



Request For Tender – General Terms and Conditions

For the CORPORATION OF THE MUNICIPALITY OF OLIVER PAIPOONGE

Type of Procurement:	REQUEST FOR TENDER (RFT)
Title of Procurement:	Reconstruction of Kakabeka Falls Village
Procurement File Number:	Tender 04-2024
Procurement Closing Date:	April 11th

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DEFINITIONS AND INTERPRETATIONS

1. DEFINITIONS:

Wherever a term set out below appears in the text of this RFT in capital letters, the term shall have the meaning set out for it in this Section 1. Wherever a term below appears in the text of this RFT in lower case, it shall be deemed to have the meaning ordinarily attributed to it in the English language.

- a) **ALTERNATIVE** means a choice of things, each being fully compliant.
- b) **MUNICIPALITY** means the Corporation of the Municipality of Oliver Paipoonge and includes its successors and assigns.
- c) **CONTRACT** means the agreement to be entered into between the SUPPLIER and the MUNICIPALITY with respect to the supply of the EQUIPMENT, MATERIAL, and SERVICES. It shall be based upon this RFT, with any agreed upon amendments, as well as the TENDER, and shall also include any plans and terms of reference and will be held to cover the supply of any and all work, labour, implements, and MATERIAL that could be reasonably required to properly and satisfactorily supply the EQUIPMENT, MATERIAL AND/OR SERVICES.
- d) **SUPPLIER** means the BIDDER(s) whose TENDER(s) is/are accepted and who has/have agreed to supply the EQUIPMENT, MATERIAL AND SERVICES as described in the CONTRACT. In either case, the term extends to its legal representatives, successors and permitted assigns, agents, employees, SUPPLIERS and suppliers.
- e) **EQUIPMENT, MATERIAL** means all goods, MATERIAL, articles, EQUIPMENT, software and intellectual property (or any part of them) as described in the Terms of Reference applicable to this RFT and acquired through the inclusion of such EQUIPMENT, MATERIAL in a schedule to the CONTRACT from time to time throughout the term of the CONTRACT.
- f) **IMPROPER** means a TENDER that is not in conformity in some manner with the requirements of this RFT but will be reviewed by the MUNICIPALITY to determine whether it may be considered in the evaluation process, in the sole and unfettered discretion of the MUNICIPALITY.
- g) **BIDDER(S)** means all persons, partnerships or corporations who respond to this RFT, and includes their heirs, successors, and permitted assigns.
- h) **TENDER(S)** means the BIDDER'S submission in response to this RFT, including the terms of reference, directions, specifications, schedules and requirements, together with all documents of any description and agreements made or to be made pertaining to the method of supplying the EQUIPMENT, MATERIAL AND/OR SERVICES or to the quantities as shown of acceptable MATERIAL to be furnished under the CONTRACT.
- i) **RFT** means this Request for Tender document, including all schedules, parts and attachments, as issued by the MUNICIPALITY, including any addenda or amendments made to it after initial use.
- j) **SERVICES** means the services as required and described the Terms of Reference, Specifications/Deliverables of this RFT and EQUIPMENT, MATERIAL as described in the Terms of Reference and the Schedule of Prices applicable to this RFT.
- k) **TOTAL ACQUISITION COST** means the sum of all costs, including purchase price, all taxes, warranty, life cycle cost, operating and disposal costs.

2. PURCHASING BY-LAW:

TENDERS will be called, received, evaluated, accepted, and processed in accordance with this RFT and the MUNICIPALITY'S Purchasing By-law and Procedures (copy available upon request). By submitting a TENDER each BIDDER agrees to be bound by the terms and conditions & definitions of that By-law and those Procedures and any amendments to them, as fully as if it were reproduced and attached to this RFT.

3. INTERPRETATION: THE FOLLOWING RULES OF INTERPRETATION APPLY:

4. The term 'best value' means the most cost efficient and effective manner of supplying the EQUIPMENT, MATERIAL AND/OR SERVICES in the sole and unfettered opinion of the MUNICIPALITY.
 - a) This TENDER is intended to be gender neutral. Where any mention is made to a gender in any part of this RFT or the CONTRACT, it shall be interpreted as, and deemed to mean, all genders including non-binary designations. Words in the singular can be interpreted in the plural, and vice versa, as the context allows.
 - b) Each reference to Provincial legislation in this RFT, unless otherwise specified, is a reference to the Revised Statutes of Ontario, 1990 edition, and, in every case, includes all applicable amendments to the legislation, including successor legislation.
 - c) The word "may" used in this RFT denotes permissive.
 - d) The word "and" is an inclusive conjunction, the use of which indicates that all items or phrases in the subsection, article, or list in which it appears are permitted or required, as the case may be. The word "or" is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word "or" may also be an inclusive conjunction having the same meaning as the word "and".

PART A - INSTRUCTIONS TO BIDDERS

1. CONTRACT/INTENT

The intent of this RFT is to secure a qualified SUPPLIER(s) to undertake the supply and delivery of certain materials and services in accordance with the terms, conditions, terms of reference, and drawings attachments of this RFT. The MUNICIPALITY may or may not enter into a CONTRACT as a result of the issuance of this RFT.

2. BIDDER INFORMATION

It is the Bidder's sole responsibility to review all information in the RFT, specifications, drawings, appendices, attachment and addendums and to ensure all requirements and documentation are included with their Tender.

Inquiries must not be directed to other Municipal employees or Elected Officials. Directing inquiries to other than those designated may result in your Tender being rejected.

All clarification requests are to be sent in writing to the individual named in the Terms of Reference. No clarification requests will be accepted by telephone. Responses to clarification requests will be provided to all interested parties.

Any and all changes to the RFT will be issued in the form of a written addendum. Any and all addenda must be acknowledged in the Tender on the form provided.

3. TENDER SUBMISSION

- a) Complete Tenders, clearly marked as Tender 04-2024 shall be delivered to:

John MacGillivray

Treasurer/Deputy CAO

3250 Highway 130

Rosslyn ON P7K 0B1

by the specified Closing Date.

- b) Bidders are cautioned that the timing of their submission is based on when the Tender is received by the Treasurer/Deputy CAO, not when it is submitted. It is the sole responsibility of proponents to ensure sufficient time is provided for the Tender to be received.
- c) A Bidder who has already submitted a Tender may submit a further Tender at any time before the official closing time. The last Tender received shall supersede and invalidate all Tenders previously submitted by the Bidder.

A Tender may be withdrawn by the Bidder by written notice delivered to the Treasurer of The Corporation of the Municipality of Oliver Paipoonge prior to the time fixed for opening tenders.

