engineers thus appointed shall in such respective instance be deemed to be the decision of the Referee of such dispute - but in case of the circumstance that one party has failed to appoint its own engineer as aforesaid within the period of 30 *P.S.F.* days after written demand therefor has been delivered then, following expiry of such period of 30 *P.S.F.* days, the sole decision of such engineer, if any, as by that time has been appointed by and for the other party shall be deemed to be the decision of the Referee of such dispute - and in so far as decision in a dispute has not been able to be obtained in accordance with any of the foregoing provisions such dispute shall then be referred for settlement by arbitration as hereinafter set forth.

9. In the event of it being mutually agreed by the City and the Company (or determined by decision of a dispute as aforesaid) that the said meter has registered incorrectly then such incorrect registration shall, subject to the exception below mentioned, be presumed and be conclusively deemed to have existed only from commencement of the respective water billing month in which water was being supplied to the Company at the time of the raising of question between the City and the Company as to the accuracy of registration of the meter, except however that such a presumption and conclusion shall not be applicable in event of mutual agreement by the City and the Company (or by decision upon dispute thereon) that such incorrect registration had arisen and continued to have effect from on or about a specific date or for a specific interval so mutually agreed on or decided upon

*P.S.F.*

dispute thereon. The respective amount of any allowance accordingly calculated to be made to, or of the surcharge to be made upon, the City by the Company concerning such an incorrect registration shall be paid by, or allowed to, the Company to or by the City (as the respective case may be) within one month after the amount of such allowance shall have been determined in accordance with the foregoing provisions.

10. If the said meter shall at any time cease to register correctly or shall at any time be required to be removed for the purpose of repair, adjustment, replacement or for any other reason, then until the said meter shall be corrected or re-installed after repair or adjustment, or shall be replaced by an accurate meter, so as to register correctly the quantity of water being supplied by the City to the Company hereunder, the City in respect of such period of incorrect registration as may be determined under the provisions of Clause 9 hereof shall be entitled to charge for, and the Company shall be liable to pay for, a daily quantity of water equal to the average daily quantity of water for which the Company shall have paid or shall be liable to pay in respect of the corresponding billing month in the previous year or, if there was no previous year, then in respect of the last monthly supply of water for which the Company had been billed prior to such correction, re-installation or replacement of meter.

11. The City undertakes that during the continuance of this Agreement it will not enter into any contract or agreement for or involving the supply of water nor supply water through or by means of the above mentioned extension main for the purposes of any person, municipality or company other than the Company unless the source of supply of the above mentioned extension main has been supplemented by interconnecting it to and supplying it also from a ten inch municipal watermain contemplated



in future to be installed under Tackaberry Drive above referred to, or unless the entering into and implementation of such a contract or agreement, together with all other then existing such contracts or agreements, would clearly (and demonstrably to the satisfaction of the Company's Engineers) then and thereafter during the term of this Agreement not have the result or effect (or reasonably possible result or effect) of diminishing or otherwise interfering with the supply of water agreed to be made available to the Company hereunder and then being used by or available to it, but subject to the foregoing, and provided and so long as the regularity, quantity or quality of the water supply hereby agreed to be provided be not thereby nor by reason thereof interfered with, diminished or impaired the City may supply water in bulk to any municipality, local authority, company or person through or by means of the said extension main or any component thereof, AND PROVIDED THAT if any difference shall arise between the Company and the City as to whether such supply (or the reasonably possible result or effect thereof or of any contract or agreement therefor) does or would be likely to create any interference with, or diminishment or impairment of, the supply of water hereby agreed to be provided the difference so arising shall be referred for settlement by arbitration in the manner provided for by Clause 12 of this Agreement.

12. All questions, doubts, differences or disputes which may at any time arise or exist between the parties hereto or those claiming under them touching or concerning this Agreement, the subject matter or the extent, interpretation or application thereof or existing or arising out of or in relation thereto or concerning any matter affected thereby, respectively, or otherwise howsoever concerning the said supply of water, shall (except in

