



THE CORPORATION OF THE CITY OF NIAGARA FALLS

REQUEST FOR TENDER – SERVICES

RFT21-2021

**SUPPLY OF MATERIALS AND SERVICES FOR
PAVEMENT MARKINGS USING TRUCK MOUNTED AND SMALL MACHINES
(ON-STREET, MUNICIPAL PARKING LOTS, & CITY OWNED LANDS)
FOR A THREE (3) YEAR PERIOD MAY 1, 2021 TO APRIL 31, 2024
WITH 1 + 1 OPTION YEARS**

SPECIAL PROVISIONS

Definition for this Section: “Director” means the City’s Municipal Works or designate.

1. SCHEDULE OF WORK

The Contractor shall be prepared to commence work May 1, 2021 as the pavement conditions and weather conditions allow. A detailed Pavement Marking Inventory will be prepared by the Director and discussed with the Contractor prior to any work being carried out.

2. ESTIMATED QUANTITIES

The quantities as shown under all items in the Form of Tender are estimates only and may be increased or decreased without invalidating the required contract by the Director. All such work shall be performed under the conditions of the original contract. The Director reserves the right to alter these quantities to any degree with no change in the unit prices.

3. HOURS OF WORK

The first application must be completed within sixty (60) working days upon commencement. A supervisor from the Transportation Services may be present during pavement marking operations.

4. CLEANUP

The Contractor will be responsible for the immediate cleaning up of all dirt, debris, excess paint and any other rubbish from his operations. The Contractor shall proceed with such clean up forthwith and when directed by the Director. In case of delay of more than five (5) working days, the Director will have these operations carried out by City forces and deduct all costs incurred from monies due to the Contractor.

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5. COMMENCEMENT, COMPLETION AND CALL BACK

Work on the commencement of the contract is to begin May 1, 2021 as road and weather conditions permit. The successful Tenderer, in submitting this Tender, hereby agrees to commence work and also to continue working in a continuous operation so as to complete the main program as quickly as possible to the Director's satisfaction and in any event, within a period of sixty (60) working days from the commencement of work.

The Contractor will be expected to commence work on the second application on or about mid-September as determined by the Director and will be congruent with the working day definition.

On all "call back work" the Corporation shall advise the Contractor as to when he is to be back on the job, within a minimum of five (5) calendar days' notice. The Contractor agrees to be on the job and to commence work on the date given, and also to continue working in a continuous operation so as to complete the job as quickly as possible to the Director's satisfaction and in any event, within a period of five (5) working days, unless otherwise agreed upon by the Director before the work commences.

In this Contract "call back work" shall be defined as all work necessary because of construction, reconstruction, resurfacing or any other item or reason deemed relevant by the Director other than the main portions of the first and second application.

A working day is defined as any day except:

- a) Statutory Holidays.
- b) When the temperature is below 10 degrees Celsius, when there is rainfall or fog or when the pavement is not perfectly dry and free of winter accumulation of gravel, sand, dirt, etc.

6. RECORDS

The successful Tenderer **SHALL** keep accurate records of where paint was used and quantities as applied as well as the number of hours that were required for pre-marking on the appropriate form supplied by the Corporation.

By Fax or e-mail to:

Philip Rudachuk

Field Services Supervisor: Fax: 905-356-5576

Email: prudachuk@niagarafalls.ca

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Legible/type written records of daily work **SHALL** be given to the Field Services Supervisor on a daily basis on the sheets provided by the Corporation and shall include the following information:

a) Application of Paint:

- 1) Number of litres of paint applied (white and yellow listed separately).
- 2) Number of directional arrows painted (left, right and through listed separately), and their corresponding locations.
- 3) Number of litres of paint applied for crosswalks and stop bars, and their corresponding locations.
- 4) The location and the number of parking stalls painted on a per area basis and the total number of litres of paint applied for parking stalls.
- 5) The number and location of disabled parking stalls painted.
- 6) The number and locations of other pavement markings applied.

b) Pre-Marking:

- 1) Number of persons in crew.
- 2) Number of hours of pre-marking and the corresponding pre-marking locations.
- 3) Total number of persons/hours.

c) Obliterating Pavement Markings:

- 1) Location of work completed.
- 2) Number of meters removed.

