

COURT FILE NO. 2001-05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

APPLICANTS IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, RSC 1985, c C-36, as amended
AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and
2161889 ALBERTA LTD.

DOCUMENT **AFFIDAVIT**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Gowling WLG (Canada) LLP
1600, 421 - 7th Avenue SW
Calgary, AB T2P 4K9
Attn: **Tom Cumming/Caireen E. Hanert/Alex Matthews**
Phone: 403.298.1938/403.298.1992/403.298.1018
Fax: 403.263.9193
File No.: A163514



AFFIDAVIT OF JEFF BUCK
sworn May 28, 2020

I, **JEFF BUCK**, of the City of Edmonton, in the Province of Alberta, **MAKE OATH AND SAY THAT:**

1. I am the President and Chief Executive Officer of the Applicant JMB Crushing Systems Inc. ("**JMB**") and a director of the Applicant 2161889 Alberta Ltd. ("**216**") and have personal knowledge of the matters herein deposed to, except where stated to be based upon information and belief, in which case I verily believe same to be true.
2. This Affidavit is supplemental to my Affidavit sworn May 8, 2020 in respect of the application brought by JMB for a lien process order (the "**Application**") involving EllisDon Industrial Inc. ("**EllisDon**").

3. I am authorized to swear this Affidavit as corporate representative of the Applicants.
4. All references to dollar amounts contained herein are to Canadian Dollars unless otherwise stated.
5. EllisDon is prime contractor for Canada Kuwait Petrochemical Limited Partnership by its general partner Canada Kuwait Petrochemical Corporation ("CKPC") in respect of the Canada Kuwait PDH/PP Project (the "Project") on the lands located in Sturgeon County in Alberta legally described as:

TITLE NUMBER 162 224 619

MERIDIAN 4 RANGE 22 TOWNSHIP 56
SECTION 11
ALL THAT PORTION OF THE NORTH EAST QUARTER
WHICH LIES SOUTH OF A LINE DRAWN THROUGHOUT AND AT RIGHT
ANGLES TO THE
EAST BOUNDARY 407.4 METRES SOUTHERLY FROM THE NORTH EAST
CORNER THEREOF;
CONTAINING 32.0 HECTARES (79 ACRES) MORE OR LESS
EXCEPTING THEREOUT ALL MINES AND MINERALS

TITLE NUMBER 162 224 620

MERIDIAN 4 RANGE 22 TOWNSHIP 56
SECTION 11
ALL THAT PORTION OF THE NORTH EAST QUARTER
WHICH LIES NORTH OF A LINE DRAWN THROUGHOUT AND AT RIGHT
ANGLES TO THE
EAST BOUNDARY 407.4 METRES SOUTHERLY FROM THE NORTH EAST
CORNER THEREOF;
CONTAINING 32.8 HECTARES (81 ACRES) MORE OR LESS.
EXCEPTING THEREOUT: HECTARES (ACRES) MORE OR LESS
A) PLAN 5345NY - ROAD 0.809 2.00
B) PLAN 0426682 - ROAD 0.394 0.97
EXCEPTING THEREOUT ALL MINES AND MINERALS

TITLE NUMBER 162 224 621

MERIDIAN 4 RANGE 22 TOWNSHIP 56
SECTION 2
THE EAST HALF OF THE NORTH EAST QUARTER
CONTAINING 32.4 HECTARES (80 ACRES) MORE OR LESS
EXCEPTING THEREOUT ALL MINES AND MINERALS

TITLE NUMBER 162 224 630

MERIDIAN 4 RANGE 22 TOWNSHIP 56
SECTION 2
THE WEST HALF OF THE NORTH EAST QUARTER
CONTAINING 32.4 HECTARES (80 ACRES) MORE OR LESS
EXCEPTING THEREOUT:
0.809 OF A HECTARE (2 ACRES) MORE OR LESS AS SHOWN ON ROAD PLAN
796S
EXCEPTING THEREOUT ALL MINES AND MINERALS

TITLE NUMBER 162 224 631

MERIDIAN 4 RANGE 22 TOWNSHIP 56
SECTION 12
QUARTER SOUTH WEST
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS
EXCEPTING THEREOUT:
1.64 HECTARES (4.04 ACRES) MORE OR LESS, AS SHOWN ON
ROAD PLAN 7154ET.
EXCEPTING THEREOUT ALL MINES AND MINERALS

TITLE NUMBER 162 224 632

FIRST
MERIDIAN 4 RANGE 22 TOWNSHIP 56
SECTION 12
THE NORTH WEST QUARTER
CONTAINING 64.7 HECTARES (160 ACRE) MORE OR LESS
EXCEPTING THEREOUT: HECTARES (ACRES) MORE OR LESS
A) PLAN 5345NY - ROAD 0.813 2.01
B) PLAN 0426682 - ROAD 0.394 0.97
EXCEPTING THEREOUT ALL MINES AND MINERALS

