

Tender Guideline

TOWN OF FORT FRANCES

“ _____ ” DIVISION

“TITLE”

TENDER NO. “ _____ ”

TENDER NO. “ _____ ”

“TITLE”

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Section I

TOWN OF FORT FRANCES

“ _____ ” DIVISION

CALL FOR TENDER

“TENDER TITLE”

Sealed Tenders clearly marked **“Tender No. _____”** will be received by the Corporation of the Town of Fort Frances (the “Town”) up to but not later than:

2:00 p.m. Local Fort Frances Time
Tuesday, **insert date**

After which time such Tenders will be opened publicly and read aloud at the Fort Frances Civic Centre, 320 Portage Avenue, Fort Frances, Ontario

Certain Tender Forms (“Tender Forms”) are required to be submitted. Please submit such completed Tender Forms to:

The Corporation of the Town of Fort Frances
Attention: Mr. Mark McCaig, Administrator
Town of Fort Frances
320 Portage Avenue
Fort Frances, Ontario
P9A 3P9
Fax: 1-807-274-8479

Information relating to this Tender, is available at the Information Desk, Fort Frances Civic Centre, 320 Portage Avenue, Fort Frances, Ontario

Please direct any questions regarding this tender to: (**specific department, contact person, phone number and facsimile**).

Lowest or any Tender not necessarily accepted. The Corporation of the Town of Fort Frances (the “Town”) reserves the right to reject any or all Tenders, to waive irregularities and informalities therein, and to award the contract in the best interest of the Town in its sole and unfettered discretion. Tender award has to be approved by Council. See Tender information, Tender Forms and other Tender documents, for all terms, conditions and requirements.

SECTION 2

TENDER INFORMATION

- 2.1 The Tenderer acknowledges that the Town shall have the right to reject any, or all, Tenders for any reason, or to accept any Tender which the Town in its sole unfettered discretion deems most advantageous to itself. The lowest, or any, Tender will not necessarily be accepted and the Town shall have the unfettered right to:
- (a) accept any regular, irregular, unbalanced, informal or qualified Tender;
 - (b) disqualify Tenders not submitted in accordance with the requirements of any Tender documents;
 - (c) accept a Tender which is not the lowest Tender; and
 - (d) reject a Tender that is the lowest Tender (and even if it is the only Tender received).
- 2.2 The Town reserves the right to consider, during the evaluation of Tenders:
- (a) information provided in the Tender document itself;
 - (b) information provided in response to enquiries of credit and industry references set out in the Tender;
 - (c) information received in response to enquiries made by the Town of third parties apart from those disclosed in the Tender in relation to the reputation, reliability, experience and capabilities of the Tenderer,
 - (d) the manner in which the Tenderer provides services to others;
 - (e) the experience and qualification of the Tenderer's senior management, and project management;
 - (f) the compliance of the Tenderer with the Town's requirements and specifications, and
 - (h) any other thing or matter which the Town, in its sole unfettered discretion, deems appropriate.

- 2.3 By submitting a Tender, the Tenderer acknowledges the Town's rights under this section 2 and absolutely waives any right, or cause of action against the Town and its consultants, by reason of the Town's failure to accept the Tender submitted by the Tenderer, whether such right or cause of action arises in contract, negligence, or otherwise.
- 2.4 (a) The following schedules are attached to and form an integral part hereof:
- (i) Schedule 1 - Tender Forms (the "Tender Forms");
 - (ii) Schedule 2 - Standard Form of Agreement (the "Agreement");
 - (iii) Schedule 3 - Occupational Health and Safety Agreement (the "OH&S Agreement"); and
 - (iv) Schedule 4 - Specifications and Other Provisions (the "Specifications and Other Provisions").
- (b) In this Tender, the Tender Information, Tender Forms, Addenda (as defined in section 2.5), the Agreement, and the Specifications and Other Provisions, are collectively referred to as the "Tender Documents".
- 2.5 Tenderers may, up to the three (3) business days prior to Closing Time, be advised by Addenda of, without limitation, additions to, deletions from, alterations in, or other changes to, the Tender Documents. All such changes shall become an integral part of the Tender Documents and allowed for by the Tenderer in its Tender and Tender pricing. The Tender Forms provide for an acknowledgement by the Tenderer of receipt by the Tenderer of any and all Addenda.
- 2.6 All Tenders are to be submitted upon the Tender forms.
- 2.7 This Tender closes at 2:00 p.m. Local (Fort Frances) time, **insert date** (herein sometimes referred to as the "Closing Time"), after which time Tenders received will be opened publicly and read aloud at the Fort Frances Civic Centre, 320 Portage Avenue, Fort Frances, Ontario.
- Two (2) sets of originally signed Tender Forms fully completed, sealed and marked "**Tender No.** _____" must be received by the Town Administrator or designee up to but not later than the Closing Time.