IMPORTANT NOTE TO CONTRACTORS: AMENDMENT FROM PREVIOUS YEARS

The daily records **SHALL** be prepared in duplicate. One copy shall be supplied to the Corporation and one (1) copy retained by the Contractor. These records **MUST** be signed by both the Corporation's Inspector and the Contractor otherwise they will not be accepted by the Director.

THESE RECORDS SHALL BE SUBMITTED NO LATER THAN FOUR WORKING DAYS AFTER COMPLETION OF THE DETAILED WORK.

FAILURE TO SUBMIT RECORDS WITHIN FOUR WORKING DAYS WILL NOT BE ACCEPTED.

THE CORPORATION WILL NOT REIMBURSE THE CONTRACTOR FOR WORK COMPLETED AND DETAILED ON LATE RECORDS SUBMISSIONS.

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These records will be the ONLY means used to determine the remuneration of which the Contractor is entitled. A sample daily record form is provided. It is the Contractor's responsibility to obtain the forms from the Director or designate.

Any errors, omissions or work not completed to the Director or designate will be completed within the call back time frame.

7. SIGNS AND SAFETY CONES

The Contractor shall ensure that all freshly painted lines are suitably marked and identified by the placing of solid fluorescent cones (TC-51A and/or TC-51B, per Ontario Traffic Manual, Book 7 – Temporary Conditions (OTM BOOK 7)) to protect the freshly laid material from being tracked or smeared by traffic. These cones shall be left in place until the paint is dry and will not track and must be picked up by the contractor within one half hour after the paint is dry.

All traffic cones shall be 45 cm. or 70 cm. height, have a solid conical shaped body and be fluorescent in colour, and must have a 10 cm. – 15 cm. wide white reflective collar mounted on the upper one-third of the cone taper, 10 cm. below the top of the cone. The cones shall be placed at a maximum spacing, per OTM Book 7.

8. INSPECTIONS AND OBSERVATIONS

The Contractor shall grant the Director or his designate access to his premises for the purpose of inspection of all facilities, equipment and materials which pertain to pavement marking operations in the City of Niagara Falls. Such inspections and observations shall be at the discretion of the Director or designate.

9. CHARACTER AND CONDUCT OF EMPLOYEES

The contractor shall employ only orderly and competent persons to do the work, in accordance with the contract and all laws that govern the contract.

The Director or designate shall inform the contractor in writing that any person or persons on the work are, in the opinion of the Director or designate, incompetent or disorderly, such person or persons shall be discharged from the work and shall not again be employed in the work.

10. MEASUREMENT OF QUANTITIES

The Contractor shall provide a means of accurate measurement of quantity of paint, which the Corporation's Inspector shall use to determine the exact number of litres applied each day. If questions arise as to the quantity of material used, or the amount of hours spent pre-marking, the Corporation's inspector shall determine the quantities, and hours to the best of their ability and those quantities shall be the only ones accepted by the Director.

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It shall be the Contractor's responsibility to provide the materials and assist in the preparation of a new dip stick for the measurement of paint quantities. The dip stick shall be prepared on the first day of work and in the presence of the Corporation's Inspector. The Corporation shall retain possession of the dip stick for the duration of the contract.