SECOND
MERIDIAN 4 RANGE 22 TOWNSHIP 56
SECTION 12
THE NORTH EAST QUARTER
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS
EXCEPTING THEREOUT: HECTARES (ACRES) MORE OR LESS
A) PLAN 5345NY - ROAD 0.813 2.01
B) PLAN 9020063 - ROAD 2.01 4.97
C) PLAN 0426682 - ROAD 0.230 0.57
EXCEPTING THEREOUT ALL MINES AND MINERALS

TITLE NUMBER 162 224 633

MERIDIAN 4 RANGE 22 TOWNSHIP 56
SECTION 11

QUARTER NORTH WEST
CONTAINING 64.5 HECTARES (160 ACRES) MORE OR LESS
EXCEPTING THEREOUT: HECTARES (ACRES) MORE OR LESS
A) PLAN 5345NY - ROAD 0.809 2.00
B) PLAN 0426682 - ROAD 0.394 0.97
EXCEPTING THEREOUT ALL MINES AND MINERALS

TITLE NUMBER 162 224 635

THE SOUTH EAST QUARTER OF SECTION ELEVEN (11)
TOWNSHIP FIFTY SIX (56)
RANGE TWENTY TWO (22)
WEST OF THE FOURTH MERIDIAN
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS
EXCEPTING THEREOUT: (A) 0.040 HECTARES (0.10 ACRE) MORE OR LESS
AS SHOWN ON ROAD PLAN 796S
(B) 0.938 HECTARES (2.32 ACRES) MORE OR LESS AS SHOWN ON
ROAD PLAN 3842
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

(collectively, the "**Lands**").

6. I am advised by my review of the Certificates of Title for the Lands that the Registered Owner of the Lands is 1598313 Alberta Ltd. I am advised by Alex Matthews, counsel to JMB, and believe that 1598313 Alberta Ltd. is a related entity to CKPC and has been included in the definition of "Owner" used in the proposed Order.
7. JMB and EllisDon are parties to an undated supply agreement (the "**Contract**"), pursuant to which JMB was required to supply and deliver aggregate materials ("**Product**") for the Project. A copy of the Contract is attached hereto as **Exhibit "A"**.
8. JMB retained subcontractors (the "**Subcontractors**") to perform certain services in connection with the Contract, including crushing and hauling of Product at the Lands (the "**Services**").
9. For some time prior to May 1, 2020, the date upon which the Initial Order was granted in these proceedings, and thereafter, JMB and EllisDon have been working towards a resolution of various liens registered against the Lands. I am advised by Tom Cumming,



counsel for JMB, and do verily believe that during his discussions with Ryan Krushelnitzky, counsel for EllisDon:

- (a) Mr. Cumming emphasized that due to its financial circumstances, JMB was unable to pay the Subcontractors without having first received payment of the outstanding receivable from EllisDon (the "**Receivable**");
 - (b) the parties became aware that some of the unpaid Subcontractors (the "**Lien Claimants**") had registered liens against title to the Lands (the "**Liens**"); and
 - (c) Mr. Krushelnitzky indicated that EllisDon was not prepared to pay the Receivable to JMB until such time as the Liens had been discharged;
 - (d) Mr. Cumming provided a draft agreement to Mr. Krushelnitzky which contemplated payment of the outstanding Receivable to the Monitor, and a process by which the Monitor would adjudicate each Lien, pay the verified amount to each Lien Claimant, and subsequently pay any amount remaining to JMB; and
 - (e) Mr. Cumming and Mr. Krushelnitzky ultimately determined that the proposed lien process order was the best way to bind CKPC to the lien payment process and protect the interests of all stakeholders.
10. The total amount payable to the Subcontractors by JMB for Product supplied and Services performed at the Lands was \$4,861,050.78.
 11. EllisDon paid \$2,364,875.34 to certain Subcontractors directly that had registered liens against the Lands in exchange for discharges of the respective liens and releases of CKPC, 1598313 Alberta Ltd., EllisDon and JMB. A summary of the payments made by EllisDon is attached hereto as **Exhibit "B"**.
 12. The following liens remain registered against the Lands:
 - (a) lien registered as Instrument Number 202 093 308 on April 29, 2020 by 1577248 Alberta Ltd. in the amount of \$58,609;