- d) Submission of a TENDER will constitute acceptance of all provisions, terms and conditions contained in this RFT on the part of all BIDDERS.
- e) If a TENDER does not conform in every detail with the Terms of Reference applicable to this RFT, the BIDDER is required to explain the deviation in the TENDER. The Municipality reserves the right, in its sole discretion to accept such deviations or reject the Tender.
- f) TENDERS which are incomplete, conditional, illegible, or obscure or which contain reservations, alterations, or irregularities will be declared IMPROPER and may be rejected. TENDERS must be clear and unequivocal. In the case of an error in extending the unit prices, the unit price shall determine the quoted price.
- g) None of the conditions contained on the Bidder's standard or general conditions of sale shall be of any effect unless explicitly agreed to by the MUNICIPALITY and specifically referred to in the Contract.
- h) The MUNICIPALITY will not be responsible for, or liable to pay any such cost preparing the TENDER of any BIDDERS regardless of the outcome of the RFT or the CONTRACT process.
- i) The MUNICIPALITY shall not be liable for any cost of preparation or presentation of TENDERS, and all TENDERS and accompanying documents submitted by the BIDDER become the property of the MUNICIPALITY and will not be returned. There will be no payment to BIDDERS for work related to and materials supplied in the preparation, presentation and evaluation of any TENDER, nor for the CONTRACT negotiations whether they are successful or unsuccessful.
- j) The MUNICIPALITY, its elected officials, employees and agents shall not be responsible for any liabilities, costs, expenses, loss or damage incurred, sustained or suffered by any BIDDER, prior or subsequent to, or by reason of the acceptance, or non-acceptance by the MUNICIPALITY of any TENDER, or by reason of any delay in the acceptance of any TENDER. The Municipality shall not be responsible for, or liable to pay any such proposal costs of any Bidder regardless of the outcome of the RFT or the contract process.
- k) BIDDERS attempting to contact MUNICIPAL staff or elected officials other than the contact indicated in this RFT, for whatever reason, during the TENDER or evaluation process, are advised that such action may result in their disqualification from the process and future bidding. If consultation is deemed to be necessary by the MUNICIPALITY, a pre-proposal meeting of all BIDDERS and MUNICIPAL staff will be arranged at a location of the MUNICIPALITY'S choosing. The MUNICIPALITY reserves the right to change the deadline for submission, if necessary, to accommodate such a meeting.
- l) All references to BIDDERS include all staff from the proposing organization as well as all Bidders and sub-contractors that the proposing organization may hire to supply the SERVICES.
- m) No officer, agent or employee of the MUNICIPALITY is authorized to verbally alter any portion of this RFT. During the period prior to submission of TENDERS, any clarification will be issued in the form of written addenda.
- n) All references to BIDDER include all staff from the proposing organization as well as all SUPPLIERS and SUB-CONTRACTORS that the proposing organization may hire to supply the EQUIPMENT, MATERIALS, SUPPLIES AND/OR SERVICES.

4. OMISSIONS/DISCREPANCIES

Should a Bidder find discrepancies in, or omissions from the drawings, specifications, or other Tender documents, or should he be in doubt as to their meaning, he should notify the Contract Administrator who may send a written instruction to all Bidders. Verbal answers are only binding when confirmed by written addenda.

Should the Bidder not agree that the materials and methods specified, or designated on the drawings, will provide an installation to meet the requirements of the project, he shall notify the Contract Administrator in writing, stating his reason for objection and may submit a suggested alternative. In such an event, the Contract Administrator may choose to issue an addendum.

5. TENDER EVALUATION

TENDERS will be evaluated on the basis of information provided by the BIDDER at the time of the submission as well as the previous experience of the BIDDER in this marketplace including with the MUNICIPALITY or other municipalities and reference and other checks;

- a) TENDER quality: including organization, clarity, completeness, content and presentation;
- b) BIDDER experience in similar or related projects as well as their experience with government bodies. Information shall include all items outlined in the Terms of Reference.
- c) The cost effectiveness of each TENDER will be based upon the information supplied in Terms of Reference.

6. RIGHTS RESERVED BY MUNICIPALITY

The Municipality reserves the right to award the contract to any Bidder who will best serve the interest of the Municipality. The Municipality reserves the right, in its sole discretion to exercise the following rights and options with respect to the Tender, submission, evaluation, selection process under this RFT:

- a) to reject any and all Tenders;
- b) to reject all Tenders and to cancel this RFT in the event that all compliant Tenders exceed the Municipality's budget for the project;
- c) to reissue this RFT at any time prior to the award of work;
- d) to cancel this RFT with or without issuing another RFT;
- e) to supplement, amend, substitute or otherwise modify this RFT at any time prior to the selection of one of our Bidders for negotiations;
- f) to accept or reject any and all Tenders, in whole or in part, and any Tender and award the work in whole or in part;
- g) to waive any informality, defect, non-responsiveness, or deviation from this RFT and its requirements;
- h) to permit or reject at the Municipality's sole discretion, amendments (including information inadvertently admitted, modifications, alterations and or corrections) of the Tenders by some or all of the Bidders following Tender submission;
- i) to request that some or all of the Bidders modify Tenders based on the Municipality's review and evaluation;
- j) to reject all Tenders and to cancel this RFT in the event that all compliant Tenders exceed the Municipality's budget for the project;
- k) Make public the names of any or all Bidders;

- l) Inspect the Bidder's facility and to perform such investigations as may be deemed necessary to ensure that competent personnel and management and suitable equipment/material will be used in the performance of this contract;
- m) Waive formalities and accept Tenders which substantially comply with the requirements of this RFT;
- n) To reject any and all submissions in whole or in part; to waive technical defects, irregularities and omissions and to negotiate minor changes, if in so doing, the best interest of the Municipality will be served;
- o) To reject and/or disqualify Tenders with one or more of the following:
 - i) Tenders that do not comply strictly with all terms and conditions of this RFT;
 - ii) Tenders that are incomplete, conditional, qualified, illegible or obscure, or that contains additions not called for;
 - iii) Tenders that are based upon an unreasonable time for completion of the Work;
 - iv) Tenders received from those involved in civil litigation or pending litigation with the Municipality or banned or on probation with the Municipality;
 - v) Tenders received from those who are not in compliance with Municipal By-laws and policies, including the Municipality's Procurement By-law;
- p) Disqualify any Bidder whose Tender contains misrepresentations or any other inaccurate or misleading information;
- q) Disqualify any Bidder who has engaged in conduct prohibited by this RFT
- r) In its discretion, take any one or more of the following steps, at any time and from time to time, in connection with the review and evaluation, including ranking, of any aspect of a Tender:
 - i) Independently consider, investigate, research, analyze, request or verify any information or documentation whether or not contained in any Tender;
 - ii) Conduct reference checks relevant to the Project with any or all of the references cited in a Tender, or with any other person not listed in a Tender, to verify any and all information regarding a Bidder, including its directors, officers and Key Individuals;
 - iii) Conduct any background investigations that it considers necessary in the course of the Competitive Selection Process;
 - iv) By submitting its Tender, the Bidder authorizes the collection of information by the Municipality;
 - i) Other relevant information that arises during this RFT process.

7. ACCEPTANCE OF TERMS

Each BIDDER, by submitting a TENDER, represents that the BIDDER has read, completely understands, and accepts the terms, conditions, and terms of reference of the RFT in full.

