

THIS AGREEMENT made this _____ day of October, 2023.

B E T W E E N:

**HIS MAJESTY THE KING in right of the Province of Ontario as
represented by the Minister of Transportation
(hereinafter referred to as the "Ministry" or "MTO")**

- and -

**The Corporation of the County of Essex
(hereinafter referred to as the "County")**

Individually a "**Party**" and collectively the "**Parties**"

WHEREAS:

- A. The Ministry is proceeding with the expansion of King's Highway 3 from 1.1 km east of Arner Townline (Essex Road 23) easterly to 1.1 km east of Union Avenue (Essex Road 34) situated in the Town of Kingsville and within the County of Essex as illustrated in Schedule 'A' and as set out in Schedule 'B' attached to this Agreement (the "**MTO Project**").
- B. The MTO Project includes various municipal improvements set out in Schedule 'B', 'C', 'D', and 'E' attached to this Agreement, which shall, upon completion and acceptance by the County, fall within County Jurisdiction, at which point, subject to the Warranty Period, the County shall become solely responsible for the ongoing maintenance, repair and rehabilitation of such municipal improvements (the "**County Works**").

NOW THEREFORE in consideration for the terms and conditions of this Agreement and the sum of Ten Dollars (\$10.00) of lawful money of Canada paid by each of the Parties to the other, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

DEFINITIONS

1. In addition to those words and terms elsewhere defined in this Agreement, in this Agreement:

"Business Day" means any day other than a Saturday, a Sunday, a statutory holiday in the Province of Ontario or any day on which banks are not open for business in the City of Toronto, Ontario.

"County Jurisdiction" shall mean the lands, roads, and side roads that are owned and maintained by the County, or are otherwise within the County's jurisdiction and control, that fall within the limits of the MTO Project, including:

- a. Essex Road 27 (Belle River Road)
- b. Essex Road 29 (Division Road)

- c. Essex Road 18
- d. Essex Road 34 (Union Avenue)

“**Design**” shall mean the detailed engineering design of the MTO Project which shall conform to the criteria and standards set by the Ministry.

“**Highway 3**” means that portion of the MTO right-of-way Highway Number 3, in the Town of Kingsville, County of Essex.

“**Project Co**” shall mean the entity retained by the Ministry to complete the Design and to construct the MTO Project through the RFP.

“**RFP**” means RFP No. 21-165 which is the request for proposals for the Design and construction of the MTO Project, issued on December 3, 2021, as amended from time to time.

“**Warranty Period**” shall have the meaning ascribed to it in section 16 of this Agreement.

PROCUREMENT

1. The Ministry is in the process of procuring a Project Co to undertake and complete the Design and construction of the MTO Project.

DESIGN AND REVIEW

2. The Design of the County Works shall conform to and meet the design standards set out in the RFP.
3. The Ministry will provide the Design of the County Works, and/or design submissions in respect of the County Works, to the County.
4. The County shall review the Design of the County Works, or the design submission in respect of the County Works as applicable and shall provide any comments to the Ministry within fifteen (15) Business Days.
5. If the County requires additional time to conduct its review, the County shall, as soon as reasonably possible, notify the Ministry and shall specify the additional time required. The County acknowledges that any additional time required for its review may negatively impact the MTO Project schedule and that the provision of additional review time is therefore at the sole and absolute discretion of the Ministry.
6. If requested by the Ministry, the County shall promptly meet with the Ministry and its representatives in order to efficiently resolve any County comments so as to not negatively impact the MTO Project schedule.
7. If the County and the Ministry cannot resolve a County comment relating to a Design component in respect of the County Works, and if the subject component is or becomes a critical path item such that any further delay may result in a claim against the Ministry, the Ministry may, in its sole and absolute discretion, proceed with the construction of the subject component in accordance with the standards set out in the RFP.

