

NIAGARA PUBLIC PURCHASING COMMITTEE

REQUEST FOR TENDER (RFT)

FOR THE SUPPLY OF

ASPHALT PRODUCTS

RFT # NP01-2012

CLOSING DATE: MARCH 8, 2012, 1:15 p.m.

Tenders are to be submitted to:

*The City of Niagara Falls, City Hall, City Clerks Office,
4310 Queen Street, Niagara Falls, ON L2E 6X5
no later than the above date and time.*

Tenderers are particularly requested to note that compliance with Item 10, Page 6 of the Instructions to Tenderers , ***Records of Products Purchased*** is a condition of any contract award.

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(ii) DEFINITIONS

- a) "NPPC" means the Niagara Public Purchasing Committee.
- b) "the said agencies" means the participating member agencies of the NPPC stated herein and shall include all other agencies of the Niagara Public Purchasing Committee.
- c) "NPPC Representative" shall for the purposes of this RFT be: Mr. Raymond Miller, Manager of Supply and Services, City of Niagara Falls, Ontario.
- d) "RFT" means this Request for Tender.
- e) "Tenderers" means the company submitting a tender in response to this RFT.
- f) "Tender" means the tender submission delivered in response to this RFT.
- g) "Form of Tender" means pages 15 to 16 of this RFT.

INSTRUCTIONS TO TENDERERS

1. GENERAL DESCRIPTION

This RFT covers the supply of **Bituminous Patching Materials and Asphalt Emulsions** (Asphalt Products) to the participating agencies of the Niagara Public Purchasing Committee (NPPC), at various locations, within the limits of the Regional Municipality of Niagara, as detailed herein. This RFT is being issued on behalf of the NPPC member agencies by the City of Niagara Falls, Supply and Services Section.

2. DATE & PLACE FOR RECEIVING TENDERS

- a) Tenders shall be received in the office of the City Clerk, Mr. Dean Iorfida, or representative, at the City Hall, 4310 Queen Street, Niagara Falls, Ontario, L2E 6X5, up until 1:15:00 p.m. local time:
Thursday, March 8, 2012.
- b) Tenders received after 1:15:00 p.m. local time will be returned unopened.
- c) Tenders will be opened at a tender registration meeting, City Clerks Office, first floor, City Hall at 1:30 p.m. local time on the above date.
- d) **The tender opening shall be for registration of tender submissions only.** Only the **names** of the companies who have submitted a tender shall be read out at this tender opening. No other information will be made available at the time of the tender opening. Refer to Item 16, Page 7.

3. FORM OF TENDER

- a) Tenders must be submitted on the "Form of Tender", pages 15-16 of this RFT, and enclosed in sealed envelope, provided by the tenderer with the **attached mailing label**, which is the last page of this RFT, affixed to the Envelope. The Corporation of the City of Niagara Falls will not be responsible for any tender which is lost or misplaced as a result of failure to use the said mailing label.
- b) All unit prices must be clearly indicated and all extensions and lump sum prices written in figures. The tender must not be restricted by a statement added to the Form of Tender or by a covering letter, or by alterations to the Form of Tender, as issued by the Corporation of the City of Niagara Falls, unless otherwise provided herein. Tenderers will be allowed to attach descriptive literature with the sole purpose of amplifying their tender submission. Adjustments by fax or a letter to a tender already submitted **will not** be considered.
- c) The Form of Tender must be signed in the space provided on the Form and must include the signature of a responsible official of the tendering company.

4. MAILING LABEL

The attached mailing label (last page) **must** be affixed (glued) to an appropriate sized envelope, approximately 9" x 12" and submitted to the Corporation of the City of Niagara Falls prior to the closing date. **Deliver only to: City Clerk's Office, Niagara Falls City Hall, 4310 Queen Street, Niagara Falls, Ontario, L2E 6X5.** Tenders submitted that do not have this label affixed may be rejected. It is the tenderer's responsibility to ensure their tender submission envelope is delivered only to the City's Clerk Office prior to the date and closing time stated herein.