11. POWERS OF THE DIRECTOR

- a) All work to be done under this Contract shall be done to the satisfaction of the Director who may supervise and direct all work to the extent of ensuring the fulfillment of the contract.
- b) Without limiting the generality of the foregoing, the Director may order the Contractor to: **stop, discontinue or delay any or all of the work if, in his opinion;**
 - 1) it is unwise to proceed for any reason, or
 - 2) the work is not being executed in accordance with the Contract
- c) **alter the method or sequence of operations, equipment or working forces as directed if, in his opinion, the method, equipment or working forces are:**
 - 1) unsafe
 - 2) inadequate to ensure the quality of the work
 - 3) inadequate to ensure a rate of progress sufficient to complete the work on time, or
 - 4) likely to interfere with other work
 - 5) adversely affect the environment
- d) The Contractor shall comply with the Director's orders, which may be verbal, in writing or by e-mail. The Contractor shall not be entitled to additional compensation or compensation for loss or damage by reason of complying with any order of the Director made in accordance with this Section.
- e) The Director may at all reasonable times, visit, enter and inspect any buildings, workshops or works of the Contractor.
- f) The Contractor shall, at all times, at their expense, furnish all reasonable assistance required by the Contractor.
- g) The Director's failure to object to defective work or equipment shall not be construed as a waiver of any term of the Contractor an acceptance of defective work or equipment. Defective work or equipment must be corrected whenever discovered.
- h) The Director may request proof of paint type being used by requesting a sample testing, invoice receipt or alternate method deemed suitable by the Director.

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12. DIFFERENCES OF OPINION

- a) If there is any misunderstanding or difference of opinion with respect to the interpretation, application, administration or alleged breach of the Contract;

("Matter"), between the Contractor and the City , the Contractor shall submit a written request for a ruling to the Director with respect to the Matter no later than 30 days after the date the Matter arose. The Contractor's request shall identify the Contract term(s) in respect of which the Matter arose, state the grounds for the Contractor's position on the Matter and submit the records which support their position.

- b) The Director shall, within 30 days of receipt of the Contractor's request either:

1) Request the Contractor to submit such further and other particulars with respect to the Matter as he requires in which case the Contractor shall submit the required particulars within 30 days of receipt of the Director's request. Following the Director's receipt of the particulars, the Contractor's request, with particulars, shall be dealt with in the same way as a request for a ruling, or

2) Notify the Contractor of his decision.

- c) The Contractor, at their discretion, will be entitled to have the decision of the Director reviewed by City Council, at a public hearing, at a time and date to be determined by the City Clerk upon written notice having been given to the City Clerk for such a review.

13. FORFEITURE OF CONTRACT

At the option of the Director the Contract, or any part thereof, may be terminated on twenty-four (24) hours written notice to the Contractor in the event that the Contractor:

- a) Does not execute the Contract before commencing work;
- b) Fails to commence work on the Commencement Date specified in Paragraph 1 of the Special Provisions;
- c) Declares their inability to pay their debts as they generally become due;
- d) Is adjudged or adjudicated bankrupt or insolvent;
- e) Becomes subject to or requests a benefit or exemption relating to any provision or enactment concerning bankruptcy or insolvency;
- f) Breaches any term of the Contract;

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- g) Abandons the work;
- h) Gives or offers any gratuity to or attempts to bribe any member of Council, officer of servant of the City;

In the event that the Director terminates all or part of the Contract, he may take whatever steps he considers advisable to secure the completion of the work and any damages or extra expenditures thereby incurred by the City may be collected from outstanding payments due to the Contractor or may be recovered from the Contractor or his surety in any court of competent jurisdiction.

14. REMEDIES

- a) The rights and remedies of the City as set forth in any provision of the Contract shall not be exclusive and are in addition to any other rights or remedies by law or in equity or pursuant to the provisions of the Contract.
- b) The exercise of any remedy provided by the Contract does not relieve the Contractor or their sureties from any liability remaining under the Contract.
- c) The Director may take such steps as he considers necessary to remedy any breach of Contract and any damages or expenditures thereby incurred by the City plus a reasonable allowance of overhead.
- d) The failure of either the City or the Contractor to insist upon strict performance of any provisions of the Contract shall not be construed as a waiver or relinquishment of the right to insist upon strict performance of such provisions on any future occasion.