CONSTRUCTION AND ADMINISTRATION

8. As between the County and the Ministry, the Ministry shall be responsible for, and shall administer the MTO Project, including the County Works and any necessary utility relocations, at the Ministry's sole expense without cost to the County.
9. The County hereby permits, and shall at all times necessary for the MTO Project, permit the Ministry, including its servants, agents, employees, assignees, contractors, and subcontractors, to access and enter upon the County's lands, roads, sideroads, and right-of-way until the completion of the MTO Project, and for the duration of any warranty and maintenance periods applicable to the County Works that may be set out in the RFP.
10. The Ministry shall work amicably with the County to allow the County to complete any work within County Jurisdiction, or otherwise within the MTO Project, limits that the County wishes to undertake. The County acknowledges that the MTO Project has priority over such works and shall at all times ensure that any such work does not interfere with or impede the MTO Project or Project Co. The County shall provide thirty (30) calendar days' notice prior to commencing any such work. Notwithstanding the foregoing, should the County require emergency work to be completed on any work within the County Jurisdiction within the MTO Project limits, the Ministry will take all reasonable steps to provide the County with the required access to complete the necessary emergency work.
11. For any closure of any road or side road within County Jurisdiction, the Ministry shall cause to be provided a Traffic Disruption Notice which shall include: (i) notice number; (ii) revision number; (iii) date; (iv) type of disruption; (v) location; (vi) area(s) affected; (vii) start date/time; (viii) end date/time; (ix) details regarding the purpose of the closure; and (x) the emergency contact from Project Co.
12. At all times throughout the duration of this Agreement and/or the MTO Project, the County shall continue to be responsible for, and shall provide municipal services in respect of the roads and side roads falling within County Jurisdiction including without limitation snow removal, de-icing, garbage pickup, etc. The Ministry shall cause Project Co to work with the County to facilitate a road maintenance turnover.
13. The Ministry shall cause Project Co to resolve any liens arising on the MTO Project and to assume all obligations for occupational health and safety for the MTO Project. The Ministry shall, or shall cause Project Co, to inform the County in writing, of any incident resulting in personal injury and/or property damage occurring within County Jurisdiction or in respect of the County Works within twenty-four (24) hours after the occurrence of the incident.
14. The Ministry shall advise the County of any changes to the County's road network that would require County Council approval by the County, such as new traffic control devices, speed limit changes, no-parking zones, etc., and shall provide a report outlining the rationale for same.
15. Upon completion of the County Works, the Ministry shall provide notice to the County. The County shall inspect the County Works and shall within thirty (30) calendar days of the date of notice from the Ministry, or such other time as may be agreed to by the Parties acting reasonably, provide written notice to the Ministry setting out any defects or deficiencies in the construction of the County Works identified by the County. The Ministry shall cause Project Co to promptly correct such defects or deficiencies to the satisfaction of the County acting reasonably, at which point the County shall accept the County Works and, subject to section 16 of this Agreement,

the County shall thereafter be solely responsible for the operation, ongoing maintenance, repair, and rehabilitation of the County Works.

16. For any defects or deficiencies identified by the County that appear during the twelve (12) months following the County's acceptance of the County Works (the "**Warranty Period**"), or such longer period that may be applicable for certain specified materials or components, the Ministry shall cause Project Co to submit a comprehensive repair proposal, which shall include traffic control measures if appropriate, to the County within fifteen (15) Business Days. The Ministry shall cause Project Co to promptly correct, at no cost to the County, such defects, or deficiencies in the construction of the County Works.
17. Subject to the correction of any defects or deficiencies identified during the Warranty Period, at the expiration of the Warranty Period, the County shall release the Ministry from all claims, actions, causes of actions, demands for damages, loss, or injury, howsoever arising in respect of the County Works.

LAND OWNERSHIP AND TRANSFER

18. The Ministry has ownership of certain lands that will be used for the County Works. It is the intention of the Parties that the Ministry will identify the lands it wishes to transfer to the County within six (6) months of the expiration of the Warranty Period. After the expiration of the Warranty Period, if there remain any lands which the Ministry have ownership of and that County Works are located on, the County may continue to access and use the said lands, and the Parties will negotiate and enter into an easement agreement to provide for access to the County.