- (b) lien registered as Instrument Number 202 093 341 on April 29, 2020 by Azad Trucking Ltd. in the amount of \$34,787;
 - (c) lien registered as Instrument Number 202 093 377 on April 29, 2020 by Azad Transport Ltd. in the amount of \$114,343; and
 - (d) lien registered as Instrument Number 202 098 051 on May 5, 2020 by Matt Silver Trucking Ltd. in the amount of \$33,968.
13. The remaining outstanding amount payable to JMB by EllisDon is \$2,451,175.44.
 14. The last day that any Subcontractor supplied Product or Services to JMB in connection with the Contract and the Lands was March 15, 2020. Since that date, JMB has not used the Subcontractors or any other subcontractors to complete the work required at the Lands pursuant to the Contract.
 15. I am advised by Alex Matthews, counsel for JMB, and believe that the 45-day period in which any Subcontractor could file a lien against the lands for the Project expired April 30, 2020.
 16. I swear this Affidavit in support of an Application for a lien process order as set out above and for no other or improper purpose.
 17. I was not physically present before the Commissioner for Oaths, but was connected to him by video technology and followed the process for remote commissioning.

SWORN (OR AFFIRMED) BEFORE ME)
at Calgary, Alberta, this 28th day of May,)
2020.)
)
)
)
)
)

A Commissioner for Oaths/Notary Public)
in and for the Province of Alberta)



JEFF BUCK



THIS IS EXHIBIT "A" REFERRED TO IN
THE AFFIDAVIT OF JEFF BUCK
SWORN BEFORE ME
THIS 28th DAY OF MAY, 2020.

A Commissioner of Oaths and Notary Public
in and for the Province of Alberta



Supply Agreement

Agreement Number - 1200016-185

Special Terms and Definitions

In addition to other terms defined herein, the following terms in this Supply Agreement have the following meanings

"Contractor"	Ellis Don Industrial Inc., having an office at 8402 116 Street, Fort Saskatchewan, AB, T8LOG8
"Supplier"	JMB Crushing Systems ULC, P.O. Box 6977, Bonnyville, AB T9N 2H4
"Prime Contract"	The agreement, June 28, 2019, made between the Owner and the Contractor respecting the construction of the Project, inclusive of all schedules, appendices, exhibits, other documents, agreements and addenda, if any.
"Project"	EDI-185, Canada Kuwait PDH/PP Project, Site Early Works
"Products"	Means all of the products and materials required in accordance with the Supply Work
"Supply Documents"	Include, I. This Supply Agreement II. Attached Schedule 'A' - Scope of Work, Trade Specific Documents including Specifications; III. Attached Schedule 'B' - Supplementary Conditions: Safety, Delivery time parameters; IV. Schedule 'D' - QC Requirements; V. Schedule 'F' - Subcontract Time; and, VI. Schedule 'I' - Insurance Requirements VII. Project Specific Health, Safety, Security, Environmental Plan and Code of Ethics
"Holdback"	NOT APPLICABLE
"Supply Work"	Supply and deliver aggregate materials to Project site.
"Supply Agreement"	This agreement inclusive of all schedules, appendices, exhibit, other documents agreements and addenda, if any.
"Sub-Suppliers"	Each Supplier and supplier of the Supplier and their respective and successive subcontractors, suppliers, employees and agents who supply labour, materials, supplies, products, tools, machinery, equipment and other services and items to carry out and conduct the Subcontract Work

Terms and Conditions

1.00 General Conditions

1. The Supplier shall be bound to the Contractor by the terms and conditions of this Supply Agreement. The Supplier hereby accepts the terms and conditions of the Prime Contract to the extent such terms and conditions are applicable to the Supply Work, including any Prime Contract documents, drawings and specifications as they may relate to the Supply Work. The Supplier agrees to assume towards the Contractor all the obligations and responsibilities that the Contractor assumes toward the Owner insofar as they apply directly or indirectly to the Supplier Work.
2. The Supplier shall, at its sole cost and expense:
 - I. supply all as-built drawings, maintenance manuals, instructions, brochures, guarantees, warranties, certificates and any other documents, as required by the Supply Documents; and,
 - II. obtain all permits, licenses and certificates required to carry out and conduct the Supply Work.
3. The Supplier agrees to perform and complete the Supply Work in a good and workmanlike manner in accordance with the Supply Documents, good industry practice and all applicable laws. The Supplier further agrees and represents that the Supply Work shall be free of defects, errors and omissions (each a "Defect"), and that all materials and equipment furnished under this Supply Agreement shall be new and of good quality.