8. REQUIREMENTS AT TIME OF EXECUTION

The BIDDER is required to submit the following documentation in a form satisfactory to the Municipality for execution within ten (10) days after being notified in writing to do so by the Municipality:

- a) Certificate of Clearance from Workers Compensation Board;

- b) Evidence of General Liability, Automobile, Professional Liability Insurance.
- c) Labour and Material Bond (if applicable)
- d) Performance Bond (if applicable)

If any of the mandatory Tender requirements have not been met within ten (10) days after being notified of award, the Tender may be rejected. The Municipality reserves the right to accept a Tender and waive what it considers to be minor deviances from the mandatory requirements in its sole discretion.

9. LIMITATION OF LIABILITY

Each Bidder, by submitting a Tender, agrees that:

- a) In no event shall either party be liable to the other for indirect or consequential damages, damages for loss of profit, revenue or reputation or other indirect damages arising out of the breach or fault or negligence of either party under the terms of this RFT or any agreement arising therefrom.
- b) In the event that the Municipality shall be in default under this RFT or the Contract, or shall be negligent in the performance of its duties under this RFT or the Contract, or shall be in default of any legal, contractual or statutory obligation to the Bidder, then in no event shall there be any liability to the Municipality, its member municipalities, employees, officers, directors, advisors or representatives in excess of the actual out-of-pocket costs incurred by the Bidder in preparing the Tender of such Tender and no claim shall be made if not made within six (6) months after the date of receipt of all of the Tender and opening of the Tenders.
- c) In the event that any or all of the Tenders are rejected or disqualified for any reason, proper or improper, or the Work or selection process is modified, suspended or cancelled for any reason, neither each Bidder by submitting a Tender agrees that in the event that neither the Municipality nor its employees, officers, directors or representatives will be liable under any circumstance by any claim, damages, loss, cause, reimbursement or compensation to any person or entity whatsoever arising out of this RFT, including, but not limiting the generality of the foregoing the cost of preparation of this RFT, loss of anticipated profits, loss of opportunity or any other matter;
- d) The Bidder hereby waives any claim for loss of profits or loss of opportunity if the RFT is rejected or disqualified or the Bidder is not successful in the selection process for any reason whatsoever.

10. DEBRIEFING

Bidders are entitled to request a debriefing meeting with the Municipality after award notification has been made. The request for a debriefing meeting must be received by the Municipality within fourteen (14) days after award notification. It is at the discretion of the Municipality whether or not it will conduct a debriefing in each instance. The Municipality reserves the right not to debrief proposals which are clearly non-compliant, or had no reasonable prospect of winning.

11. CONFLICT OF INTEREST AND PROHIBITED CONDUCT

No Use or Inclusion of Restricted Parties

- a) “*Restricted Parties*” shall include, but not be limited to, any employee of the Municipality, any consultant or contractor of the Municipality, any legal provider or advisor of the Municipality, and Municipality Council members. Restricted Parties include any person who would be defined to be in conflict of interest under the provisions of the Municipal Act and any parties, because of their direct, recent or current involvement in the selection process or with any of the parties to the selection process, including the RFT evaluation team, the Municipality, its officers and directors and Council members or any members of Council of any of the member municipalities of the Municipality. This is not an exhaustive list of Restricted Parties. Additional parties may be added to the list at any time in the selection process.
- b) Neither the Municipality nor any of its employees, advisors, directors, officers and representatives are liable to any Bidder for any claims, whether for the cost of preparation of the RFT, loss of anticipated profits, loss of opportunity, revenue or economic benefit or any other loss whatsoever, arising from any use or reliance on this list or use or inclusion of Restricted Parties in any submission as part of the selection process.
- c) Restricted Parties are not eligible to advise any Bidder in the RFT selection process and must not participate as an employer, advisor, consultant, investor, member or any other capacity whatsoever with any Bidder. The Municipality may, in its sole and absolute discretion, disqualify a Bidder who uses any matter including in its RFT or preparation thereof a Restricted Party. The onus is on the Bidder to ensure it does not use or include any Restricted Party.
- d) RFTs may be disqualified at the sole and absolute discretion of the Municipality if: a) the Restricted Party is acting as an advisor or member of the Bidder’s team; b) the Bidder makes contact with any person who the Bidder is prohibited by the Tender from contacting; c) they include a false or misleading statement, claim, warranty or representation.

12. CONFLICT OF INTEREST

The Bidder shall:

- i) Avoid any Conflict of Interest in the performance of its contractual obligations;
- ii) Disclose to the Municipality without delay any actual or potential Conflict of Interest that arises during the performance of its contractual obligations; and
- iii) Comply with any requirements prescribed by the Municipality to resolve any Conflict of Interest.

In addition to all other contractual rights or rights available at law or in equity, the Municipality may immediately terminate the Contract upon giving notice to the Bidder where;

- i) The Bidder fails to disclose an actual or potential Conflict of Interest;
- ii) The Bidder fails to comply with any requirements prescribed by the Municipality to resolve a Conflict of Interest; or
- iii) The Bidder’s Conflict of Interest cannot be resolved. This paragraph shall survive any termination or expiry of the Contract.

13. DISQUALIFICATION FOR PROHIBITED CONDUCT

The Municipality may disqualify a Bidder, rescind an invitation to negotiate or terminate a contract subsequently entered into if the Municipality determines that the Bidder has engaged in any conduct prohibited by this RFT.

14. BIDDER NOT TO COMMUNICATE WITH MEDIA

Bidders must not at any time directly or indirectly communicate with the media in relation to this RFT or any agreement entered into pursuant to this RFT without first obtaining the written permission of the RFT Contact.

15. ILLEGAL OR UNETHICAL CONDUCT

Bidders must not engage in any illegal business practices, including activities such as bid-rigging, price-fixing, bribery, fraud, coercion or collusion. Bidders must not engage in any unethical conduct, including lobbying or other inappropriate communications; offering gifts to any employees, officers, agents, elected or appointed officials or other representatives of the Municipality; deceitfulness; submitting quotations containing misrepresentations or other misleading or inaccurate information; or any other conduct that compromises or may be seen to compromise the competitive process provided for in this RFT.

16. PAST PERFORMANCE OR PAST CONDUCT

The Municipality may prohibit a Bidder from participating in a procurement process based on past performance or based in inappropriate conduct in a prior procurement process, including but not limited to the following;

- i. Illegal or unethical conduct as described above;
- ii. The refusal of the Bidder to honour its submitted pricing or other commitments; or
- iii. Any conduct situation or circumstance determined by the Municipality, in its sole and absolute discretion, to have constituted an undisclosed Conflict of Interest.

17. FREEDOM OF INFORMATION

All information obtained by the Municipality in connection with this RFT is the property of the Municipality. All information supplied by the Bidder in connection with this RFT is the property of the Municipality. Any Bidder who requires that the information in its proposal be kept confidential must explicitly advise the Municipality of that fact.