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5. PARTICIPATING NPPC AGENCIES

Some of the participating NPPC agencies of this RFT are listed below but not necessarily limited to:

1. The Regional Municipality of Niagara
2. The City of St. Catharines
3. The City of Niagara Falls
4. The City of Welland
5. The Town of Fort Erie
5. The Town of Lincoln
6. The Town of Niagara-On-The-Lake
7. The Township of West Lincoln
8. The Township of Wainfleet
9. The Niagara Parks Commission
10. Brock University
11. Niagara College
12. The District School Board of Niagara
13. The Niagara Catholic District School Board.
14. and related agencies to all of the above organizations.
15. Other NPPC participating agencies

Other NPPC Agencies not listed above may choose to participate in any contract award resulting from this RFT. A complete listing of all member agencies of the Niagara Public Purchasing Committee can be viewed on the following Web Site: <http://www.nppc.ca>

6. CONTRACT PERIOD

Contract(s) will be generally awarded for the normal asphalt production season, generally between April 1, 2012 and December 31, 2012 and to March 31, 2013 for Emulsified Asphalt Patching Materials. These dates are subject to changes depending on climatic conditions. All tenderers must advise on the attached Form of Tender the time for the start up and anticipated shut down of their plants. **Notice of the date for the termination of production must be given to each participating agency at least thirty days in advance of such termination.**

7. REQUIREMENTS

All material will be supplied on demand, as required by each participating NPPC agency. Each participating member agency will be responsible for ordering their own requirements. Materials will be picked up from the tenderer's plant closest to the job site. The supplier must have staff on site to assist in loading materials on Purchasers equipment. Equipment and procedures utilized in loading must meet all recognized safety standards. No specific estimates for any participating agency including the Regional Municipality of Niagara are given. The estimates on the Form of Tender are for the guidance of the tenderer only and are not intended as an indication of quantities for future orders that may result from this RFT.

8. PRICING

Tenderers to state pricing for Asphalt Products on the Form of Tender. Pricing for the supply of asphalt products during the duration of the contract period will be on a monthly basis with prices per the posted Ontario Ministry of Transportation MTO Asphalt Price Index and as adjusted per the following pricing statement:

8. **PRICING....continued**

INCREASE / DECREASE IN HOT MIX ASPHALT PRICES

The member agencies of the NPPC will adjust the payment to the Contractor based on changes to the Ministry of Transportation's performance graded asphalt cement price index. The price index will be published monthly in the MTO Contract Bulletin and displayed on the OHMPA (www.ohmpa.org) and MTO website (www.mto.gov.on.ca). The price index will be used to calculate the amount of the payment adjustment per tonne of asphalt cement accepted into the work.

The price index will be based on the price, excluding taxes, FOB the depots in the Toronto area, of asphalt cement grade PG 58-28 or equivalent. One index will be used to establish and calculate the payment adjustment for all grades.

A payment adjustment per tonne of asphalt cement will be established for each month in which paving occurs when the price index for the month differs by more than \$15.00/tonne from the AC price index for the month prior to the tender opening. When the price index differential is less than \$15.00/tonne, there will be no payment adjustment for that month. Payment adjustments due to changes in the price index are independent of any other payment adjustments made to hot mix tender items. Tax adjustment should be applied to the adjustment.

The payment adjustment per tonne will apply to the quantity of asphalt cement in the hot mix accepted into the Work during the month for which it is established. The payment adjustment for the month will be calculated by the following means:

1. When AC Prices are Rising by more than \$15.00/tonne: the payment adjustment to be paid to the Contractor is the result of subtracting the price index for the month prior to the tender opening from the price index in effect when paving takes place, minus the \$15.00 float, multiplied by the number of tonnes of PGAC incorporated in the mix(s) as determined by the job mix formula. HST on the adjustment will be added.
2. When AC Prices are Falling by more than \$15.00/tonne: the payment adjustment made in favour of the Owner is the result of subtracting the price index in effect when paving takes place, plus the \$15.00 float from the price index for the month prior to the tender opening, multiplied by the number of tonnes of PGAC incorporated in the mix(s) as determined by the job mix formula. HST on the adjustment will be added.

The quantity of new asphalt cement includes all grades of asphalt cement supplied by the Contractor with and without polymer modifiers. For each month in which a payment adjustment has been established, the quantity of the escalation/de-escalation will be calculated using the hot mix quantity accepted into the Work and its corresponding asphalt cement content as required by the job mix formula.