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so far as mutually agreed upon or directly settled between such parties and also except as to such matters as are directed by the provisions of Clause 8 hereof, or by mutual consent of the said parties, to be settled by decision of a Referee in accordance with the provisions of the said Clause 8 hereof) be required to be settled by arbitration as hereinafter provided, and accordingly if and in case either the City (or its successors or assigns or others claiming under it) or the Company (or its successors or assigns or others claiming under it) give to the other written notice of demand for arbitration whereunder it shall be required that such respective questions, doubts, differences or disputes as may be mentioned or otherwise referred to in such notice shall be settled by arbitration as herein provided, then each such party shall appoint an arbitrator by an appointment in writing which shall be required to be made within <sup>15</sup> days after the date on which notice of demand for arbitration has been given as aforesaid and such two arbitrators shall jointly select and appoint a third arbitrator but, in case of failure of such two arbitrators to agree upon and appoint the third arbitrator, such third arbitrator shall in that event be able to be appointed by a Judge of the Supreme Court of Ontario upon application therefor by either of the parties aforesaid. The decision of any two of such three arbitrators shall be final and binding upon the parties and shall be given in writing to such parties, and such arbitration shall be carried on and conducted in accord with the provisions of The Arbitration Act (R.S.O. 1950, Chapter 20) as now or hereafter constituted or amended, and the cost of arbitration shall be apportioned against the City, its successors and assigns or others claiming under it, and the Company, its successors and assigns or others claiming under it, or against the one or the

other thereof in such respective amount and proportion as the arbitrators may decide; when either of the said parties applies for arbitration hereunder the application therefor shall not be entertained until security to the amount of Two Hundred and Fifty Dollars (\$250.00) has been deposited by the applicant with a neutral person or firm in trust to apply to the cost of the arbitration; PROVIDED, however, such arbitration proceedings shall not be instituted or entertained until after the period of <sup>15</sup> days from the date on which the City and the Company, or their respective successors, assigns or others claiming under them, have, each to the knowledge of the other, found themselves unable to mutually agree upon and settle the respective matter then in dispute.

13. PROVIDED, and it is hereby mutually agreed that, if the meter referred to in Clause 5 hereof shall be located outside of the limits of the City of North Bay, then the City Engineer (so that he may be satisfied as to the conformity thereof with engineering data indicated in respect thereof by the said Drawing Number A-6855-1 or with its said accompanying Specifications dated August 20th, 1956) shall be permitted, in conjunction with the Company's Engineers, to supervise or inspect the construction of such part of the Company's private pipeline in the Township of Widdifield that would extend from the municipal watermain at the above mentioned boundary of the said City to the location of such meter.

14. PROVIDED HOWEVER (as a conditional variation or limitation of Clause 7 hereinbefore contained)

THAT - if and for such period as there may be officially fixed and kept in effect by the City, or by its authority, any special general manufacturing or industrial water rate or differential payable by consumers for water used on their lands

*[Handwritten initials]*

located outside of the City of North Bay (herein also referred to as "suburban consumers") as distinct from any then current ordinary general manufacturing or industrial water rate payable by consumers for water used on their lands located within such City (herein also referred to as "urban consumers"), -

THEN - if and insofar as the Company's lands upon which there is being used water supplied under this Agreement remain outside of the boundaries of the City of North Bay as at such time currently constituted, - such (if any) respective special general manufacturing or industrial water rate or differential shall, during such period of effect thereof, be deemed to be the then currently payable "manufacturing or industrial consumers' water rate" referred to in Clause 7 hereof or in event of there being any suburban businesses, industries or other "suburban consumers" (apart from railways, public bodies or institutions) exempted from any such special general manufacturing or industrial water rate or differential, or otherwise charged at a lower rate, the rate then currently to be payable by the Company as a "suburban consumer" shall be the same rate as from time to time may then or thereafter be charged to the most favoured business, industry or other non public "suburban consumer" using water from the municipal water works of the City BUT insofar as there may be no differential of rates payable by "suburban consumers" as distinct from "urban consumers", or insofar as the Company may become hereafter an "urban consumer", the provisions of Clause 7 hereof shall prevail without amendment by the foregoing conditional proviso thereto.

15. This Agreement shall have effect and continue in force for the period of twenty years next immediately ensuing from the date as of which this Agreement is dated (namely, the <sup>1st</sup> day of *November* 1956); provided always that <sup>it shall</sup> be lawful for the parties hereto by mutual consent

*W.S.F.*

to rescind, alter, extend or otherwise modify the whole or any part of this Agreement by a Deed or other appropriate Indenture or Act in writing duly executed by such parties under their respective seals.

AND IT IS HEREBY SPECIFICALLY UNDERSTOOD, UNDERTAKEN AND AGREED that all property and entitlement to water supply, and all benefits, powers, rights, permissions, authorities and advantages granted to, conferred upon or to be enjoyed by the Company by, under or in consequence of the above mentioned By-law Number 1811 *P.A.F.* and/or this Agreement may be assigned by the Company to any other company or person upon such other company or person executing and delivering to the City a covenant under seal binding such other company or person to perform, observe and comply with the agreements, obligations and conditions and to assume, be responsible for and satisfy all payments and liabilities imposed on or undertaken by the Company according to the provisions of the said By-law Number 1811 *P.A.F.* and/or this Agreement, but in the event that the Company should so assign the above referred to property and entitlement to water supply, and benefits, powers, rights, permissions, authorities and advantages, or any of them, the Company shall continue to be bound by all the applicable terms and conditions of such By-law and this Agreement unless and except in so far as the City may agree to accept such other company or person in place and stead of the Company in that respect and thus release the Company therefrom.