18. DISCLOSURE

- a) Total prices will only be made available if provided to the MUNICIPALITY'S Council in a public report.
- b) Submissions of TENDERS as a result of this RFT are in accordance with the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*.
- c) Release of information contained in the TENDER may be requested by anyone under the *MFIPPA* unless they contain either a trade secret or information that if disclosed would result in harm to the BIDDER. This would include scientific, technical, financial or labour relations information, as determined under *MFIPPA*
- d) All requests for information must be made in writing and submitted to the MUNICIPALITY'S Clerk.
- e) To prevent the release of information the BIDDER must state that the TENDER is submitted in confidence and indicate the nature of the confidential information and what harm would result from the release.

The Bidder may declare confidentiality of their proposal; however, the Municipality is required by law to adhere to the requirements of the Municipal Freedom of Information and Protection of Privacy Act, as amended.

Personal information (as defined by Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)) contained on this RFT is collected pursuant to Section 11 of the Municipal Act, S.O. 2001, C. 25 and will be used for the principal purpose of purchase goods and/or services and for the execution of contractual documents.

19. SUBCONTRACTORS

All subcontractors to be used by the Bidders must meet the qualifications required of the Bidder, including the provisions dealing with qualifications and disqualifications of the Bidder. The Municipality reserves the right to disqualify any subcontractor who would not qualify as a Bidder under this provision due to conflicts of interest, poor performance or any other reasons set out in this RFT. All subcontractors must be approved by the Municipality in its sole discretion. Any change in or substitution of the subcontractors also requires the prior written notice of the Municipality.

20. LOBBYING AND BLACK OUT PERIOD

In order to ensure fairness to all Bidders, the Municipality must endeavour to prevent unfair advantage created by lobbying. Therefore, the Municipality reserves the right to disqualify, at any time and at its sole discretion, any Bidder engaging in lobbying in connection with a competitive bidding process between a date that is no later than the date of issue of the RFT and the date of signing of a contract between the Municipality and the Successful Bidder(s). The Municipality may disqualify a Bidder at any time in the procurement process, including after the selection process has been completed.

Lobbying, with respect to this project, may include any activity that the Municipality in its sole discretion, determines has or may give an unfair advantage to one Bidder relative to other Bidders. Without limiting the foregoing, lobbying may include:

- a. Verbal or written communication with or to any Municipality staff other than those identified as contacts in this RFT.
- b. Verbal or written communication with or to any Municipality member or the members of Council with respect to this RFT.
- c. Verbal or written communication with or to the Member of Parliament, Members of Provincial Parliament or any related government ministries, with respect to this RFT.
- d. Verbal or written communication with or to any staff of the Premier's Office, Cabinet Office or any other member of Cabinet or equivalent federal counterpart.
- e. Verbal or written communication with or to any expert or other advisor assisting the Evaluation and Selection Committee, with respect to this RFT.
- f. Verbal or written communication with or to any member of the RFT Evaluation and Selection Committee.
- g. Direct or indirect requests by the Bidder to any person, organization or group to provide a written or verbal expression of support not required by this competitive bidding process to any member of the Evaluation and Selection Team or Council.
- h. Verbal or written communication with or to media organizations with respect to this RFT.
- i. Direct or indirect offers of gifts of any kind or value to any Municipality representative or personnel.

21. FORCE MAJEURE

Neither Party shall be liable for damages caused by delay or failure to perform its obligations under the Contract where such delay or failure is caused by an event beyond its reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the Contract would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism but shall not include shortages or delays relating to supplies or services. If a party seeks to excuse itself from its obligations under this Contract due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay for non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) Business Days, the other party may immediately terminate the Contract by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under the Contract, at law or in equity.

22. CONTRACT AWARD

The Municipality reserves the right to award by item, or part thereof, groups of items, or parts thereof, or all items of the proposal, and to award contracts to one or more Bidders; to accept or reject any Tenders in whole or in part; to waive irregularities and omissions. Municipality also reserves the right to enter into negotiations with the lowest or any compliant BIDDER, if the price bid is over the budgeted amount of the project. Should the Municipality be unable to reach an agreement with such Bidders the Municipality reserves the right to enter into negotiations with other compliant Bidders, or to cancel the call. If in so doing, the best interests of the Municipality will be served. No liability shall accrue to the Municipality for its decision in this regard.

PART B – STANDARD TERMS AND CONDITIONS
[PLEASE READ CAREFULLY]

1. INTENT

Unit prices, if any shall be inclusive of all costs to supply and apply materials and workmanship as specified in this tender in full conformity with the specifications and information to bidders attached hereto, all duty exchange, freight, transportation or other charges fully paid for the prices shown hereunder.

2. ACCEPTANCE

- a) As soon as practical after opening the TENDERS, the MUNICIPALITY will endeavour to act upon them. The acceptance of a TENDER will be by an emailed notice in writing signed by a duly authorized representative of the MUNICIPALITY, and no other act of the MUNICIPALITY shall constitute the acceptance of a TENDER. Acceptance of a TENDER by the MUNICIPALITY shall bind the BIDDER to execute the CONTRACT.
- b) The CONTRACT shall consist of and have priority in the following order:
 - i) The Purchase Order and/or Supply Contract;
 - ii) the RFT;
 - iii) and the Bidder's TENDER.
- c) The above-mentioned documents will be interpreted in precedential order as they are named above regardless of the chronological order in which they are issued or executed. This means, in effect, that if there is a discrepancy between a term in the MUNICIPALITY'S Contract for Services and a term in the chosen TENDER, the term in the Contract for Services prevail to the extent of the discrepancy.
- d) Upon acceptance of a TENDER, (or any part of it), by the MUNICIPALITY, the successful BIDDER shall, if requested by the MUNICIPALITY so to do, execute and enter into an additional formal contract that is satisfactory to the MUNICIPALITY, to properly secure the CONTRACT resulting from the acceptance of a TENDER (or any part of it) and to embody indemnity and related provisions that in the opinion of the MUNICIPALITY are required to protect the MUNICIPALITY. If at any time the MUNICIPALITY, in its sole and unfettered discretion, decides that satisfactory terms and conditions cannot be realized with a successful BIDDER, the MUNICIPALITY reserves the right to enter into negotiations and finalize a CONTRACT with an alternative BIDDER or revise and reissue this TENDER or cancel this TENDER. If the MUNICIPALITY exercises such right, the successful BIDDER has no legal claim or recourse against the MUNICIPALITY, its elected officials, employees and agents for any expenses, costs, loss or damages incurred or suffered.
- e) At the option of the MUNICIPALITY, no TENDER shall be accepted from any person or BIDDER who, has a claim or judgement or has instituted a legal proceeding against the MUNICIPALITY or against whom the MUNICIPALITY has a claim or judgement or has instituted a legal proceeding, without the prior approval of the MUNICIPAL Council. This applies whether the legal proceeding is related or unrelated to the subject matter of this TENDER.
- f) The MUNICIPALITY reserves the right to reject all TENDERS or to select a TENDER other than the TENDER having the lowest price. In making a decision as to which TENDERS to accept, the MUNICIPALITY reserves the right to consider, some or all of the following factors:
 - (1) the general reputation of the BIDDER;
 - (2) any prior experience the MUNICIPALITY has had with the BIDDER;