INSTRUCTIONS TO TENDERERS

9. F.O.B. POINT

All materials tendered must be available F.O.B. tenderer's plant, and loaded on Purchasers equipment, **unless otherwise specified**. Plant location may be a consideration deciding upon any award resulting from this RFT.

10. RECORDS OF PRODUCTS PURCHASED

The successful supplier **must keep** accurate records of all items purchased by each participating NPPC agency. Upon request by any NPPC agency, this report, which shall detail the quantity and description of each item purchased by each NPPC member agency, shall be sent in a printed or digital format to the NPPC representative or designate who issued the RFT on behalf of the said agencies. The report should include the following minimum information: description, quantity, date shipped, ship to address and total cost. It is anticipated that this report will be requested on an annual basis and will cover those purchases for the just completed annual time period. Any supplier who refuses to submit a usage report may, at the discretion of the said agencies, be ineligible to submit tenders on future contracts.

11. CLARIFICATION

It will be the tenderer's responsibility to clarify any details in question before submitting a tender. All official correspondence in regard to the specifications must be directed to and will be issued by the Manager of Supply and Services for The Corporation of the City of Niagara Falls, Clerk's Department, Municipal Service Centre, 3200 Stanley Avenue, Niagara Falls, Ontario, L2E 6S4, telephone: 905-356-7521 extension 4300. The Agencies of the Niagara Public Purchasing Committee will assume no responsibility for any oral instruction or suggestion.

12. WITHDRAWAL OF TENDER

A tender submission may only be withdrawn unopened after it has been deposited, if a request in writing from the tenderer is received by the Manager of Supply and Services prior to the time of the RFT closing as stated herein. Address requests to: Manager of Supply and Services, City of Niagara Falls, Municipal Service Centre, 3200 Stanley Avenue, Niagara Falls, Ontario, L2E 6S4

13. DISQUALIFICATION OF TENDERERS

More than one tender from an individual firm, partnership, corporation or association under the same or different names will not be considered. Collusion between tenderers will be sufficient cause for rejection of all tenders so affected. Also tenders will only be received from single firms only. Joint tender submissions will not be accepted

14. ERROR AND CORRECTION

The Agencies of the NPPC will make all necessary corrections to any tender submissions which is in error through addition or extension; the corrected value prevailing.

15. ANNOUNCEMENT

No announcement concerning the tender award will be made until complete reports are approved by the participating agencies of the Niagara Public Purchasing Committee.

INSTRUCTIONS TENDERERS

16. SUMMARY OF TENDERS RECEIVED

As has been the practice for several years, the summary of all tenders received including total and unit pricing shall be posted on the City of Niagara Falls Bid Opportunities Internet Web page: www.niagarafalls.ca/bids no later than three days following the tender opening. By submitting a tender in response to this Request for Tender, the Tenderer thereby agrees to having this summary posted.

17. AWARD BY INDIVIDUAL NPPC AGENCIES

The individual agencies of the Niagara Public Purchasing Committee, as generally described but not limited to those agencies named herein, may at their own discretion, award all or a portion of the products described herein to one or more tenderers. **No single award contract or purchase order will be issued covering all agencies.** Each individual agency will make their own decision(if any) to award all or a portion of the products described herein to one or more tendering companies for reasons that are in their best interests or provide the best value for each agency. Individual Agencies will at their own discretion place orders (if any) for some or all (but not necessarily all) of the products listed herein with any successful tenderers. Successful tenderers must accept orders (if any) from the said Agencies and invoice the individual said Agencies per the orders placed by these Agencies.

18. ACCEPTANCE OR REJECTION OF TENDERS

The Agencies of the Niagara Public Purchasing Committee reserve the right, in their absolute discretion to accept a tender which it deems most advantageous to themselves and the right to reject any or all tenders, in each case without giving any notice. The lowest or any tender will not necessarily be accepted. In no event will any member Agency of the NPPC be responsible for the costs of the preparation or the submission of a tender from any tenderer.

Tenders which contain conditions or otherwise fail to conform to the Instructions to Tenderers may be disqualified or rejected. The member Agencies of the NPPC may, however, in their sole discretion, reject or retain for their consideration tenders, which are non-conforming because they do not contain the content or form required by the Instruction to Tenderers or for failure to comply with the process for submission set out in these Instructions to Tenderers.