THIS INDENTURE and everything herein contained shall, subject to the foregoing, extend to and include the said parties hereto and their respective successors and assigns.

*P.A.F.*

IN WITNESS WHEREOF the said parties hereto have  
executed this Indenture.

SIGNED, SEALED AND DELIVERED  
In the presence of

THE CORPORATION OF THE CITY  
OF NORTH BAY

*28 November 1914*  
*W. G. H. [unclear]*

*[Signature]*  
\_\_\_\_\_  
*Mayor*  
*W. G. H. [unclear]*

*[Signature]*  
\_\_\_\_\_  
*City Clerk*  
CANADIAN JOHNS-MANVILLE COMPANY,  
LIMITED

*R. J. Gardner*  
\_\_\_\_\_  
*Vice Pres*

*Shachno*

General Plant Engineering Department  
August 20, 1956

CANADIAN JOHNS-MANVILLE COMPANY LIMITED

INSULATING BOARD PLANT  
NORTH BAY, ONTARIO

SPECIFICATION  
FOR  
DOMESTIC WATER MAIN

AUGUST 20, 1956

JOHNS-MANVILLE CORPORATION  
GENERAL PLANT ENGINEERING DEPARTMENT  
MANVILLE, NEW JERSEY

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1. Scope of Work

The domestic water line as covered by this specification is indicated on Drawing A6855-1, showing a 6 inch water line from a supply point in Pinewood Village East of Gormanville Road to Canadian Johns-Manville Property.

2. Materials of Construction

The pipe shall be Transite pressure pipe Class 150 and shall be installed in strict accordance with manufacturer's instructions using Ring-Tite joints. Where cast iron fittings are used or required, they shall be suitable for connecting to Transite pressure pipe Class 150. Valves where called for shall be Crane #467 Approved O. S. & Y. Wedge Gate Valve Iron Body Brass Trimmed Class 125 or approved equal.

3. Excavation and Backfill

Should bed rock be encountered, it shall be removed by drilling and wedging as far as possible. Where blasting is required and approved by the Engineer, the work shall be done by experienced workmen and adequate precautions taken to ensure protection of all persons, buildings, trees, paving, etc. Under this subdivision shall be provided all materials, logs, chains, etc., as may be directed by the Engineer for the proper protection from blasting. Rock Blasting, when required, to be done in strict accordance with local ordinances.

For water mains, the trenches shall be excavated to maintain the lines indicated on the site plan and of a depth to give at least 6 feet of final cover above the top of the mains. Concrete thrust blocks will be required at changes in direction of the pipe and at the direction of the Engineer.

Backfill shall be hand placed evenly and carefully around and over the pipe in 4" minimum layers until 1 foot of cover exists over the pipes after which the trench may be machine backfilled, carefully placed. This hand placed backfill material shall be approved sand. The machine placed backfill material may be material previously excavated but must be free of rock or organic material.

Excavation in rock shall be to such width and depth as to provide at least 12" of sand backfill on bottom and each side of the outside of the pipe.

At other locations excavation shall be such width and depth as to provide at least 3" of sand backfill under the pipe and 6" on each side of the outside of the pipe.

4. General Specifications

- a. All trees within 3' of the center line of pipe shall be removed. All other trees within the proximity of the construction shall be carefully protected from injury, by boxing if necessary in the opinion of the engineer.
- b. All excavated materials not required for backfilling and grading shall be removed or spread out evenly adjacent to the pipe line when so approved by the engineers.



- c. Contractor shall provide and operate all pumps necessary to drain and keep the trenches free of water under any and all circumstances and contingencies that may arise. Water from pumps will not be discharged onto public roads or adjoining private property.
- d. Contractor shall provide and erect lights and warning signs necessary for the protection of the work and the public.
- e. Any damage to streets, paving, curbs, lawns and sidewalks resulting from operations under this contract shall be repaired and restored to its original condition.
- f. All road pavement shall be kept clean of excavated material (including materials falling off trucks hauling from the site to dumping locations).

5. Water Main Tests

The water mains shall be tested and flushed in accordance with Sections 112, 113 and 116 of the Dominion Board of Insurance Underwriters Standard #13. The Contractor shall provide all the necessary equipment, perform all the work required and bear all the costs in connection with the tests.

6. Clean-Up

On completion of backfill, all trash, debris, etc., arising from the work shall be cleaned up and removed from the site.

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