- (3) the financial status and strength of the BIDDER;
 - (4) the previous experience of the BIDDER in this area;
 - (5) any previous experience between the BIDDER and other municipalities;
 - (6) the proposed schedule of the BIDDER;
 - (7) the MUNICIPALITY'S determination of the ability of the BIDDER to deliver the work to quality and standards required and within the time frames and in the quantities;
 - (8) any other factors that the MUNICIPALITY believes reasonably impact on the contract and the ability to complete the contract to the full satisfaction of the MUNICIPALITY.
- g) The MUNICIPALITY reserves the right to consider each of the factors, and to assign different weights to each of the factors based on the information received by it from each and every BIDDER, from its own staff, and from outside sources, as these factors may impact on the benefit the Owner receives from this contract.
- h) The MUNICIPALITY may accept a TENDER in whole or in part, whether the TOTAL ACQUISITION COST be the lowest or not, and may reject any or all TENDERS. There shall be no requirement of this RFT, implied or otherwise, that the TENDER representing the lowest TOTAL ACQUISITION COST will be selected or preferred. The RFT process is used as a means of evaluating a number of criteria (one of which is TOTAL ACQUISITION COST). BIDDERS must submit their TENDERS in accordance with all items identified in Part A of this RFT.
- i) The MUNICIPALITY reserves the right to award by items, groups of items, parts of items or parts of groups of items, or all items of the TENDER, and to award CONTRACTS to one or more BIDDERS; to accept or reject any TENDER in whole or in part; to waive irregularities and omissions in the MUNICIPALITY'S sole and unfettered discretion, if in so doing, the best interests of the MUNICIPALITY will be served. No liability shall accrue to the MUNICIPALITY for its decision in this regard.
- j) Should the MUNICIPALITY receive only one (1) TENDER on commodities/ services that have a known multiple source potential, the right is reserved to recall or cancel the competition.
- k) All TENDERS shall be irrevocable for sixty (60) days following the deadline for submission to allow sufficient time for evaluation of the TENDERS and for the investigation of the BIDDERS.
- l) Upon acceptance of a TENDER, (or any part of it), by the MUNICIPALITY, the successful BIDDER shall, if requested by the MUNICIPALITY to do so, execute and enter into an additional formal contract that is satisfactory to the MUNICIPALITY, to properly secure the CONTRACT resulting from the acceptance of a TENDER (or any part of it) and to embody indemnity and related provisions that in the opinion of the MUNICIPALITY are required to protect the MUNICIPALITY. If at any time the MUNICIPALITY, in its sole and unfettered discretion, decides that satisfactory terms and conditions cannot be realized with a successful BIDDER, the MUNICIPALITY reserves the right to enter into negotiations and finalize a CONTRACT with an alternative BIDDER or revise and reissue this RFT or cancel this RFT. If the MUNICIPALITY exercises such right, the successful BIDDER has no legal claim or recourse against the MUNICIPALITY, its elected officials, employees and agents for any expenses, costs, loss or damages incurred or suffered.
- m) At the option of the MUNICIPALITY, no TENDER shall be accepted from any person or BIDDER who, has a claim or judgement or has instituted a legal proceeding against the

MUNICIPALITY or against whom the MUNICIPALITY has a claim or judgement or has instituted a legal proceeding, without the prior approval of the MUNICIPAL Council. This applies whether the legal proceeding is related or unrelated to the subject matter of this RFT.

3. PURCHASING BY-LAW

- a) Tenders will be called, received, evaluated, accepted, and processed in accordance with this RFT and the MUNICIPALITY'S Purchasing By-law and Procedures (copy available upon request). By submitting a TENDER each Bidder agrees to be bound by the terms and conditions of that By-law and those Procedures and any amendments to them, as fully as if it were reproduced and attached to this RFT.
- b) No verbal arrangement or agreement, relating to the SERVICES specified or called for under this RFT, will be considered binding, and every notice, advice or other communication, pertaining to it, must be in writing and signed by a duly authorized person.

4. BIDDER ELIGIBILITY

- a) BIDDERS must meet the MUNICIPALITY'S requirements for experience. The MUNICIPALITY may disqualify any BIDDER who cannot provide the following, when requested by the MUNICIPALITY:
 - I. proof that they have previously held and satisfactorily completed a contract of the size and type being proposed; or
 - II. proof of employment in the type of service being proposed and written references as to their satisfactory performance; or
 - III. adequately demonstrate that they have the ability to provide the necessary expertise and resources to satisfactorily complete the CONTRACT.
 - IV. evidence of sufficient professional liability insurance.
- b) The MUNICIPALITY reserves the right to investigate and evaluate the experience, capability, registration and financial position of any BIDDER prior to an award of a CONTRACT and as part of evaluation of the Tender. The MUNICIPALITY reserves the right to reject any BIDDER OR TENDER based on the information obtained.
- c) This TENDER is made by the BIDDER without any connection, knowledge, comparison of figures or arrangement with any other person or persons making a TENDER for the same SERVICES, and is in all respects fair and without collusion or fraud.

5. NON-RESIDENT CONTRACTOR

If the Contractor is a non-resident of Ontario, it shall, immediately after it has received the Contract Administrator's written order to commence work, obtain from the Retail Sales Tax Branch a certificate showing that the Contractor has registered with the Retail Sales Tax Branch and shall submit such certificate to the Corporation.

The Contractor shall not commence work or order any materials or equipment for the Contract until it has registered with the Retail Sales Tax Branch.

The Contractor shall ensure that all sub-contractors proposed for carrying out any of the work required by the Contract and which are non-residents of Ontario have registered with and have complied with the requirements of the Retail Sales Tax Branch before they commence any such work

6. ASSIGNMENT

- a) The BIDDER shall not assign the CONTRACT (or any portion of it) without the prior written consent of the MUNICIPALITY.
- b) It is understood and agreed that the BIDDER will be an independent SUPPLIER and that all services will be performed by the employees or agents of the BIDDER. Sub-contracting agreements made by the BIDDER will not release the BIDDER from any obligation to the MUNICIPALITY with respect to the performance of the CONTRACT. Joint or consortium TENDERS must have one prime BIDDER who will be responsible for overall project success, provide one point of contact and a single billing point. The MUNICIPALITY shall not be responsible for payment to the Bidder's partners, sub-contractors or suppliers in the event the prime BIDDER defaults on its responsibilities. The prime PROPONENT must communicate such to its partners, sub-Contractor and suppliers. The prime BIDDER must also provide the MUNICIPALITY with a written statement outlining function components that the sub-Contractor(s) will be offering. The MUNICIPALITY must grant prior written approval, in its sole and unfettered discretion, for any assignment and all sub-Contractors.