Except as expressly and specifically permitted in the Instructions to Tenderers, no tenderer shall have any claim for any compensation of any kind whatsoever, as a result of participating in this Request for Tender, and by submitting a tender, each tenderer shall be deemed to have agreed that it has no claim.

19. TAXES

The Harmonized Sales Tax shall be extra on unit prices tendered.

20. ESTIMATED QUANTITY

All quantities indicated on the Form of Tender, are estimates only and shall be used as a basis for calculation upon which the award will be made. The quantities are not guaranteed to be accurate and are furnished without any liability on behalf of the member agencies of the Niagara Public Purchasing Committee

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21. FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACTS

Any documentation submitted in respect to this RFT shall be subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O.1990,c. M.56, as amended and the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.F.31, as amended.

22. CONFIDENTIALITY

The tender submitted must not be restricted by any statement, covering letter or alteration by the tenderer in respect of confidential or proprietary information. The Agencies of the Niagara Public Purchasing Committee will treat all tenders submitted as confidential in respect to proprietary or confidential information **but not including unit or total prices**. *The Municipal Freedom of Information and Protection of Privacy Act R.S.O. 1990, c.M. 56*, as amended and *The Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.F.31, as amended. shall apply in respect to all tenders received.

23. RESTRICTIVE STATEMENTS, MODIFIED CHANGED OR ALTERED TENDER SUBMISSIONS

- a) The participating NPPC agencies reserves the right to reject any tender submission which is restricted by any wording, sentences, clauses, copies or agreements or contract samples included by the tenderer in their tender submission. The said agencies shall make the sole determination of which of the above constitutes a restriction. Also, tender submissions which are incomplete, conditional or obscure, or which contain additives not called for, erasures, alterations or irregularities of any kind, may be rejected
- b) The participating NPPC agencies reserve the right to waive informalities at their sole discretion

24. INFORMAL TENDERS

Tender submissions which are incomplete, conditional or obscure, or which contain additives not called for, erasures, alterations or irregularities of any kind, may be rejected as informal. The Niagara Public Purchasing Committee Agencies reserve the right to waive informalities at their sole discretion.

25. ADHERENCE TO REQUIREMENTS

The tenderer is requested to adhere strictly to all requirements and complete all sections of this RFT including all appendices and addenda. Failure to do so may be sufficient cause for rejection of the tender submission.

26. AGREEMENT IN WRITING ONLY

No verbal arrangement or agreement, relating to the goods, materials, articles, equipment, work or services, specified or called for under this RFT, will be considered binding, and every notice, advice or other communication pertaining thereto, must be in writing and signed by a duly authorized person.

27. IRREVOCABLE TENDERS

Tenders submitted shall be irrevocable and shall be open for acceptance for a period of not less than ninety (90) days from the stated closing date for tender submissions.

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28. PAYMENT IN CANADIAN FUNDS

Unless otherwise indicated herein, the prices stated are payable in Canadian Funds.

29. ERASURES AND ALTERATIONS

Any erasures, alterations or cross-outs must be initialled in ink by the tenderer. Failure to do so may result in the rejection of the tender's tender submission.

30. NOTIFICATION OF POTENTIAL TENDERERS NOT GUARANTEED

The issuing agency for this RFT, The City of Niagara Falls, posts notification of all RFT's on its Internet Web Site. Tenderers are to review this Web Site to inform themselves of any RFT opportunities. The Agencies of the Niagara Public Purchasing Committee shall not guarantee that previous successful tenderers nor any potential tenderers shall be notified by any means electronic or otherwise of any RFT. It is the responsibility of any potential tenderer to check the Web Site of the issuing agency regarding any current RFT opportunity. The said Web Site is: www.niagarafalls.ca/bids

31. LIMITATION AND WAIVER OF DAMAGES

The tenderer, by submitting a tender, agrees that it will not claim damages, for whatever reason, relating to the Contract or in respect of the competitive process. Also the tenderer, by submitting a tender, also waives any claim for loss of profits if no agreement is made between the tenderer and the Agencies of the Niagara Public Purchasing Committee.

32. CANCELLATION OF CONTRACT

Failure by any contractor, following award of contract, to supply or deliver the products within an agreed period or to deliver or to supply any product that fails to meet the specifications contained herein or failure to honour the prices stipulated in the contract will result in the cancellation of the contract between the contractor and the agencies listed in this RFT. Such cancellation shall be at the sole discretion of the Agencies of the Niagara Public Purchasing Committee.