GENERAL PROVISIONS

19. This Agreement shall be governed by the laws of the Province of Ontario and any applicable federal laws of Canada.
20. Notices under this Agreement shall be in writing and sent by personal delivery, facsimile transmission ("Fax") or by registered mail. Notices by registered mail shall be deemed to have been received on the fourth business day after the date of mailing. Notices by personal delivery or by Fax shall be deemed to have been received at the time of the delivery or transmission, unless delivered or transmitted on a weekend or holiday, in which case such notice shall be deemed to have been received on the next business day. In the event of an interruption in postal service, notice shall be given by personal delivery or by Fax. The address, contact person and Fax of the Parties under this Agreement, unless otherwise noted is:
21. The address of the Ministry for notice under this Agreement is:

Mr. Michael Nadeau, P.Eng.
Manager, Engineering Program Delivery West
Transportation Infrastructure Management Division
Ministry of Transportation Ontario
659 Exeter Road, London, Ontario, N6E 1L3
Telephone: (519) 873-4373

22. The address of the County for notice under this Agreement is:

Allan Botham
County Engineer, Director - Infrastructure & Planning Services
The Corporation of the County of Essex
360 Fairview Avenue West
Essex, Ontario N8M 1Y6
(T) 519-776-6441 ext. 1397
(E) abotham@countyofessex.ca

23. The County warrants that it has taken all necessary steps, done all acts, passed all by-laws, and obtained all approvals required to give the authority to enter into this Agreement.

24. The County acknowledges and agrees that except as specifically set out in the Agreement, the Ministry shall not be responsible in any way whatsoever to the County for any loss of use or damages, loses, or injuries, whether in law or in equity, arising out of or in connection of the MTO Project.

25. Any amendments to this Agreement shall be in writing and executed by the Parties.

26. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements. This Agreement shall be governed by the laws of the Province of Ontario and any applicable federal laws of Canada.

THIS AGREEMENT shall ensure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF contained in this Agreement.

SIGNED this _____ day of _____, 20_____.

**HIS MAJESTY THE KING in right of the
Province of Ontario, represented by the
Minister of Transportation for the Province
of Ontario**

Director, Design and Engineering Branch

SIGNED AND SEALED this _____ day of _____, 20_____.