7. INDEMNIFICATION

- a) The BIDDER agrees that it will continuously save, keep harmless and fully indemnify the MUNICIPALITY, its elected officials, employees and agents and its successors and assigns, from and against all actions, claims, and demands whatsoever which may be brought against or made upon the MUNICIPALITY arising from or relating to the Contract or the Services and the BIDDER also agrees that it will continuously save, keep harmless and fully indemnify the MUNICIPALITY, its elected officials, employees and agents and its successors and assigns, against all types of losses, liabilities, claims, costs or expenses which the MUNICIPALITY may incur resulting from or arising out of the Consultant's failure to exercise reasonable care, skill or diligence in their performance or rendering of any SERVICES or SERVICES to be performed or rendered by the BIDDER, pursuant to the CONTRACT, or is breach of Contract.
- b) The BIDDER shall indemnify the MUNICIPALITY from all claims arising out of unpaid accounts relating to the CONTRACT. The MUNICIPALITY shall have the right at any time to require satisfactory evidence that the SERVICES (or any part of it) in respect of which any payment has been made or is to be made by the MUNICIPALITY is free of and clear of construction or other liens, attachments, claims, and demands, charges or other encumbrances.

8. CHARACTER OF WORKERS

- a) The reference to "workers" refers to workers of the BIDDER and its sub-Contractor's (if any), and includes Corporate Officers.
- b) The BIDDER agrees to employ only orderly, competent, and skilful workers. Whenever the MUNICIPALITY informs the BIDDER in writing that any worker is, in its sole and unfettered opinion, incompetent, unfaithful, disruptive, disorderly or otherwise unsuitable, the BIDDER will ensure that the worker in question is removed from the work and shall not be further employed on the CONTRACT without the MUNICIPALITY'S written consent.

9. PROJECT SITE WORKING CONDITIONS

It is the BIDDER'S responsibility to investigate the project site and the nature of the work and inform itself, before bidding, of all the physical and working conditions and administrative practices applicable.

10. PATENTS AND COPYRIGHTS

- a) The BIDDER shall, at its sole expense, defend all claims, actions or proceedings against the MUNICIPALITY based on any allegations that the SERVICES (or any part of it) constitutes an infringement of any patent, copyright or other proprietary right, and shall pay to the MUNICIPALITY all costs, damages, charges and expenses, including its lawyers' fees on a substantial indemnity basis occasioned to the MUNICIPALITY in this regard.
- b) The BIDDER shall pay all royalties and patent license fees required for the SERVICES.
- c) If the SERVICES (or any part of it) is in any action or proceeding held to constitute an infringement of any patent, copyright or other proprietary right, the BIDDER shall either secure for the MUNICIPALITY the right to continue using the SERVICES or shall, at the Bidder's sole expense, replace the infringing SERVICES with non-infringing SERVICES or modify it so that the SERVICES no longer infringes.

11. ERRORS AND OMISSIONS OF THE BIDDER

Errors, mistakes, or omissions made by the BIDDER, its agents, employees, or workmen shall be rectified by the BIDDER at its sole expense.

12. QUANTITIES

- a) Unless otherwise specified in this RFT, quantities shown are approximate and furnished without liability on behalf of the MUNICIPALITY. They are supplied as a basis for comparison only.
- b) Unless otherwise stated, payment will be by the unit complete at the TENDER price on the actual quantities deemed acceptable by the MUNICIPALITY.

13. TERMS OF PAYMENT

- a) Unless alternate payment terms are specified in the Terms of Reference applicable to this RFT, the MUNICIPALITY will accept billing for 100 percent of the actual value of each element of the SERVICES provided or performed in each month and accepted by the MUNICIPALITY. No prepayment of work will be made in advance by the Municipality. Invoices will be payable by the MUNICIPALITY 28 days after they are received. Where required by the Construction Act, appropriate monies may be held back until 60 days after successful provision of the SERVICES or completion of the SERVICES, as the case may be.
- b) Payments made by the MUNICIPALITY, including final payment, shall not relieve the BIDDER from its obligations or liabilities under the CONTRACT.
- c) Acceptance by the BIDDER of the final payment shall constitute a waiver of claims by the BIDDER against the MUNICIPALITY, except those previously made in writing in accordance with the CONTRACT and still unsettled.
- d) The MUNICIPALITY shall have the right to withhold from any sum otherwise payable to the BIDDER any amount sufficient to remedy any defect or deficiency in the SERVICES, pending correction of the deficiencies or any amount sufficient to satisfy any claim the MUNICIPALITY has against the BIDDER resulting from the CONTRACT, a previous CONTRACT, a legal proceeding or unpaid accounts, including property or business taxes.
- e) All invoices must be submitted to accountspayable@oliverpaipoonge.on.ca to ensure prompt payment.

14. UNPAID ACCOUNTS

The BIDDER must indemnify the MUNICIPALITY from all claims arising out of unpaid accounts relating to the SERVICES and/or SERVICES. The MUNICIPALITY shall have the right at any time to require satisfactory evidence that the SERVICES in respect of which any payment has been made or is to be made by the MUNICIPALITY is free of and clear of construction or other liens, attachments, claims, and demands, charges or other encumbrances.

15. CHANGES IN THE SERVICES OR SERVICES

The MUNICIPALITY may, without invalidating the CONTRACT, direct the BIDDER to make changes to the SERVICES. When a change causes an increase or decrease in the SERVICES, the CONTRACT price shall be increased or decreased by the applicable unit price, or in the absence of applicable unit prices, by an amount to be agreed upon in writing between the MUNICIPALITY and BIDDER. All changes must be in writing.

16. WARRANTIES

The Bidder warrants and represents that the Services will be completed in accordance with the requirements of the Contract and the RFT will operate without error and be free from defects and material, design and workmanship, be of merchantable, quantity and free from manufacturing defects and will be fit for the purpose for which it was intended.

Notwithstanding any prior use of the Services or any part thereof, the Bidder shall repair, remediate, replace and expense any of the Services which are defective which have failed to conform to the requirements of the services as set out in the Contract, as a result of the fault of the Contractor or the negligence of the Contractor. Any software shall be free from any technology or coding which would cause harm to the confidential integrity or availability of the software, or the system in which it operates will not contain any viruses or malware or other viruses, worms, software locks, trojan horse regimes, trap doors, time bombs, or other disabling mechanism. This warranty shall survive for a period of twenty-four (24) months, following the final acceptance of the Services and deliverables by the MUNICIPALITY. In the event notice is given to the Bidder of any breach of the warranty within such twenty-four (24) month period, it shall be corrected and the obligation to survive past the twenty-four (24) month period.

17. PRICING (TERM OF AGREEMENT)

- a) Prices proposed must include all incidental costs and the BIDDER must be satisfied as to the full requirements of the RFT. No claims for extra work or SERVICES will be entertained and any additional SERVICES must be authorized in writing prior to commencement. Should the BIDDER require more information or clarification on any point, it must be obtained prior to the submission of the TENDER.
- b) Should any additional or any variation of any tax or duty, imposed by the Government of Canada or Province of Ontario become directly applicable to any SERVICES, prior to delivery or completion of the SERVICES, the appropriate increase or decrease in the price of the SERVICES, shall be made to compensate for the change as of the effective date.
- c) The BIDDER shall be responsible for the collection and remittance of all applicable taxes, and agrees to hold the MUNICIPALITY harmless in this regard.