33. SUB CONTRACT

The successful tenderer will not without the written consent of the participating agencies, make any assignment or sub contract for the execution of any product hereby tendered.

34. STANDARDS AND LEGISLATION: FAILURE TO COMPLY

The successful tenderer may be required to provide written documentation that all materials and services offered in the tenderer's tender submission meet Municipal, Provincial and Federal Government standards, legislation and laws. Failure by the successful tenderer to comply with these laws, legislation, regulations and provisions shall be just cause for the Agencies of the Niagara Public Purchasing Committee, at their discretion, to stop performance of this contract, until such times as the successful tenderer complies with these laws etc. Also these agencies may, at their discretion, award the contract to any other supplier or may re-issue the RFT. These agencies may also assess against the supplier any damages whatsoever as a result of failure to comply.

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35. **FAILURE TO COMPLY WITH ALL TERMS OF THIS RFT**

Failure to comply with all terms, specifications, requirements, conditions and provisions of this RFT, to the satisfaction of the said Agencies, shall be just cause for the cancellation of the contract award. The Agencies of the Niagara Public Purchasing Committee shall then have the right to award this contract to any other supplier or to re-issue the RFT. These agencies shall assess against the said supplier any damages whatsoever as a result of failure to comply.

36. **GOODS AND MATERIALS SUITABLE FOR USE**

The tenderer warrants that any goods, materials, articles or equipment to be supplied under or pursuant to any official order or contract based on this RFT, that is or are to be made or used for a particular purpose, will be fit and suitable for that purpose.

37. **PROTECTION OF THE AGENCIES OF THE NIAGARA PUBLIC PURCHASING COMMITTEE**

The successful tenderer(s) shall at all times well and truly save, defend, keep harmless and fully indemnify the Agencies of the Niagara Public Purchasing Committee and their servants, employees and agents, from and against all actions, suits, claims, demands, loss, costs, charges, damages and expense, brought or made against or incurred by these agencies, their servants, employees or agents, including the payment of all legal fees by the successful tenderer(s) in any way relating to goods, materials, articles or equipment, supplied, or the supplying thereof, or work or services, performed, or the performing thereof, pursuant to this RFT, or relating to inventions, copyrights, trade marks or patents, or rights thereto, used in supplying such goods, materials, articles, equipment, or in performing such work or services or arising out of the subsequent use or operation of such goods, materials, articles, equipment or work.

38. **ADDITIONAL REQUIREMENTS**

The Agencies of the Niagara Public Purchasing Committee reserve the right to add or delete items listed herein following award of any contract(s) or purchase order(s) resulting from this RFT. Unit prices stated by the tenderer shall apply.

39. **OMISSION & MIS-STATEMENTS**

The several parts of this RFT shall be taken together to explain each other, and to make the whole consistent; and if it be found that anything has been omitted or misstated, which is necessary for the proper performance and completion of any part of the work contemplated, the successful tenderer company shall, at its own expense, and without making any extra claim, therefore, execute the same as if it has been properly described, and the correction of any such omission or mis-statement shall not be deemed to be an addition to, or deviation from the services that may be awarded as a result of this RFT.

40. **AGREEMENT WITH TERMS**

By submitting a tender the tenderer agrees to all the terms and conditions of this RFT. Tenderers who have obtained this RFT and any addenda electronically must not alter any portion of this RFT. To do so will result in the rejection of the tenderer's delivered tender submission.

41. ORDER OF PRECEDENCE

In the event of any inconsistency or conflict in the contents of the following documents, such documents shall take precedence and govern in the following descending order:

- Purchase Order or Contracts from any Participating NPPC Agency
- Addendums (if any) as issued
- Instructions to Tenderers
- Form of Tender
- Specifications
- Any drawings, plans or photographs attached to this RFT.