2.00 Delivery

1. The Supplier acknowledges and agrees that timely performance and deliveries are essential to this Supply Agreement.
2. The Supplier agrees to perform and complete the Supply Work within the time shown (the "Supply Agreement Time"), and in accordance with, the Contractor's schedule for the Project (the "Schedule"), which Schedule may be modified from time to time.
3. The Supplier agrees that time is of the essence with respect to this Supply Agreement. The Supplier shall perform the Supply Work so as to enable the Contractor to comply with the Prime Contract, including performing such actions and delivering, submitting or providing all documents, notices or elements of the Supply Work in a timely manner to allow review, verification and approval by the Contractor prior to the expiry of any applicable deadline, notice period or time limit set out in the Prime Contract. If the Supplier fails to abide by this Section 2.03, the Supplier shall be liable for all direct losses suffered by the Contractor as a result of such failure and, if by reason of such failure the Contractor becomes liable for damages, then the Supplier shall fully indemnify the Contractor for any and all such damages.
4. ~~NOT APPLICABLE. The Supplier shall notify the Contractor five (5) days prior to the delivery of Products and the performance of the Supply Agreement, failure of which may result in the rejection of the delivery and rescheduling of the performance of the Supplier.~~



3.00 Payments

1. The Supply Agreement Price is not subject to change except as expressly provided in this Supply Agreement. The Supplier acknowledges and agrees that it has included all necessary costs, including overtime costs, in its Supply Agreement Price in order to comply with the Schedule and otherwise perform the Supply Work.
2. The Contractor shall pay to the Supplier monthly progress payments net of any applicable Holdback and such payments shall become due and payable no later than five (5) business days after the Contractor receives payment pursuant to the terms and conditions of the Prime Contract from the Owner in respect of such Supply Work and as the amounts of such payments are certified by the Owner or Consultant, but in no event shall payment be made later than 60 days after receipt of invoice.
3. As a pre-condition to the Contractor submitting any payment application to the Owner in respect of the Supply Work, and to any payment being made by the Contractor to the Supplier, the Supplier's payment applications shall:
 1. NOT APPLICABLE. ~~provide a bill of lading and shipping memoranda with an invoice;~~
 2. provide delivery tickets that meet the following criteria:
 - I. each delivery ticket shall include details showing material supplied, date and time of delivery, name of the driver, and the identification title of the delivery vehicle such as a unit number;
 - II. each delivery ticket shall have signatures from Supplier's supervisor, and Contractor's Project staff. Additionally, delivery tickets that are not signed by the Contractor's staff will be considered by the Contractor, not to have been received and not applicable to payment; and,
 - III. each delivery ticket accompanying payment applications shall exactly match the invoice.
 3. include a statutory declaration in the form of CCDC 9B-2001; and,
 4. include all other documents as required by this Supplier with respect to payment requests.
4. NOT APPLICABLE. ~~The Contractor shall release the Holdback to the Supplier within ten (10) business days of receipt of same from the Owner, provided however that:~~
 1. ~~the Supplier has completed, corrected and rectified all Defects;~~
 2. ~~the Supplier has submitted to the Contractor a holdback request, together with all necessary documentation in relation to the Supply Work;~~
 3. ~~the Contractor is satisfied that no further claims for lien can be claimed in respect of the Supply Work;~~
 4. ~~all other requirements of the lien legislation applicable to the Project relating to the release of holdbacks have been satisfied; and~~
 5. ~~any and all liens have expired or have been satisfied, vacated, discharged or withdrawn in accordance with the lien legislation applicable to the Project.~~
5. No certificate given or payment made under this Supply Agreement shall be evidence of the performance of this Supply Agreement, either wholly or in part, and notwithstanding receipt of any certificate, no payment shall be construed to be an acceptance of defective

work or improper materials.

6. The Supplier shall pay all taxes, custom duties and other fees in relation to this Supply Agreement. Where any exemption or recovery of such taxes or duties under this Supply Agreement is available, the Supplier shall provide the Contractor with all reasonable assistance required to facilitate such exemption or recovery and the monies recovered shall accrue to the benefit of the Contractor.
7. The Supplier acknowledges that the Supply Agreement Price is exclusive of HST or GST as applicable.
8. The Contractor may withhold from payments otherwise due to the Supplier any amounts in respect of Defects in the Supply Work.

4.00 Insurance

- ~~7. The Supplier shall at its sole cost and expense, procure and maintain in force for the duration of the Project, insurance, including comprehensive general liability insurance as detailed in Schedule 'I' attached hereto. in an amount of \$5,000,000 per occurrence with insurers acceptable to the Contractor. All such insurance policies and certificates of good standing shall name as additional insureds the Contractor and the Owner.~~

5.00 Disputes

1. If a dispute arises in relation to this Supply Agreement (a "Dispute") in respect of a matter which involves the Owner, the Dispute shall be determined in accordance with the applicable dispute resolution provisions of the Prime Contract. In other instances if a dispute arises between the Contractor and Supplier, which does not properly involve the Owner the parties shall make reasonable efforts to negotiate a resolution of such dispute, and failing resolution, the parties may refer the dispute to the Courts in the jurisdiction where the Supply Work is performed or to any other form of dispute resolution, including arbitration, which the Contractor and Supplier agree to use.