- d) All prices must be in Canadian funds and shall include currently applicable customs duty, excise tax, freight, insurance and all other charges of every kind attributable to the SERVICES save and except the Harmonized Sales Tax where applicable.
- e) The unit price prevails in cases of discrepancies between unit prices and extensions. The MUNICIPALITY will make all necessary corrections to any TENDER that is in error through addition or extension; the corrected value prevailing, and all BIDDERS shall be bound by such corrections.
- f) The Bidder will not be able to claim any additional costs as a result of changes or for project delays due to inclement weather conditions.
- g) An upset limit for disbursements is required, including but not limited to reproduction, postage, courier, fax machine, long distance telephone calls, printing of drawings and specifications, photographic production and approved travel. Photocopies and receipts must be provided for disbursements.

18. UNIT PRICES

Prices shall be F.O.B. delivered to the Municipality's main office. Unit prices shall be firm and shall include all federal excise tax, duty, freight and shall be subject to Harmonized Sales Tax. Applicable taxes shall be shown separately in the spaces provided on the Tender form.

19. CONTRACT CANCELLATION

- a) The MUNICIPALITY shall have the right to cancel any uncompleted or unperformed portion of the SERVICES or part of them. In the event of such cancellation, the MUNICIPALITY and the BIDDER shall be paid for the Services performed up to the date of cancelation only.
- b) The MUNICIPALITY shall not be liable to the BIDDER for loss of anticipated profit on the cancelled portion or portions of the CONTRACT. In the event that the BIDDER fails or neglects to comply with any condition outlined in the CONTRACT, the CONTRACT may be unconditionally cancelled by the MUNICIPALITY without notice or on such notice the MUNICIPALITY may determine in its sole discretion.

20. LAWS AND REGULATIONS

The BIDDER shall comply with relevant federal, provincial and municipal statutes, regulations and by-laws pertaining to the CONTRACT and its performance. The BIDDER shall be responsible for ensuring similar compliance by its suppliers and sub-contractors. The CONTRACT shall be governed and interpreted in accordance with the laws of the Province of Ontario.

21. CERTAIN DEFAULTS BY BIDDER

- a) The MUNICIPALITY reserves the right to determine, in its sole and unfettered discretion; non-performance of the CONTRACT, including the level of quality of SERVICES provided and further reserves the right to cancel any or all of the CONTRACT if the BIDDER fails to correct deficiencies upon thirty (30) days written notice. The MUNICIPALITY'S evaluation and determination in this regard shall be final and not reviewable by any court or tribunal.
- b) If the BIDDER: commits any act of bankruptcy; or if a receiver is appointed on account of its insolvency or in respect of any of its property; or if the BIDDER makes a general assignment for the benefit of its creditors; then, in any such case, the MUNICIPALITY may, without notice, terminate the CONTRACT.

- c) If the BIDDER: fails to comply with any request, instruction or order of the MUNICIPALITY; or fails to pay its account; or fails to comply with or persistently disregard statutes, regulations, by-laws or directives of relevant authorities related to the SERVICES; or fails to prosecute the SERVICES with skill and diligence; or purports to assign or sublet the CONTRACT or a portion of it without the MUNICIPALITY'S written consent; or refuses to correct defective SERVICES; or is otherwise in default in carrying out its part of any of the terms, conditions and obligations of the CONTRACT; then, in any such case, the MUNICIPALITY may, upon expiration of ten days from the date of written notice to the BIDDER, terminate the CONTRACT.
- d) The MUNICIPALITY reserves the right to remove from the BIDDERS' LIST (disqualify), for a period determined by it in its sole discretion (minimum two (2) years), the name of any BIDDER for breach of the terms and conditions of this RFT or for unsatisfactory performance of the CONTRACT. This disqualification will apply to the terminated BIDDER as the Bidder or BIDDER on future quotations, tenders or requests for proposal or as a sub-trade to a Bidder or BIDDER on future competitions (quotations, tenders, or proposals) issued by the MUNICIPALITY. The MUNICIPALITY also reserves the right to publish the names of all disqualified BIDDERS in any future quotation, tender or requests for proposal.
- e) Any termination of the CONTRACT by the MUNICIPALITY, as mentioned in b) above, shall be without prejudice to any other rights or remedies the MUNICIPALITY may have.
- f) If the MUNICIPALITY terminates the CONTRACT, it is entitled to:
 - i) withhold any further payment to the BIDDER until the completion of the SERVICES or SERVICES and the expiry of all obligations under the CONTRACT; and
 - ii) recover from the BIDDER any loss, damage and expense incurred by the MUNICIPALITY by reason of the Bidder's default (which may be deducted from any monies due or becoming due to the BIDDER).

22. SAMPLES

Samples when required must be submitted strictly in accordance with the instructions. If samples are requested after opening of TENDERS, they shall be delivered within three (3) working days following request, unless additional time is granted. Samples must be submitted free of charge and will be returned at the Bidder's expense, if so requested, provided they have not been destroyed by tests, or provided they are not required for comparison purposes.

The acceptance of samples by the MUNICIPALITY shall be at its sole discretion and any such acceptance shall in no way be construed to imply relief of the BIDDER from its obligations under the CONTRACT.

23. DECLARATIONS OF BIDDER

- a) I/We declare that no person, firm or corporation other than the one whose signature or the signature of whose proper officers is or are attached to this RFT, has any interest in this RFT or in the CONTRACT.
- b) I/We further declare that this RFT is made without any connection, knowledge, comparison of figures or arrangement with any other BIDDER, firm or person making a similar TENDER and is in all respects fair and without collusion or fraud.
- c) I/We further declare that no MUNICIPALITY employee, or member of Council (or their families) is, or will become interested directly or indirectly as a contracting party or otherwise in or in the performance of the CONTRACT or in the supplies, work or business to which it relates or in any portion of the profits of it, or of any such supplies to be used therein or any of the monies to be derived from it.

- d) I/We further declare that the statements contained in the TENDER are in all respects true.
- e) I/We further declare that I/We have examined the locality, specifications, and site(s) of the TENDER requirements prepared, submitted and rendered available on behalf of the MUNICIPALITY and are hereby acknowledged to be an integral part of the CONTRACT. I/We hereby propose and offer to enter into the CONTRACT on the terms and conditions and under the provisions set forth in the TENDER, and to accept in full payment for it the sums calculated in accordance with the actual measured quantities and unit prices attached to this RFT.
- f) I/We agree that this RFT is an offer which is to continue open for acceptance until notice of award, which shall constitute formation of the CONTRACT, or for 60 days following the TENDER closing date, whichever occurs first, and that the MUNICIPALITY may at any time within that period, and without notice, accept this RFT whether any other TENDER had been previously accepted or not.