- 2.8 The Tenderer shall examine the Tender Documents as soon as possible, and immediately notify the Town Administrator or designee of any errors, omissions or conflicts discovered.
- 2.9 Tenders received prior to the Closing Time may be withdrawn by the Tenderer only upon, and by, written notice of withdrawal, which written notice of withdrawal must be received by the Town Administrator no later than the Closing Time. If such written notice of withdrawal is not so received by the Town Administrator, such Tender shall be deemed as being open for the Town to consider and/or accept. The last Tender received shall invalidate all previous Tenders received from the same Tenderer.
- 2.10 Tender award has to be approved by Council of the Town ("Council"). No Tender will be awarded except after approval of Council.
- 2.11 Tenderers are advised to review the Tender Documents for all terms, conditions and requirements. For general informational purposes only, Tenderers are advised that:
- (a) the Town is requesting Tenders for the supply and delivery of certain material (all as more fully detailed in the Tender Documents):
 - (i) **insert material, good or service information;**
 - (ii) **insert material, good or service information;**
 - (iii) **insert material, good or service information ;**
 - (iv) **insert material, good or service information ;**
 - (v) **insert material, good or service information;**
 - (vi) **insert material, good or service information; and**
 - (vii) **insert material, good or service information;**
 - (b) in the Tender Documents:
 - (i) **Insert tender specific information for example** - different the materials referred to above as Granular "A", Granular "B", Screened winter sand, Crusher screenings, 19mm rock, Rock for shoreline protection, and Cobblestone are collectively sometimes referred to as the "Granular Material" or "Aggregate" and such terms may be used interchangeably; and

(ii) one of, or some of, the materials referred to above as Granular “A”, Granular “B”, Screened winter sand, Crusher screenings, 19mm rock, Rock for shoreline protection, and Cobblestone, is sometimes referred to as “Type(s) Of Granular Material” or “Type of Aggregate(s)” and such terms may be used interchangeably; and

(c) **Multiple year tender, Insert tender specific information for example**
Tenderers may submit Tenders for the supply and delivery of any, some, or all Type(s) Of Granular Material for any, some, or all of the years 2006 (for the period of 2006 after Tender award), 2007 and/or 2008 (collectively sometimes referred to as the “Years”).

2.12 In addition to the rights of the Town as set out in, without limitation, sections 2.1, 2.2, 2.3, and elsewhere in the Tender Documents, the Town shall have the right to award the Tender for the supply of any, some, or all Type(s) of Granular Material, for any, some, or all Years and/or any part thereof, to, among, and/or between Tenderers as the Town sees fit in the Town’s sole and unfettered discretion. For example, and without limitation, the Town shall have the right, in its sole and unfettered discretion, to award:

- (a) the Tender for supply and delivery of all Granular Material for all Years to one Tenderer;
- (b) the Tender for supply and delivery of all Granular Material for one or more Years (but less than all Years) or part thereof to one Tenderer and the supply and delivery of all Granular Material for the remaining Years or part thereof to another Tenderer or split between other Tenderers;
- (c) the Tender for supply and delivery of some Type(s) Of Granular Material for all Years to one Tenderer, and the Tender for supply and delivery of other Type(s) Of Granular Material for all Years to another Tenderer or split between other Tenderers;
- (d) the Tender for supply and delivery of some Type(s) Of Granular Material for one or more of the Years (but less than all years) or part thereof to one Tenderer, and the Tender for supply and delivery of the same Type(s) Of Granular Material for the remaining Years or part thereof to another Tenderer or split between other Tenderers.