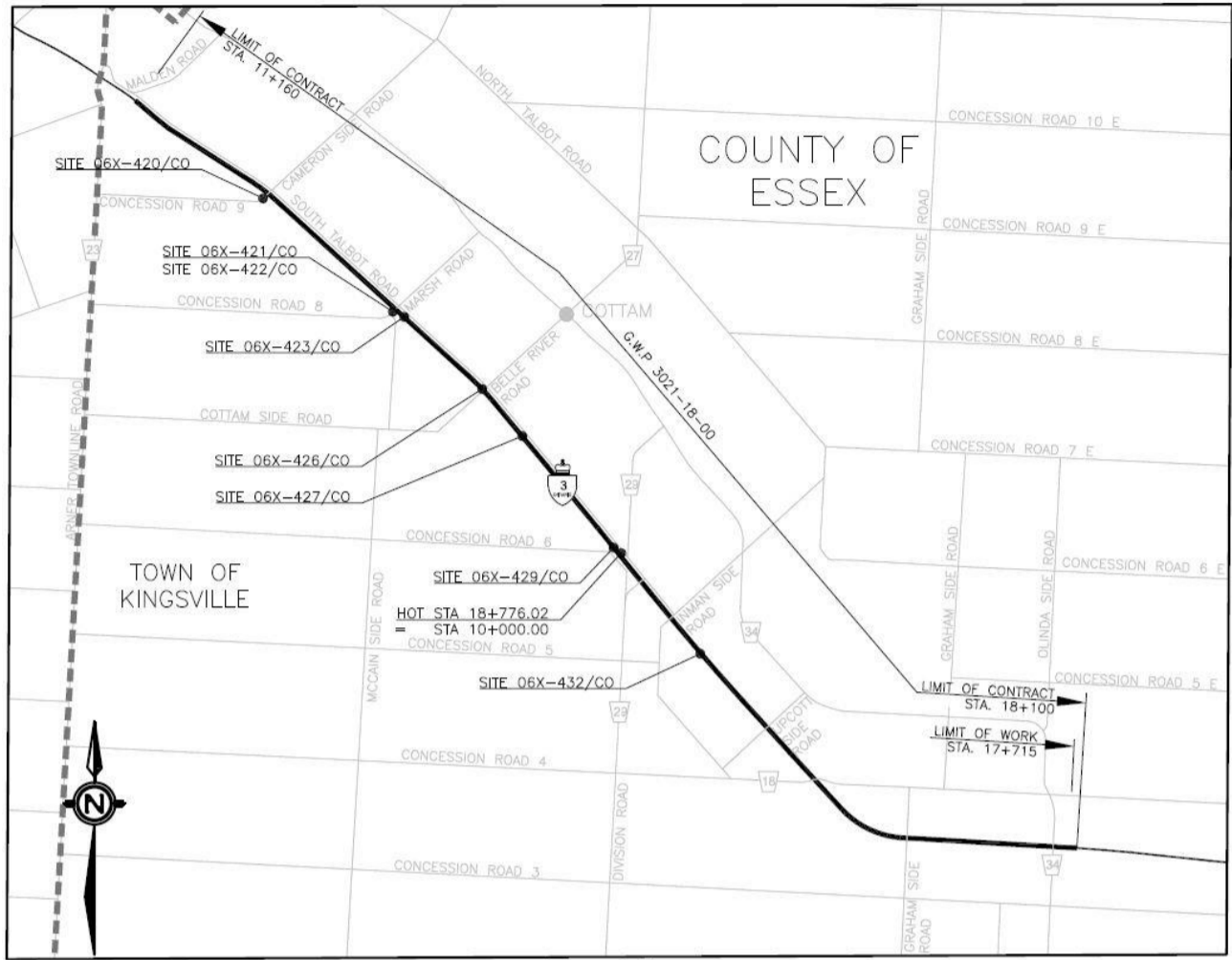
The Corporation of the County of Essex

Hilda MacDonald, Warden

Mary Birch, Clerk

SCHEDULE 'A' – HIGHWAY 3 PHASE 3 CONTRACT 2 KEY PLAN

To an Agreement between the Ministry and the Corporation of the County of Essex



SCHEDULE 'B' – MTO PROJECT AND COUNTY WORKS

To an Agreement between the Ministry and the Corporation of the County of Essex

The MTO Project, which includes the County Works, and which includes certain works that are, or will be, owned and maintained by the Town of Kingsville, is comprised of the following scope:

- Widening Highway 3 to four lanes with a 15 m depressed grass median. The project will tie into the four-lane section being built as part of Phase 3 Contract 1 at 1.1 km east of Arner Townline (Essex Road 23) and extend easterly to 1.1 km east of Union Avenue (Essex Road 34).
- Access to and from Highway 3 at Cameron Side Road shall be removed. The existing Cameron Side Road pavement between Highway 3 and South Talbot Road shall be removed. The remaining platform shall be regraded and covered with topsoil and seed. The intersection of Cameron Side Road and South Talbot Road shall remain open as a 3-leg stop-controlled intersection.
- Access to and from Highway 3 at Concession Road 9 shall be removed and a cul-de-sac shall be constructed south of the MTO right-of-way. The existing Concession Road 9 pavement between Highway 3 and the new cul-de-sac shall be removed. The Concession Road 9 crossing culvert shall be removed, and the lands will be regraded and covered with topsoil and seed, such that there is open drainage into the municipal drain.
- Access to and from Highway 3 at Marsh Road shall be removed. The existing Marsh Road pavement between Highway 3 and South Talbot Road shall be removed. The remaining platform shall be regraded and covered with topsoil and seed. The intersection of Marsh Road and South Talbot Road shall remain open as a 3-leg stop-controlled intersection.
- Access to and from Highway 3 at Concession Road 8 shall be removed. The intersection of Concession Road 8 and McCain Side Road shall be removed and a curve connection between Concession Road 8 and McCain Side Road shall be constructed. The existing Concession Road 8 pavement between Highway 3 and the new Concession Road 8/McCain Side Road connection shall be removed. The Concession Road 8 crossing culvert shall be removed, and the lands will be regraded and covered with topsoil and seed, such that there is open drainage into the municipal drain.
- Access to and from Highway 3 at Belle River Road (Essex Road 27) shall be signalized.
- Access to and from South Talbot Road at Belle River Road (Essex Road 27) shall be removed. South Talbot Road shall be realigned east and west of Belle River Road to intersect with Belle River Road approximately 215 m north of Highway 3. The intersection shall be stop controlled on South Talbot Road. Driveway accesses shall be provided to old South Talbot Road for the existing utility maintenance.
- Access to and from Highway 3 at Division Road (Essex Road 29) shall be signalized.
- Division Road (Essex Road 29) shall be extended northerly to approximately 215 m north of Highway 3, turn 90° and continue southwesterly to connect to existing Division Road west of existing South Talbot Road.