24. ERRORS, OMISSIONS IN THE MUNICIPALITY DOCUMENTS

The MUNICIPALITY shall not be held liable for any errors or omissions in any part of this RFT. While the MUNICIPALITY has used considerable effort to ensure an accurate representation of information in this RFT, the information contained in the RFT is supplied solely as a guideline for BIDDERS. The information is not guaranteed or warranted to be accurate by the MUNICIPALITY, nor is it necessarily comprehensive or exhaustive.

25. WORKPLACE SAFETY AND INSURANCE REQUIREMENTS AT THE TIME OF CONTRACT EXECUTION.

Workplace Safety & Insurance Board

Before the execution of the Contract, and before receiving payments, the SUPPLIER shall submit a declaration stating that the SUPPLIER has paid all assessments or compensations payable and has otherwise complied with all the requirements of the Workplace Safety and Insurance Board. Prior to commencement of work the SUPPLIER must provide: proof of a WSIB Clearance Certificate (any default in coverage will automatically terminate the working relationship between the SUPPLIER and the MUNICIPALITY), a complete breakdown of TENDER prices for individual sub-trades and/or major portions of the work, and a schedule of work with expected completion date. Certificate must be updated every 90 days. Additional information is available to the Vendor on-line at www.wsib.on.ca.

26. INSURANCE REQUIREMENTS AT TIME OF CONTRACT EXECUTION

a) Commercial General Liability Insurance

Commercial General Liability Insurance for a limit of no less than **five million (\$5,000,000)** per occurrence. Coverage shall include but not limited to bodily injury, personal, injury, property damage, products and completed operations, contractual liability, non-owned automobile liability and contain a cross liability severability of insured clause. The Municipality must be added as an additional insured on the policy but only with respect to the operations of the SUPPLIER/CONTRACTOR.

b) Automobile/Equipment Insurance

Standard OAP 1 Automobile Policy subject to a limit not less than Five Million (\$5,000,000) for all licensed Motor Vehicles owned, leased or operated by the SUPPLIER/CONTRACTOR. Coverage must also apply in the event the operations of the insured resulted in a pollution

condition including remediation costs. Where applicable coverage shall not include OPCF 30, Removing Coverage for Attached Machinery.

c) Builder's All Risk Property Insurance

Builder's All Risk Property Insurance or the equivalent (if applicable) including contractor equipment endorsement in joint names of Municipality and the Bidder in an amount acceptable to the Municipality. The form of this insurance shall be made available continuously until ten (10) days after the total performance of the construction.

d) Professional Liability Insurance

The Owner/Contractor will obtain and maintain in full force and effect during the term of this contract, Professional Liability Insurance acceptable to the Municipality in an amount of not less than Two million dollars (\$2,000,000.00) per occurrence in respect of the services provided pursuant to this contract.

The insurance policy shall:

- a) Include the MUNICIPALITY as an additional insured in respect of and during the provision of services by the Owner/Contractor pursuant to this contract;
- b) Provide to the Municipality, 30 days prior notice of any alteration, cancellation or change in policy terms which reduces coverage.

e) Contractor's Pollution Insurance Coverage

Contractor's Pollution Liability Insurance subject to limits of not less than Two Million dollars (\$2,000,000) per claim and shall include coverage for but not limited to, bodily injury including death, property damage including remediation costs which are reasonable and necessary to investigate, neutralize, remove, remediate (including associated monitoring) or dispose of soil, surface water, groundwater or other contamination. The policy shall remain in force for twenty-four (24) months following completion of work. the Municipality shall be added as an additional insured but only with respect to liability arising out of the operations of the SUPPLIER/CONTRACTOR.

f) General Insurance Conditions

- i. To achieve the desired limit, umbrella or excess liability insurance may be used.
- ii. With the exception of the Standard OAP 1 Automobile Insurance, all other policies shall be endorsed to provide the Municipality with not less than 30 Days' written notice of cancellation.
- iii. All policies shall be with insurers licensed to underwrite insurance in the Province of Ontario and satisfactory to the Municipality.
- iv. The Bidder shall be responsible for deductible amounts under the policies.
- v. All policies shall contain waivers of subrogation against the Municipality and be considered primary.
- VI. At the time of contract execution, and upon the placement, renewal, amendment, or extension of all or any part of the insurance, and upon request, the SUPPLIER/CONTRACTOR shall promptly provide the Municipality with confirmation of coverage and, if required, a certified true copy(s) of the policy(s) certified by an

authorized representative of the insurer together with copies of any amending endorsements applicable to the Contract.

27. Human Rights

The Municipality is committed to an environment in which everyone is treated with respect, and no one is subject to discrimination. This commitment stems from the Municipality's own philosophy and the Municipality's obligations under the Ontario Human Rights Code. During the term of any Contract, the Contractor shall ensure that its employees and subcontractors behave in a manner that is appropriate, respectful and consistent with the provisions of the Ontario Human Rights Code.

Any breach of the Ontario Human Rights Code by the Contractor, its employees or subcontractors will result in the removal of that person from the Municipality's premises and/or Project. In addition, the breach of these conditions by the Supplier, its employees and subcontractors could result in the termination of the Contract and/or the barring of the Contractor and its subcontractors from entering into subsequent contracts with the Municipality.

28. Occupational Health and Safety Act Regulations

- a) The successful BIDDER shall perform all work in compliance with the Occupational Health and Safety Act and Regulations. The successful BIDDER assumes the role of sole responsibility for providing supervision for and ensuring the safety and compliance of their employees, contractors, and subcontractors.
- b) The BIDDER agrees that its responsibility for compliance with the Occupational Health and Safety Act and Regulations by its employees, contractors and subcontractors is absolute and is not impacted or reduced in any way by any on-site inspections conducted by the Municipality or its employees or agents.
- c) The successful BIDDER agrees to assume full responsibility for the enforcement of the said Occupational Health and Safety Act to ensure compliance therewith.
- d) The successful BIDDER acknowledges and agrees that any breach or breaches of the Occupational Health and Safety Act whether by the successful BIDDER or any of its subcontractors may result in the immediate termination of this contract herein and the forfeiture of all sums owing to the successful BIDDER by the Municipality. The successful BIDDER agrees that any damages or fines that may be assessed against the MUNICIPALITY by reason of a breach or breaches of the Occupational Health and Safety Act by the successful BIDDER or any of its subcontractors will entitle the Municipality to set-off the damages so assessed against any monies that the Municipality may from time to time owe the successful BIDDER under this contract or under any other contract whatsoever, and that the successful BIDDER will pay to defend any charges against the Municipality and fully indemnify and hold harmless the Municipality from any damages, including any fines or penalties imposed on it following any successful prosecution.
- e) The successful BIDDER shall provide a list of all controlled hazardous materials or products containing hazardous materials, all physical agents or devices or equipment producing or emitting physical agent and any substance, compound, product or physical agent that is deemed to be or contains a designated substance in accordance with the Workplace Hazardous Materials Information Systems (WHMIS) and shall provide appropriate Material Health and Safety Data Sheets for these substances used for the performance of the required work, all prior to the performance of the work.