- 2.13 As it is the responsibility of the Tenderer to determine levy and collection of the Provincial Sales Tax (PST) and the Goods and Services Tax (GST), the Tenderer is requested to ensure that it provides its GST number (or alternatively cite the basis for exemption in lieu thereof), and that the amounts bid show the GST and PST separately where and as required by the Tender Documents.
- 2.14 In a case where a successful Tenderer is not an Ontario resident contractor/Tenderer, such Tenderer is required to either:
- (a) provide a copy of a valid Retail Sales Tax Vendor Permit; or
 - (b) file with the Town a copy of the letter of compliance issued by the Ontario Retail Sales Tax Branch.

Failure to comply will result in such portion, as prescribed by law, of any payment made or to be made by the Town to the Tenderer to be withheld for remittance as required.

- 2.15 The Town is governed by the Municipal Freedom of Information and Protection of Privacy Act. Tenderers shall and do hereby consent that Tenders and Tender contents may be made public as a condition of the Tendering process.
- 2.16 A deposit (in the Tender Documents sometimes referred to as the "Deposit") by way of certified cheque, bid bond, or equivalent, in the amount of (**insert percentage**)% of the Total Tender Price payable to the Town shall accompany each Tender submitted.
- 2.17 Forthwith upon the Town notifying a Tenderer that such Tenderer has been awarded the Tender, such Tenderer shall:
- (a) execute the Agreement;
 - (b) deliver, to the Town, bonds, proof of insurance, the OH&S Agreement, Workers' Safety Insurance Board ("WSIB") clearance certificate, and otherwise, as required in and by the Tender Forms and elsewhere in the other Tender Documents; and
 - (c) be ready to supply and deliver, and supply and deliver, in accordance with the Tender Documents, **insert material, goods or services** as successfully tendered for.

If the Tenderer fails to deliver to the Town the Agreement and the OH&S Agreement properly executed by the Tenderer or to supply the specified bonds and insurance documents, within two weeks of the date of acceptance of the Tender, or to start the supply and delivery when directed:

- (i) the Town shall be entitled, without prejudice to any other right or remedy it may have, to deem the Tenderer to have abandoned the Tender made by the Tenderer, and the Town shall be entitled to retain the Deposit as liquidated damages (and not as a penalty); and
- (ii) the Tenderer shall pay to the Town the difference between, the Total Tender Price set out in its Tender and any other Tender which the Town accepts (if such other Tender is for a larger amount) and, in addition thereto, any costs which the Town may incur by reason of the Town re-Tendering, and, further, the Tenderer shall fully indemnify and save harmless the Town, its officers, employees, and agents from all loss, damage, liability, cost, charge and expense whatever which it, they or any of them may suffer, incur or be put to by reason of such default or failure of the Tenderer.

2.18 Deposits of unsuccessful Tenderers will be returned not later than three weeks following the Tender award. Except as otherwise provided for herein, the Deposit of the successful Tenderer will be returned with the first progress certificate.

2.19 The successful Tenderer(s) shall take out and keep in force, throughout and for the duration of such Tenderer's obligations to and/or contract with the Town but in any event for no less time than for all Year(s) for which the Tenderer is awarded the Tender to supply and deliver any Type(s) Of Granular Material, a comprehensive policy (herein sometimes referred to as the "Policy") of public liability and property damage insurance in the amount of not less than (**insert amount note- OPS-General conditions of Contract is \$5,000,000.00**) inclusive per occurrence.