- Access to and from South Talbot Road from Division Road (Essex Road 29) west of the Highway 3 and Division Road (Essex Road 29) intersection shall be closed and a new connection road shall be designed and constructed to intersect with the new Division Road (Essex Road 29) with South Talbot Road being stop controlled. The concrete box culvert at the existing South Talbot Road and Division Road (Essex Road 29) intersection shall remain. Driveway accesses shall be provided to old South Talbot Road for the existing utility maintenance.
- An Unnamed Road shall be constructed between the 90° turn of the Division Road (Essex Road 29) extension north of Highway 3 to Inman Side Road. The intersection of Division Road (Essex Road 29) and the Unnamed Road shall be 3-way stop controlled. The intersection of the Unnamed Road and Inman Side Road shall be stop controlled on the Unnamed Road.
- Access to and from South Talbot Road from Division Road (Essex Road 29) east of the Highway 3 and Division Road (Essex Road 29) intersection shall be removed. A cul-de-sac shall be designed and constructed on South Talbot Road approximately 115 m east of Division Road (Essex Road 29).
- Access to and from Division Road (Essex Road 29) from Concession Road 6 shall be maintained.
- Access to and from Highway 3 at Inman Side Road shall be removed. The existing Inman Side Road pavement between Highway 3 and Inman Side Road shall be removed. The remaining platform shall be regraded and covered with topsoil and seed. The intersection of Inman Side Road and South Talbot Road shall remain open.
- Access to and from Highway 3 at South Talbot Road shall be removed and a cul-de-sac shall be constructed south of the MTO right-of-way. The existing South Talbot Road pavement between Highway 3 and the new cul-de-sac shall be removed. The remaining platform shall be regraded and covered with topsoil and seed.
- Access to and from Highway 3 at Upcott Side Road shall be removed. A cul-de-sac shall be constructed on the north and south side of Highway 3, outside of the MTO right-of-way. The existing Upcott Side Road pavement north and south of Highway 3 shall be removed between Highway 3 and the new cul-de-sac. The remaining platform north and south of Highway 3 shall be regraded and covered with topsoil and seed.
- Access to and from Highway 3 at Essex Road 18 shall be signalized.
- Essex Road 18 shall be realigned at Highway 3 and shifted approximately 30 m to the east.
- Access to and from Highway 3 at Graham Side Road shall be signalized.
- Access to and from Highway 3 at Union Avenue (Essex Road 34) shall be signalized.

SCHEDULE 'C' – STANDARDS TABLES

To an Agreement between the Ministry and the Corporation of the County of Essex

Standards Table: Essex Road 27 (Belle River Road)