6.00 Changes to the Supply Work

1. The Supplier acknowledges the respective rights of the Owner and the Contractor to order changes and variations to the Supply Work (a "Change"). The Supplier shall not perform a Change without prior written approval of the Contractor.
2. For any Change which involves the Owner, the Change shall be governed by the applicable change or variation provisions of the Prime Contract. The Supplier shall not be entitled to any increase in the Supply Agreement Price or extension of the Supply Agreement Time except to the extent that the Owner has agreed in writing to additional compensation or extension of time with respect to the Supply Work.
3. For any Change which does not involve the Owner or the approval of the Owner, the Supplier acknowledges that it will be governed by the same provisions regarding changes in the Supply Agreement as apply to the Contractor under the Prime Contract.
4. For all Changes, the Supplier shall provide an estimate with sufficient detail in a timely fashion to the Contractor, including a complete breakdown of labour, materials and equipment required to perform the Change to allow review and verification by the Contractor, and by the Consultant and Owner where their approvals are required.



7.00 Warranty and Testing

1. The Supplier represents, warrants and covenants that the Supply Work shall: conform to the requirements of the Supply Agreement, the Prime Contract, good industry practice and applicable laws of the industry in the jurisdiction of the Supply Work; be free of defects, errors and omissions ("Defect"); and all Supply Work including materials and equipment furnished under this Supply Agreement shall be new and of good quality and in accordance with the Supply Agreement requirements.
2. The Supplier shall remove, correct, rectify, replace, repair or otherwise make good, at its sole cost and expense:
 1. all Defects discovered (a) during the warranty period set out in the Prime Contract; or (b) during the one (1) year period commencing on the date of the final certificate for payment under this Supply Agreement; whichever period expires last; and,
 2. all Defects that could not reasonably have been ascertained by a competent person in accordance with good industry practice during a visual inspection of the Supply Work at the time the Supply Work was completed (a "Latent Defect"), provided that the Latent Defect is discovered within the time frame applicable to such Latent Defect pursuant to any limitations legislation applicable to the Project,
 3. all Defects resulting from material testing by qualified technicians, and as such that the material testing shows a Defect explicitly in nonconformance with the Project specifications as included under the Prime Contract and Schedule 'A'.including making good any other work or property damaged or destroyed by such rectification (collectively the "Rectification Work")
5. The Supplier further acknowledges that rejected Supply Work including materials and equipment, shall be returned at the Supplier's expense, no partial shipments will be accepted unless agreed upon by the Contractor and the Contractor reserves the right to return to the Supplier at the invoice price all items which are regularly carried in the Supplier's stock and are not used by the Contractor.
6. During the warranty period provided by the Prime Contract (the "Warranty Period"), the Supplier shall at its expense correct all Defects
7. In addition to the obligation to correct Defects during the Warranty Period, the Supplier shall at its expense correct Defects that could not reasonably have been ascertained by a competent person in accordance with good industry practice during a visual inspection of the Supply Work ("Latent Defects"), provided the Contractor gives written notice of the Latent Defect within the time frame applicable to such Latent Defect pursuant to the applicable limitations legislation in the jurisdiction of the Project.

8.00 Supplier Default and Termination

1. The Supplier shall be in default of this Supply Agreement ("Supplier Default") if:
 1. the Supplier becomes insolvent or bankrupt; if it makes an assignment for the general benefit of its creditors; if it has been unable or has admitted to its inability to pay its debts as they become due; if it has a trustee, liquidator, receiver or an interim receiver appointed to its assets or any part thereof; or if it commits an act of bankruptcy;



2. the Supplier fails to perform the Supply Work in accordance with this Supply Agreement, including Section 1.00 GENERAL CONDITIONS;
 3. the Supplier makes any representation or warranty herein that is in any way false or misleading when made, that has or will have at any time a material adverse effect on the performance of the Supply Work or the Contractor's work under the Prime Contract; or
 4. any act or omission of the Supplier that has or may at any time contribute to a breach or default by the Contractor under the Prime Contract;
3. If a Supplier Default occurs, the Supplier will have three (3) calendar days to correct the Supplier Default or commence correction of the Supplier Default in accordance with a schedule agreed to by the Contractor. In the event that the Supplier fails to correct the Supplier Default in the specified time or in accordance with the agreed upon schedule, the Contractor may take any corrective action it deems appropriate in its sole discretion, including correcting the Supplier Default, deducting reasonable compensation from the Supply Agreement Price under this Supply Agreement and/or terminating this Supply Agreement.
 4. If the Prime Contract shall be terminated in whole or in part for any reason whatsoever, the Contractor may, by written notice to the Supplier, terminate this Supply Agreement to the extent that performance is not required due to the entire or partial termination of the Prime Contract.
 5. Upon termination of this Supply Agreement, the Contractor shall only be liable to pay for that portion of the Supply Work actually performed by the Supplier as at the date of termination
 6. Upon receipt of notice of termination, the Supplier shall transfer to the Contractor such part of the Supply Work as has been procured and deliver all documents, manuals, warranties and other project documentation available as of the termination date relating to the design, construction, performance and completion of the Supply Work.