Such Policy shall name the Town as an additional insured thereunder and shall contain:

- (a) the insurer's waiver of any rights of subrogation or indemnity or any other claim to which the insurer might otherwise be entitled as against the Town and any other corporation owned, operated, or controlled by or affiliated with the Town, together with a severability of interest clause and a cross liability clause; and

- (b) an undertaking by the insurer not to cancel, change, lapse or refuse to renew the insurance therein granted without first giving the parties notice of its intentions in writing of at least 60 days prior to the intended change, lapse, cancellation or termination.

A certified copy of the Policy or certificate thereof shall be deposited with the Town upon signing of the Agreement or as the Town may direct.

2.20 When tender amounts received are the same in total acquisition cost, the Town may, in its sole unfettered discretion, give consideration and preference to the purchase of goods and services from and the awarding of the Tender to Tenderers located and/or carrying on business in the following places, in the order of priority listed below:

- (a) the Town of Fort Frances;
- (b) the District of Rainy River;
- (c) the Districts of Kenora and Thunder Bay;
- (d) the Province of Ontario.

2.21 Tenders may be submitted via facsimile to the Town office (807-274-8479) provided that:

- (a) the original of such Tenders shall be received by the Town within 5 business days of the Closing Time; and
- (b) the Town shall not be liable, and assumes no responsibility whatsoever, for proper receipt of such facsimile transmittals or anything else relating to such facsimile.

2.22 In the Tender Documents, the singular, or masculine, or personal, pronouns herein shall be construed as meaning the plural, or feminine, or neuter, as the context requires.

SCHEDULE 1

TENDER FORMS

Tender No. (“**insert number**”)

“**Title**”

The following Tender is hereby submitted to

THE CORPORATION OF THE TOWN OF FORT FRANCES
(the “Town”)

1. This Tender is submitted by _____
(hereinafter sometimes referred to as the “Tenderer”).
2. In the Tender Documents “Work” means the total provision of all labour, materials, plant, equipment, services, and otherwise, necessary for the proper execution and completion, in accordance with the Tender Documents, of the supply and delivery to and for the benefit and satisfaction of the Town, of:
 - (a) the (**insert material, goods and services**), if the Town awards the Tender for the (**insert material, goods and services**) to the Tenderer; or
 - (b) those Type(s) of **insert material, goods and services** for which the Tenderer submits, and is awarded, the Tender.
3. The Tenderer acknowledges and agrees that:
 - (a) the items and quantities set out in, the Schedules of Unit Prices below (which shall be deemed to be attached to and form part of these Tender Forms) or elsewhere in the Tender Documents, are not to be and shall not be taken as a guarantee of actual quantities required;
 - (b) the Town reserves the right to increase, decrease or delete quantities of any or all items set out in, the Schedules of Unit Prices below or elsewhere in the Tender Documents, and no claim resulting from any increase, decrease or deletion in items and/or quantities will be considered;
 - (c) the Total Unit Price(s) given or set out by the Tenderer in this Tender:

- (i) shall and does include all costs, expenses, and charges whatsoever for the performance and completion of the Work by the Tenderer, including, without limitation, for all labour, materials, plant, equipment, services, duties, taxes, patent royalties, insurance, transportation, and otherwise; and
- (ii) shall apply for the purpose of progress payments and shall apply throughout the time period of Years or part thereof for which the Tenderer may be awarded a Tender except that any increase or decrease in taxes such as GST after the date of the awarding of the Tender shall increase or decrease the Total Unit Price accordingly by the amount of such increase or decrease in tax.

4. The undersigned Tenderer:

- (a) confirms that the Tenderer has examined the Tender Documents and ascertained all necessary particulars of and with regard to the Work to the Tenderer's satisfaction;
- (b) submits the following Tender and agrees, if such Tender is accepted, to:
 - (i) enter into the Agreement and the OH&S Agreement and provide same to the Town duly executed; and
 - (ii) perform and complete the Work for the respective Total Unit Price(s) and Total Prices quoted by the Tenderer herein except as may be increased or decreased by increase or decrease in taxes (such as GST) as set out in paragraph 3 hereof.