42. ANTI LOBBYING RESTRICTIONS AND REQUIRED DISCLOSURE

- a) Tenderers, their company staff members, or anyone involved in preparing their tender submission must not engage in any form of political or other lobbying whatsoever with respect to this project or seek to influence the outcome of the RFT and subsequent procurement process. This anti-lobbying restriction extends to all staff and elected Board Council members of all Agencies of the Niagara Public Purchasing Committee.
- b) In the event of any such lobbying, the said Agencies may reject any tender submission by that tenderer without further consideration and terminate that tenderer's right to continue in the RFT and any subsequent procurement process. All correspondence or contact by interested parties with the said Agencies must be directly and only with the issuing agency's contact person identified in this RFT. It should be duly noted by all tenderers that this anti-lobbying restriction extends from the release date of this RFT through to the date and time when the said Agencies formally award the contract by purchase order or other means. Any lobbying undertaken during this time frame by any tenderer or their company staff members, or anyone involved with their tender submission may result in immediate disqualification from the process. This anti-lobbying restriction is not meant to affect the day-to-day operations of the said Agencies, their staff and the elected Board or Council of these Agencies that may necessarily include contact with potential tenderers to this RFT regarding other business.
- c) This section shall not be intended to disallow any meetings, interviews or clarifications requested or authorized by the said Agencies, their authorized staff, the issuing agency's contact person or their authorized designates

43. TENDER SUBMISSION IN ENGLISH

Tender submissions must be prepared in English and tenderers must be able to converse and correspond fluently in English directly or through an interpreter supplied by and at the total cost to the tenderer.

44. LIABILITY FOR ERRORS

While the Agencies of the Niagara Public Purchasing Committee has used considerable efforts to ensure an accurate representation of information in this RFT, the information contained in this RFT is supplied solely as a guideline for tenderers. The information is not guaranteed or warranted to be accurate by the said Agencies, nor is it necessarily comprehensive or exhaustive. Nothing in this RFT is intended to relieve tenderers from forming their own opinions and conclusions with respect to the matters addressed in this RFT.

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45. FINAL DATE FOR QUESTIONS FROM TENDERERS RELATING TO THIS RFT

Due to the time constraints required to issue addenda (if any), tenderers must submit any questions relating to this RFT, no later than seven (7) days prior to the closing date stated herein.

46. RIGHTS TO TENDER SUBMISSION

Upon receipt of any tender submission in response to this RFT, the participating NPPC agencies shall retain the right to determine the use of the tender submission for its own purposes. Tenderer's shall not use their tender submission for any other purposes whatsoever, including revealing any content of their tender submission or making copies for other agencies, firms or companies not being a legal part or division of the tenderer's company, unless permission for any such use is receiving in writing by the tenderer from the NPPC representative. Tenderers must make a request in writing to the NPPC representative for the intended use of their tender submission for any other purposes than as stated herein.

47. SUSPENSION OF ACTIVITY

- a) All tenderers are advised and put on notice that notwithstanding anything else contained in this RFT that all tenderers are forewarned and advised that if the Agencies of the Niagara Public Purchasing Committee chooses not to proceed with this RFT process or any subsequent procurement process or any stage including, without limitation, the completion of the RFT process, the commencement, implementation or completion of any RFT process or other procurement process and/or the award, negotiation or the finalization of any agreement or contract and that accordingly, all tenderers acknowledge and agree that if any such processes are suspended, terminated or cancelled at any time or times during any stage of the RFT or subsequent procurement process (if any) by the said Agencies, then the tenderers shall have no claim against the said Agencies for any costs, expenses, losses including loss of profits, liabilities or damages whatsoever.
- b) The said Agencies reserve the right to exercise complete and unfettered discretion in all aspects of the conduct of the RFT and any subsequent procurement process, the assessment and evaluation of tender submissions, including the determination of criteria and the selection, if any, of successful tenderer(s), without incurring any liability whatsoever to any tenderer, including any liability for costs, expenses, losses or damages, and without giving any reasons therefore.
- c) Without limiting the generality of the foregoing, the said Agencies, in their sole and unfettered discretion, reserve the right to change the dates, schedules and deadlines set out in this RFT, or to change the scope of the project, or to cancel the RFT, without stating reasons therefore. The said Agencies also reserve the right to accept or to reject any or all of the tender submissions received. Also, the said Agencies reserve the right to proceed as, in their sole and unfettered discretion, following receipt of the tender submissions, including, without limitation, issuing a second or more, or a modified RFT or entering into contract negotiations with any tenderer.
- d) The lowest priced tender submission(s) received will not necessarily be accepted.
- e) The issuance of this RFT and the receipt of any tender submission from any tenderer does not commit the said Agencies to award a contract or purchase order or to pay any costs incurred in the preparation of any tender by any tenderer, or in any tenderer's attendance at any meetings that may be called by the said Agencies.