Design Year: 2043	Superelevation Maximum Rate for Determining the Radius: 6 %		
	Present Conditions	Design Standards	Proposed Standards
Functional Highway Classification	RAU100	RAU100	RAU100
Minimum Stopping Sight Distance (m)	> 185	185	> 185
Crest: Minimum "K" factor for Stopping Sight Distance	N/A	60	N/A
Sag: Minimum "K" factor for Stopping Sight Distance	N/A	45	N/A
Grades Maximum (%)	2.2	6 – 8	1.0
Radius Minimum (m)	Tangent	450	Tangent
Lane Widths (m)	2 x 3.50	2 x 3.50	2 x 3.50 (through) 1 x 3.25 (left-turn lane)
Shoulder Width (Left / Right) (m)	2.00	2.50	2.50
Shoulder Rounding (m)	0.50	0.50	0.50
Median Width (m)	N/A	N/A	N/A
R.O.W. Width – nominal (m)	Varies	Varies	Varies
Posted Speed – prevailing (km/h)	80	80	80
Miscellaneous	N/A	N/A	N/A

Standards Table: Essex Road 29 (Division Road)

Design Year: 2043	Superelevation Maximum Rate for Determining the Radius: 6 %		
	Present Conditions	Design Standards	Proposed Standards
Functional Highway Classification	RCU80	RCU60	RCU60 (a)
Minimum Stopping Sight Distance (m)	265	85	91
Crest: Minimum "K" factor for Stopping Sight Distance	N/A	12	N/A
Sag: Minimum "K" factor for Stopping Sight Distance	N/A	18	N/A
Grades Maximum (%)	0.7	6 – 12	0.5
Radius Minimum (m)	120	130	120 (b)
Lane Widths (m)	2 x 3.50	2 x 3.50	2 x 3.50 (through) 1 x 3.25 (left-turn lane)
Shoulder Width (Left / Right) (m)	1.50	2.50	2.50
Shoulder Rounding (m)	0.50	0.50	0.50
Median Width (m)	N/A	N/A	N/A
R.O.W. Width – nominal (m)	Varies	Varies	Varies
Posted Speed – prevailing (km/h)	80	50	60 (a)
Miscellaneous	N/A	N/A	N/A

Standards Table: Essex Road 18

Design Year: 2043	Superelevation Maximum Rate for Determining the Radius: 6 %		
	Present Conditions	Design Standards	Proposed Standards
Functional Highway Classification	RCU80	RCU60	RCU60 (c)
Minimum Stopping Sight Distance (m)	89	85	87
Crest: Minimum "K" factor for Stopping Sight Distance	N/A	12	N/A
Sag: Minimum "K" factor for Stopping Sight Distance	N/A	18	N/A
Grades Maximum (%)	1.6	6 – 12	2.0
Radius Minimum (m)	82	130	130
Lane Widths (m)	2 x 3.50	2 x 3.50	2 x 3.50 (through)
Shoulder Width (Left / Right) (m)	2.00	2.50	2.50
Shoulder Rounding (m)	0.50	0.50	0.50
Median Width (m)	N/A	N/A	N/A
R.O.W. Width – nominal (m)	Varies	Varies	Varies
Posted Speed – prevailing (km/h)	80	50	60 (c)
Miscellaneous	N/A	N/A	N/A

Standards Table: Essex Road 34 (Union Avenue)

Design Year: 2043	Superelevation Maximum Rate for Determining the Radius: 6 %		
	Present Conditions	Design Standards	Proposed Standards
Functional Highway Classification	RAU100	RAU100	RAU100
Minimum Stopping Sight Distance (m)	> 185	185	> 185
Crest: Minimum "K" factor for Stopping Sight Distance	N/A	60	N/A
Sag: Minimum "K" factor for Stopping Sight Distance	N/A	45	N/A
Grades Maximum (%)	0.7	6 – 8	0.7
Radius Minimum (m)	Tangent	450	Tangent
Lane Widths (m)	2 x 3.75	2 x 3.50	2 x 3.50 (through) 1 x 3.25 (left-turn lane)
Shoulder Width (Left / Right) (m)	3.00	2.50	2.50
Shoulder Rounding (m)	0.50	0.50	0.50
Median Width (m)	N/A	N/A	N/A
R.O.W. Width – nominal (m)	Varies	Varies	Varies
Posted Speed – prevailing (km/h)	80	80	60 (d)
Miscellaneous	N/A	N/A	N/A