9.00 Liability and Indemnification

1. The Supplier shall indemnify and hold harmless the Owner, the Contractor and the Consultant, their agents and employees (the "Indemnified Persons") from and against any and all claims, demands, losses, costs, damages, actions, suits, or proceedings (collectively called "Claims"), which may be suffered, sustained, incurred or brought against them as a result of any one or more of the following:
 1. any failure to perform the Supply Work in accordance with the Schedule;
 2. any physical loss or damage to all or any assets, equipment, property, or part of the site, the Supply Work or the Project;
 3. any breach of a representation or warranty by the Supplier;
 4. any contamination on, in or under, or migrating to or from the site, to the extent that such contamination is caused or contributed to by the Supplier or any Sub-Suppliers;
 5. any claim that the Supply Work infringes a third-party intellectual property right;



6. the death or injury of any person; or
7. any other loss or damage of any third party

In each case arising directly or indirectly out of, or in consequence of, or relating to the performance or any breach of this Supply Agreement by the Supplier, or any act or omission of the Supplier or its Sub-Suppliers.

4. The Supplier shall indemnify and save harmless the Indemnified Persons from and against any and all direct losses which may have been suffered, sustained, incurred or brought against them as a result of or in relation to any: breach of a representation or warranty by the Supplier; any claim that the Supply Work infringes a third-party intellectual property right, or any contamination on, in or under, or migrating to or from the site, to the extent that such contamination is caused by the Supplier or any Sub-Suppliers.
5. Except where arising from the negligence or willful misconduct of the Contractor, the Contractor shall have no responsibility for the Supply Work, including Supplier's materials and property, and the Contractor shall not be liable for any loss, damage or destruction thereto, including loss, damage or destruction due to vandalism, theft or any act of a third party.

10.00 Safety

1. The Supplier shall comply with any and all health and safety policies, plans and instructions of the Contractor, and keep the site, the Supply Work and the Project in a safe and orderly state in accordance with good industry practice, and comply with all applicable laws relating to health and safety.


11.00 Assignment

1. The Supplier acknowledges and agrees that this Supply Agreement shall be assignable by the Contractor in accordance with the Prime Contract.
2. The Supplier shall not assign or delegate this Supply Agreement or any of the Supplier's obligations hereunder without the prior written consent of the Contractor.
3. This Supply Agreement shall ensure to the benefit of and be binding on the parties and their respective heirs, executors, administrators, personal representatives, successors and permitted assigns.

12.00 Setoffs

1. With respect to any and all amounts which may at any time be owing by the Supplier to the Contractor, including any amounts which may at any time be paid or incurred by the Contractor for or on behalf of the Supplier and which are the Supplier's responsibility, the Contractor shall have the right to set-off the sums as paid or incurred by the Contractor, against any monies otherwise payable or indebtedness to the Supplier under this Supply Agreement or under any other agreement between or binding upon the Contractor and the Supplier or any of their respective affiliates or related companies.

13.00 Confidentiality

1. Except as authorized hereunder, the Supplier shall hold in confidence and not disclose and 

not permit any person any manner of access to any confidential or proprietary information which is supplied or made available to it prior to or after the date of this Supply Agreement, except to the extent necessary to enable the Supplier to perform the Supply Work. These obligations shall survive termination of this Supply Agreement for a period not less than three (3) years from the termination of the Prime Contractor such longer period specified in the Prime Contract.

14.00 Transfer of Title

1. Title to all goods, site materials, supplies, equipment and other tangible personal or corporeal movable property acquired by the Supplier and incorporated into, installed or permanently affixed to real or immovable property comprising part of the Project or the Supply Work, but not the risk of loss or damage or destruction thereto, will pass to the Owner as (and not before) the time the relevant items are received on the Project. All Supply Work, as and when it is carried out, shall become the property of the Owner. The Supplier shall retain title of all of its property used in connection with the Supply Work and not intended or required under the Supply Agreement to be incorporated in the Project.
2. The Supplier acknowledges, represents, warrants and covenants that all labour, goods, site materials, Products, supplies and equipment used in the Supply Works shall be free and clear of all encumbrances and claims.