48. ADJUSTMENTS TO TENDER SUBMISSIONS AFTER THE CLOSING DATE

No adjustments by any tenderer to their tender submission will be permitted after the stated closing date for this RFT, except as otherwise provided herein.

49. PATENTS, INTELLECTUAL PROPERTY RIGHTS, COPYRIGHT, TRADEMARKS, AND TECHNOLOGY RIGHTS

By submitting a tender, the tenderer warrants that the information contained in its tender does not infringe any Patents, intellectual property rights, Copyright, Trademarks, Technology Rights of any third party and agrees to defend the member agencies of the NPPC at the tenderer's own expense, in all suits, actions or proceedings in which the said agencies are made a defendant for actual or alleged infringement of any Canadian or foreign letters patent, intellectual property rights, copyright trademarks, technology rights or any other related rights to the above resulting from the said agencies' contractual relationship with the tenderer and the tenderer's use of any or all technologies, methodologies, strategies in providing the services required herein. The tenderer further agrees to pay and discharge any and all judgments or decrees which may be rendered in any such suit, action or proceeding against the said agencies. The tenderer agrees to indemnify and hold harmless the said agencies from any and all license, royalty and proprietary fees or costs, including legal costs, which may arise out of the said agencies' contractual relationship with the tenderer and the tenderer's use of any or all technologies, methodologies, strategies in providing the services required herein. It is expressly agreed by the tenderer that these covenants are irrevocable and perpetual.

50. LITIGATION WITH NPPC MEMBER AGENCIES

No tender submission will be accepted from any tenderer including individuals employed by or associated with the tenderer's company or associated or related companies of the tendering company and individuals employed by same who have / has a claim or has instituted a legal proceeding against the member agencies of the NPPC or against whom the said agencies have a claim or has instituted a legal proceeding, without the prior approval of elected Boards or Councils of the said agencies. This applies whether the legal proceeding is related or unrelated to the subject matter of this RFT.

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SPECIFICATIONS

SPECIFICATIONS

1. All materials quoted must meet the current Ontario Provincial Standard specifications:
 - OPSS 1150 - Hot mix, Hot Laid Asphaltic Concrete
 - OPSS 1103 - Emulsified Asphalt
 - OPSS 1153-07 - Emulsified Asphaltic Cold Patch
2. The tenderer may be required to submit copies of test results from an independent certified testing laboratory for the Emulsified Asphalt Patching Material.
3. These test results shall relate to testing completed within the last twelve (12) months. The report shall indicate the laboratory's certification status.
4. The following tests shall be performed:
 - a) Stripping resistance.
 - b) Marshall Stability at - 16 deg.C,N
 - c) Permeability Test cm/sec (5psi Pressure).
 - d) Residual Binder Content (% of Total Mix).

THE NIAGARA PUBLIC PURCHASING COMMITTEE
 SUPPLY OF ASPHALT PRODUCTS
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FORM OF TENDER - Page 1

Name of Company	
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I/We, the undersigned having examined the complete RFT including this Form of Tender do hereby offer and agree to enter into an agreement with the individual participating member agencies of the Niagara Public Purchasing Committee, to supply Asphalt Products at the following prices. Prices stated below are for the guidance of the tenders only and shall be used by the member agencies of the NPPC for evaluative purposes to select a successful tenderer (if any) and shall not be understood to be firm or for use for any order quantities for any contract that may result from this RFT.