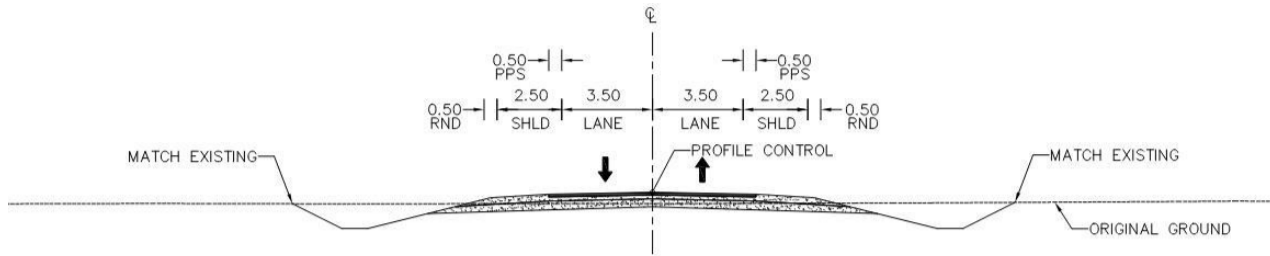
NOTES:

- a) The posted speed for Essex Road 29 (Division Road) is 80 km/h. Staff from Essex County support a RCU60 design and a posted speed reduction for Essex Road 29 (Division Road) to 60 km/h.
- b) The existing horizontal curve for Essex Road 29 (Division Road) at the south limits of the work will not be improved as part of this project.
- c) The posted speed for Essex Road 18 is 80 km/h. Staff from Essex County support a RCU60 design and a posted speed reduction for Essex Road 18 to 60 km/h to reflect the horizontal alignment approaching the Highway 3 intersection and to improve the operation of the intersection.
- d) Essex Road 34 (Union Avenue) is part of the old Highway 3 alignment. The posted speed for Essex Road 34 (Union Avenue) is 60 km/h within the project limits. The left-turn lane will be designed to RAU100.

SCHEDULE 'D' – TYPICAL ROAD SECTIONS

To an Agreement between the Ministry and the Corporation of the County of Essex

TYPICAL ROAD SECTIONS – COUNTY JURISDICTION:



ESSEX ROAD 27 (BELLE RIVER ROAD)
ESSEX ROAD 29 (DIVISION ROAD)
ESSEX ROAD 18

SCHEDULE 'E' – PAVEMENT DESIGN CRITERIA

To an Agreement between the Ministry and the Corporation of the County of Essex

Pavement Design Criteria – Sideroads and Local Roads		
Facility	Pavement Rehabilitation	Lane Widening / Reconstruction / New Alignment
Belle River Road (Essex Road 27)	Remove asphalt (full depth), regrade, add new Granular A as required, compact and pave 40 mm Superpave 12.5 FC 2 over 60 mm Superpave 19.0 and 60 mm Superpave 19.0	<u>Lane Widening:</u> Starting at the existing EP, excavate vertically to provide: 40 mm Superpave 12.5 FC2 60 mm Superpave 19.0 60 mm Superpave 19.0 450 mm Granular A
Division Road (Essex Road 29)	Profile milling for crossfall correction and pave 40 mm Superpave 12.5FC 2	<u>Lane Widening:</u> Starting at the existing EP, excavate vertically to provide: 40 mm Superpave 12.5 FC2 60 mm Superpave 19.0 60 mm Superpave 19.0 450 mm Granular A <u>New Alignment:</u> 40 mm Superpave 12.5 FC2 60 mm Superpave 19.0 60 mm Superpave 19.0 450 mm Granular A
Essex Road 18	N/A	<u>Reconstruction / Realignment:</u> 40 mm Superpave 12.5 FC2 60 mm Superpave 19.0 60 mm Superpave 19.0 450 mm Granular A
Union Ave (Essex Road 34)	Profile milling for crossfall correction and pave 40 mm Superpave 12.5 FC2	<u>Lane Widening:</u> Starting at the existing edge of pavement (EP), excavate vertically to provide: 40 mm Superpave 12.5 FC2 60 mm Superpave 19.0 70 mm Superpave 19.0 450 mm Granular A