15.00 Miscellaneous

1. The law of the jurisdiction in which the Project is located shall govern this Supply Agreement or as otherwise specified in the Prime Contract.
2. The Supplier agrees to comply with all laws, regulations, rules, codes and ordinances, whether federal, provincial, municipal, or otherwise, including rates of wages and hours of labour for its employees, and agrees to comply with all requirements that affect the Project, the Owner, or the Contractor.
3. If any term of this Supply Agreement is invalid or unenforceable under any statute, regulation, ordinance, order or other applicable law or rule of law, that term shall be deemed modified or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, order, applicable law or rule, and the remaining provisions of this Supply Agreement shall remain in full force and effect.
4. The failure of either party at any time to require performance by the other party of any provision of this Supply Agreement shall in no way affect the right to require performance at any time thereafter, nor shall the waiver of either party of a breach of any provision of this Supply Agreement constitute a waiver of any succeeding breach of the same or any other provision.
5. Descriptive headings of Sections are inserted solely for convenience of reference and are not intended as complete or accurate descriptions of the content of such Sections and as such shall not affect the construction or interpretation of this Supply Agreement. Words expressed in the singular include the plural and vice-versa and words in one gender include all genders. Where the words "including" or "includes" appear in this Supply Agreement, they mean "including without limitation" or "includes without limitation" respectively. The words "herein", "hereof", "hereby" and "hereunder" and similar



expressions refer to this Supply Agreement as a whole and not to any particular portion of it and references to a Section or subsection refer to the applicable Section or subsection of this Supply Agreement.

6. Each party acknowledges that prior to execution of this Supply Agreement, it has read this Supply Agreement, has had the opportunity to be advised by an independent legal advisor if it so desired, and that it understands and agrees to be bound by this Supply Agreement.
7. This Supply Agreement, including the Supply Documents, constitutes the entire agreement between the Supplier and the Contractor with respect to the matter contained herein and supersedes all prior oral or written representations, conditions and agreements. This agreement may only be modified by a written agreement duly executed by the Supplier and the Contractor.
8. This Supply Agreement may be executed in any number of counterparts. A party may send a copy of its executed counterpart to each other party in PDF format instead of delivering a signed original of that counterpart. Each executed counterpart (including each copy sent in PDF format) will be deemed to be an original; all executed counterparts taken together will constitute one agreement.

Schedule 'A' - Scope of Work and Trade Specific Documents;
Schedule 'B' - Supplementary Conditions
Schedule 'D' - QC Requirements
Schedule 'E' - Road Use Agreement
Schedule 'F' - Delivery Schedule
Schedule 'I' - Insurance Requirements

IN WITNESS WHEREOF the parties hereto have executed this Supply Agreement as of the day and year first above written.

SIGNED, SEALED AND DELIVERED
In the presence of

Contractor - EllisDon Industrial Inc.

Supplier - JMB Crushing Systems

Signature of signing officer

Jason Panter
Signature of signing officer

Name and Title

JASON PANTER PROJECT MANAGER
Name and Title

Signature of witness

Chad Miller
Signature of witness

Name and Title

Chad Miller/operation manager
Name and Title

DATE -

DATE - July 11/19

SCHEDULE 'A'
Scope of Work and Trade
Specific Documents

The Scope of work shall compromise the following:

- 1) Supply aggregates based on specifications, attached hereunder this Agreement, providing quality results;
- 2) Supply and delivery of aggregates, as per:
 - a. Contractor's Schedule, attached hereto in Schedule 'F'
 - b. Sturgeon County allowable haul times as per Road Use Agreement attached hereto Schedule 'F'
- 3) Quantities shown herein shall not be exceeded without further Contractor approval.
- 4) Weather permitting, Supplier will supply and deliver in the range of 5,000 to 6,000 metric tonnes of product per day, as required. For further clarification this is a sum total of all types of Product to be within that range, not individually counted.
- 5) If inclement weather delays deliveries for any period of time resulting in Project delays, Contractor may reasonably request an increase in deliveries to go up to as much as 8,000 metric tonnes per 24 day.

Material	Rates (Metric Tonnes)	"Not to Exceed" Quantity (Metric Tonnes)
Gravel - Designation 4 Class 20	\$24.23/tonne	***170,355MT
Gravel - Designation 2 Class 20	\$24.45/tonne	***170,355MT
Gravel - Designation 4 Class 40 & Designation 6 Class 80	\$24.20/tonne	216,530MT
Bedding Sand	\$17.37/tonne	27,110MT
Pea Gravel	\$33.50/tonne	1,255MT
20mm Drain Rock	\$35.40/tonne	100MT
20mm Insulating Rock	\$44.00/tonne	Unknown
Class M1 Rip Rap	\$67.00/tonne	1,720MT
Clay Fill	\$25.00/tonne	11,000MT
Common Fill	\$19.95/tonne	11,000MT

Unit Rates include,

- I. Site specific safety requirements;
- II. Travel time, including on-site travel time;
- III. Identification placards for Supplier's delivery trucks; and,
- IV. On-site conveyance and Delivery time.