Note: All Applicable Taxes are Extra

Section A - Bituminous Patching Material Price per tonne at plant unless otherwise stated

Item	Approximate Annual Quantities Loaded on Our Trucks at Tenderer's Plant	Unit	Description / Specification	Unit Price Per Tonne	Total Price
1	1750	Tonne	HL2	\$	\$
2	1300	Tonne	HL2A	\$	\$
3	1400	Tonne	HL3	\$	\$
4	1000	Tonne	HL3A	\$	\$
5	Price only	Tonne	HL3C	\$	Price Only
6	1700	Tonne	HL3HS High Stability	\$	\$
7	550	Tonne	HL4	\$	\$
8	2500	Tonne	HL8	\$	\$
9	600	Tonne	Sheet Top	\$	\$
10	TOTAL PRICE			TOTAL:	\$

11	Delivery by Tandem Axle Truck for Section A - Price per Tonne	\$	/ Tonne
12	Environmental Charge for Section A	\$	/ Tonne
13	Winter Heating Charge per Tonne	\$	/ Tonne
14	Time When Winter Heating Charge will apply:	From:	To:

Prices stated on the Form of Tender, pages 15 and 16 are to be as of the date of the latest Asphalt Pricing Index as posted on the Ontario Ministry of Transportation (MTO) Asphalt Price Index and shall be understood to be the price fixed as of one day prior to the stated closing date for this RFT.

Invoice Pricing for any asphalt products purchased by any NPPC Agency as a result of this RFT shall be per Item 8, Pages 4 and 5 of this RFT.

THE NIAGARA PUBLIC PURCHASING COMMITTEE
 SUPPLY OF ASPHALT PRODUCTS
 RFT # NP01-2012
FORM OF TENDER - Page 2

Section B - Asphalt Emulsion CRSI

Item	Approximate Quantity	Unit	Description	Unit Price / Litre	Total Price
15	3000	Litres	CRSI	\$	\$
16	Environmental Charge (if any) for Section B per Tonne			\$	/ Tonne

Section C - Emulsified Asphalt Patching Materials Price firm from April 1, 2012 to March 31, 2013

Item	Approximate Quantity	Unit	Description	Unit Price / Tonne	Total Price
0.2083	200 Combined	Tonne	Premium QPR I.A.R. Or Equivalent	\$	\$
17 b	see above	Tonne	Standard E.H.P. Or Equivalent	\$	\$
18	Environmental Charge (if any) for Section C per Tonne			\$	/ Tonne
19	Delivery By Tandem Axle Truck for Section C per Tonne			\$	/ Tonne

20	Plant Location (1)	Plant Location (2)
21	Payment Terms:	
22	For Sections A and B Plant to be open :	From: To:
23	For Section C Plant to be open year round	Yes: No:
24	For Section C If plant not open year round	Opening Date: Closing Date:

Note: Preference may be given by NPPC Agencies for those companies that have a plant that is open all year for Section C

Company Name	
Contact Name	
Title	
Signature	
Address (Street & No.)	
City/Town Prov & Postal Code	
Telephone / Fax Numbers	Telephone: Fax:
E-mail	
Witness Signature	
Title of Witness	
Date Signed and Witnessed	Day: Month: Year:

NOTICE OF NO BID

It is important to the said Agencies to receive a reply from all potential tenderers. There is no obligation to submit a tender in response to this RFT, however, should a company choose not to submit a tender, completion of this form will assist the said Agencies in determining your company's interest in future Request for Tenders.

INSTRUCTIONS

If your company is unable, or do not wish to submit a tender in response to this RFT, please complete the following portions of this form. State your reason for not submitting a tender by checking the applicable line or by explaining briefly in the space provided. It is not necessary to return any other pages or forms of this RFT. Please just return this completed form by mail or by fax prior to the closing date. Fax Number: 905-356-1774

#	Reasons for Not Submitting a Tender	Check box
1	We do not supply this commodity or service	
2	We do not supply this commodity to the specifications listed above	
3	Unable to be competitive	
4	Cannot handle due to current production load	
5	Quantity Reason: Commodity Supply too large	
6	Quantity Reason: Commodity Supply too small	
7	Cannot meet delivery or completion requirements	
8	Agreements with Quarries do not permit us to sell directly	
9	Licensing restrictions	
10	We do not wish to submit a tender on this commodity or service in the future	

Other reasons or additional Comments:	
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Company Name	
Contact Person	
Phone Number	
Fax Number	
E-mail	

From:

(State Company Name & Address above)

To: City Clerk
The Corporation of the City of Niagara Falls
City Hall, 4310 Queen Street
Niagara Falls, ON L2E 6X5

TENDER ENVELOPE

Asphalt Products - Request for Tender # NP01-2012

Closing Date: March 8, 2012 at 1:15 p.m. Local Time

This envelope contains only: FORM OF TENDER

This envelope must be sealed