5. The forms below allow for a Tender for the Work relating to **insert material, goods and services** for each of the Years 2006 (for the period of 2006 after Tender award), 2007 and/or 2008. The Tenderer should fill in the specific forms relating to the Type(s) of Granular Material and Years or part thereof the Tenderer wishes to submit a Tender for. If a Tenderer has not completed a particular form it will be taken by the Town that the Tenderer did not wish to Tender for the specific item for the particular year spoken to in such form.

An example, for clarity: there are forms below which allow the Tenderer to bid to perform the Work in each of 2006 (for the period of 2006 after Tender award), 2007 and 2008 with regard to, for example, **insert material, goods and services** . If a Tenderer has completed the bid form for 2007 and 2008, but not 2006, it would be taken that the Tenderer wished to submit a Tender for 2007 and 2008 only, and declined to Tender for 2006.

6. The Tenderer encloses herewith the Deposit.

7. The undersigned acknowledges receipt of the following addenda:

<u>No.</u>	<u>Date Issued</u>	<u>Date Received</u>
_____	_____	_____
_____	_____	_____

8. The Tenderer shall, forthwith upon request of the Town, provide a "Statement of Good Standing" and/or clearance certificate and/or such other evidence of compliance (with regard to workers' compensation insurance, including payments due thereunder) satisfactory to the Town, from the WSIB of Ontario.

Dated at _____ this _____ day of _____, 2006.

SIGNATURE OF TENDERER:

Witness to signature of Tenderer

If a corporation, the person signing has authority to bind such corporation

Print name of Witness:

PRINT NAME AND TITLE OF PERSON SIGNING:

IF A CORPORATION, PRINT PROPER NAME
OF CORPORATION:

Address of Witness:

Address of Tenderer:

Phone Number of Witness:

Phone Number of Tenderer:

Fax Number: _____

Cell Number: _____

Insert schedules of unit prices-after this page

SCHEDULE 2

AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2006.

BETWEEN:

(herein sometimes referred to as the "Tenderer" or the "Contractor")

- and -

The Corporation of the Town of Fort Frances
(the "Town")

Whereas the Contractor has represented to the Town that the Contractor is well able to perform the Work described in the Tender Documents for the respective Total Unit Price(s), Total Prices, and for the Year(s) quoted by the Tenderer in the Tender.

Now therefore the Contractor and the Town (herein sometimes referred to as the "Parties") undertake and agree as follows:

1. The Tenderer shall perform and complete the Work:
 - (a) to, and for, the benefit and satisfaction of the Town, in accordance with the Tender Documents;
 - (b) for the Year(s), and for the respective Total Unit Price(s) and Total Prices quoted by the Tenderer in the Tender Forms except as may be increased or decreased by increase or decrease in taxes (such as GST) as set out in paragraphs 3 and 4 of the Tender Forms.
2. The Tender Documents shall collectively be and the whole shall constitute the Contract between the Parties.

3. The Town agrees to pay to the Contractor in lawful money of Canada for the performance of the Work with the amounts to be paid on account thereof being determined by actual measured quantities in accordance with the Specifications and Other Provisions and subject to adjustments, additions, deductions and deletions as provided in and by the Tender Documents. The Town shall pay on account thereof upon the approval of the Town Manager, **insert division** (in the Tender Documents the Town Manager, **insert Division** is sometimes referred to as the “Manager”). Upon receipt of invoices, any adjustments to monies owing will be made with notification to the Contractor.
4. If the Town fails to make payments to the Contractor as they become due under the terms of the Tender Documents, interest equal to the current bank prime rate + 2% per annum on such unpaid amounts shall become due and payable until payment.
5. If:
 - (a) the Contractor should be adjudged bankrupt, or becomes insolvent, or makes a general assignment for the benefit of creditors, or if a receiver is appointed of the Tenderer or the Tenderer’s business or any part thereof; or
 - (b) a petition in bankruptcy for liquidation, reorganization, or other proceeding, is filed by or against the Tenderer;
 - (c) the Contractor fails or neglects to properly perform or complete the Work or otherwise fails to comply with the requirements of the Tender Documents (including, without limitation, failure to meet gradation specifications, or to meet delivery dates, or otherwise)

the Town may, without prejudice to any other right or remedy it may have, terminate this Agreement by giving the Contractor written notice.