15. FORCE MAJEURE

- a) Delays in or failure of performance by either party under the Contract shall not constitute default hereunder or give rise to any claim for damages and to the extent caused by occurrences beyond the control of the party affected, including but not limited to decrees of Government, act of God, fires, floods, explosions, terrorism, riots, war, rebellion, sabotage and atomic or nuclear incidents, but lack of finances, strikes or other concerted acts by workers, delay or failure arising out of the nature of work to be done, or from the normal action of elements or from any normal difficulties which may be encountered in the performance of the work, having regard to the nature thereof, shall in no event be deemed to be cause beyond a party's control. Normal difficulties include but are not limited to those related to quality of equipment or delay in delivery or equipment.
- b) In the event that performance of this Contract in the reasonable opinion of either party is made impossible by force majeure, then either party shall notify the other in writing and

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the City shall either (a) terminate this contract forthwith and without any further payments being made, or (b) authorize the Contractor to continue the performance of the Contract with such adjustments as required by the existence of the force majeure and agreed upon by both parties. In the event that the parties cannot agree upon the aforementioned adjustments, it is agreed by the parties that this Contract shall be terminated.

16. ERRORS BY CONTRACTOR

Changes, errors or poor workmanship in pavement marking made by the contractor, his workmen or employees, either through carelessness or otherwise must be removed and corrected by the contractor at his expense, within one (1) day of the error being made, or the contractor being advised of the error by the Director. The contractor shall have the markings removed by grinding.

17. QUALITY OF WORKMANSHIP

Workmanship shall be in every respect in accordance with the best modern practice. Whenever the General Provisions and Special Provisions, or directions of the Director admit a reasonable doubt about what is permissible, and when they fail to state quality of any work, interpretation which requires the best quality of work is to be followed.

The Director or designate reserves the right as sole judge as to acceptable quality of work, should the contractor or his representative cause or have to be caused any work deemed by the Director or designate unacceptable no matter the reason, it shall be the contractors responsibility to correct the condition to the Director's satisfaction. Such corrections shall be at the Contractor's expense.

18. SUPERVISORY PERSONNEL

The Contractor shall supply supervisory staff to ensure that all work is carried out in accordance with the specifications and provisions of this tender. The supervisor must be present at all times during the operation. Failure to have a supervisor present will result in immediate termination of the work being carried out. The Contractor shall be held responsible for all delays, costs and other liabilities which may result from termination of work due to the lack of supervisory personnel on site

19. TRAINING/SAFETY

a) The Contractor is responsible for ensuring that all crew personnel have received training on the requirements of the Occupational Health and Safety Act, and information contained within the Ontario Traffic Manual Book 7 (Temporary conditions) and Book 11 (Pavement, Hazard and Delineation Markings). **Verification of Book 7 training of staff must be supplied to the Corporation.**

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- b) The Contractor shall develop in writing and implement a traffic protection plan, in accordance with the Occupational Health and Safety Act, for the crew personnel at a site if any of them may be exposed to a hazard from vehicular traffic. The traffic protection plan shall specify the vehicular traffic hazards and the measures to be used to protect workers, and must be kept on-site and made available to an inspector on request.
- c) All crew personnel shall wear protective clothing as mandated by the Occupational Health and Safety Act.

20. NOTICE

- a) Any notice required under this Contract shall be in writing and it shall be sufficient compliance with such requirement go deliver such notice by mail or by hand in accordance with this Section.
- b) Where notice is delivered by mail, it shall be sent by prepaid ordinary mail to:

The City at:
The Corporation of the City of Niagara Falls
4310 Queen Street
Niagara Falls ON L2E 6X5
Attention: Mathew Bilodeau

The Contractor at:
The address specified in the Tender

- c) Either party may, by notice as aforesaid, designate a different address for service. Any notice mailed as aforesaid shall be deemed to have been received on the fifth day following the mailing thereof.
- d) Where notice is hand-delivered it shall be sufficient to hand-deliver it to one of the following individuals:
 - 1) For the City: the Director of Municipal Works
 - 2) For the Contractor: any employee at or above the level of foreman or dispatcher.

Any notice hand-delivered as aforesaid shall be deemed to have been received at the time of delivery.