SCHEDULE 'B'
Supplementary Conditions

The Supplementary Conditions take precedence over Terms and Conditions in this Supply Agreement and any submittals, versions, or revisions of Supplier quotations.

- 1) Delivery of materials to the Project site shall be in accordance with laws enforced by local government authorities,

Sturgeon County Haul time allowance:

- I. Monday to Friday
6:00 to 20:00
 - II. Saturday, Sunday and Holidays
8:00 to 16:00
- 2) Supplier shall act in accordance with Sturgeon County Road Restrictions of **"NO LEFT Turns"** across Highway 643 to and from Range Road 221 and Range Road 222.
 - 3) As per General Condition 1.2, Supplier shall provide documentation displaying data from sieve and proctor testing for approval before Supply Work begins. These requirements are more particularly described in Schedule 'D' attached hereto.
 - 4) Daily Tickets need to be checked/verified by Contractor staff and carbon copies provided daily. Invoices will be reconciled with signed daily tickets ONLY. Purchase Order, Date and time to be included.
 - 5) Contractor shall be able to spot check trucks for weights at any given time at no additional cost.
 - 6) If Supplier is unable to meet the terms, conditions and schedules of the Supply Agreement, Contractor has right obtain additional supply, without change in unit pricing.
 - 7) Alberta Sand and Gravel Association numbers will be provided each day to Contractor.
 - 8) Interim processing payment will not be part of Contractor's payment terms.
 - 9) Contractor will supply use of washroom facilities for Supplier personnel.

Safety

- 1) Supplier will be required to provide evidence of pre-access drug and alcohol testing for all personnel providing aggregate deliveries to the Project site.
- 2) Project Specific Orientation of up to 2 hours is included in pricing
- 3) For purposes of Project safety, and good practice, Supplier shall label all delivery trucks by installing placards displaying identification numbers and symbols.
- 4) Supplier to provide Safety Plan required prior to hauling, to include,
 - I. Supplier's delivery supervisor to be provided for to manage the haul in a safe and responsible manner;
 - II. Spill Kits & Fire Extinguishers provided for all trucks;
 - III. Supplier process for employees to exit trucks; and
 - IV. Supplier process for employees to clean trucks



Schedule 'D'
Quality Requirements

- 1) Supplier will provide quality control testing for each product, including,
 - I. Initial sieve & proctor testing results and documentation prior to the onset of the Supply Work; and,
 - II. Interim sieve & proctor testing results and documentation at the request of the Contractor.
 - III. Such documents as described in this Schedule and provided by the Supplier shall be attached hereto.
- 2) Supplier will provide weigh scale calibration certification prior to the onset of the Supply Work.
- 3) Supplier will allow access to aggregate facilities for Contractor to obtain samples for testing.
- 4) Contractor shall furnish third party testing for all products from time to time.
- 5) Contractor, at the request of the Owner or Engineer, shall furnish third party testing for all products from time to time.



Schedule 'F'
Supply Schedule

Material Type	Expected Delivery Date	Note	Daily Quantity Demand
Subbase	24-Jun-19	Trailer Area	1200 MT
Base	25-Jun-19	Trailer Area	1200 MT
Subbase	9-Sep-19	Road and Laydown	2500 - 6000 MT (complementary with base)
Base	12-Sep-19	Road and Laydown	2500 - 6000 MT (complementary with sub-base)
Washed Rock	30-Aug-19	Storm Pond	TBD (<50MT)
Sand	29-Aug-19	Piping Installation	320 MT (peak up to 900 MT/day in early September)
Pea Gravel	30-Aug-19	Storm Pond	100 MT/day
Rip Rap	12-Jul-19	Culvert Installation	50 MT/day, (peak up to 400 MT/day in mid September)

THIS IS EXHIBIT "B" REFERRED TO IN
THE AFFIDAVIT OF JEFF BUCK
SWORN BEFORE ME
THIS 28th DAY OF MAY, 2020.

A Commissioner of Oaths and Notary Public
in and for the Province of Alberta



Payments by EllisDon to Subcontractors in respect of registered liens

Subcontractor	Amount Paid
1223209 Alberta Ltd. (TJ Sagoo Transport)	\$857,165.05
1360706 AB Ltd. o/a BSB Transport	\$220,720.00
G & K Transport Ltd.	\$51,954.15
G & S Gill Trucking Ltd.	\$326,120.54
J S Trucking Ltd.	\$474,595.78
Manvir Transport Ltd.	\$51,621.34
Rai Carrier Transport Ltd.	\$159,326.62
Shamrock Valley Enterprises Ltd.	\$223,371.86
TOTAL	\$2,364,875.34