The Contractor's obligation under the Tender Documents as to quality, correction and warranty of the work performed by him up to the time of termination shall continue in force after such termination.

6. Time shall in all respects be of the essence.
7. Neither this Agreement nor any rights or entitlements under it shall be assignable or transferable by the Contractor without the prior written consent of the Town.
8. Any notice required or permitted to be given hereunder shall be in writing and shall be effectively given if:

- (a) delivered personally;
- (b) sent by prepaid courier service or mail; or
- (c) sent prepaid by telecopier, telex or other similar means of electronic communication (confirmed on the same or following day by prepaid mail) addressed,

(i) in case of notice to the Town, as follows:

P.O. Box 38
 FORT FRANCES, Ontario
 P9A 3M5
 Attention: Administrator

(ii) in case of the Contractor, as follows:

Any notice so given shall be deemed conclusively to have been given and received when so personally delivered or sent by telex, telecopier or other electronic communication or on the second day following the sending thereof by private courier or mail. Any Party hereto or others mentioned above may change any particulars of its address for notice by notice to the others in the manner aforesaid.

IN WITNESSETH WHEREOF the Parties hereto have executed this Agreement.

SIGNATURE OF CONTRACTOR:

 Witness to signature of Tenderer

 If a corporation, the person signing has the authority to bind such corporation

Print name of Witness:

PRINT NAME AND TITLE OF PERSON SIGNING:

IF A CORPORATION, PRINT PROPER NAME OF CORPORATION:

Address of Witness:

Address of Contractor:

Phone Number of Witness:

Phone Number of Contractor:

Fax Number: _____

Cell Number: _____

The Corporation of the Town of Fort Frances

per:

per:

I/we have authority to bind the Town

SCHEDULE 3

OCCUPATIONAL HEALTH AND SAFETY AGREEMENT

The undersigned Tenderer, _____ shall and does hereby agree and confirm that:

1. it is aware that the Town places great importance on the compliance with and adherence to the Occupational Health and Safety Act (the "Act") and the safety standards and policies of all authorities having jurisdiction;
2. all Work performed by the Tenderer or on its behalf shall be in conformity with the Act and the construction, health, and safety standards and policies of all authorities having jurisdiction;
3. the Tenderer and its employees, personnel, contractors, subcontractors, agents and/or representatives are knowledgeable and well versed in and with the requirements of, the Act and the safety procedures required for during the performance and completion of the Work;
4. all persons involved with the Work shall be required to wear proper safety equipment at all times; and
5. the Tenderer shall be solely responsible for, and the Tenderer shall not hold nor seek to hold the Town responsible in any way for, any violations of the Act or the failure of the Tenderer to comply with and adhere to the safety standards and policies of any and all authorities having jurisdiction.

SIGNATURE OF CONTRACTOR:

Witness to signature of Tenderer

If a corporation, the person signing has authority to bind such corporation

Print name of Witness:

PRINT NAME AND TITLE OF PERSON SIGNING:

IF A CORPORATION, PRINT PROPER NAME
OF CORPORATION:

Address of Witness:

Address of Contractor:

Phone Number of Witness:

Phone Number of Contractor:

Fax Number: _____

Cell Number: _____

The Corporation of the Town of Fort Frances
per:

per:

I/we have authority to bind the Town

Date: _____, 2006.

SCHEDULE 4- Specifications and other provisions