

Town of Labrador City

Form of Tender – TLC-13-19

**Snow Clearing / Gravel Street Grading
Equipment Rental Agreement**

Tenderer _____

Address _____

Telephone # _____

The undersigned bidder has carefully examined the Form of Tender and Instructions to Bidders and agrees to perform the work described in the attached tender documents.

<u>Total Estimated Hours Per Year (All Equipment)</u>	<u>Hourly Rate (All Equipment)</u>	<u>Annual Quotation (2400 Hrs times Hourly Rate)</u>
2400	_____	_____
	Sub Total (Annual Quotation times 5)	_____
	H.S.T. (15%)	_____
	TOTAL QUOTATION	_____

1. WE ENCLOSE HEREWITH as required by the Instructions to Bidders:

- (i) A Bid Bond in an acceptable form and correct amount issued by the company licensed to carry on such a business in the Province of Newfoundland and Labrador.
 - (ii) A Surety's Consent issued by the company licensed to carry on such a business in the Province of Newfoundland and Labrador.
 - (iii) In the event of this tender time being accepted within the period stated in Section two (2) below and our failure to enter into a contract in the form hereinafter mentioned for the amount of our tender, the said security may at the option of the Town be forfeited. The forfeiting of the security does not limit the right of action of the Town against us for our failure to enter into a contract.
2. If notified in writing by the Town of the acceptance of this tender within nineteen (90) days of the tender closing date subject to such other period as may be specified in the tender documents, we will
- (i) Execute the Equipment Rental Agreement
 - (ii) Furnish a Performance Bond for the proper completion of the work, the said security, to be issued on an acceptable form.
3. We understand that the Performance Bond and Insurance as required by the Agreement must be provided and in force prior to the commencement of the contract and satisfactory proof of such be provided to the Town.
4. We confirm that the rates herein tendered include all sales tax, including Harmonized Sales Tax, custom duties, transportation, travelling costs, labour charges, all overhead and profit, all coordination fees, insurance premiums and all other charges.
5. In order for a Tender to be valid, it must be signed by duly authorized officials as indicated on the Instructions to Bidders.

Signature of Tenderer

Firm Name

Address

Signing Officer

Signing Officer

Witnessed By

Corporate Seal

INSTRUCTIONS TO BIDDERS

1. Envelopes containing the Tender shall be clearly marked “**Equipment Rental Agreement**” **and addressed to the attention of the Town Clerk**, Town Hall, 317 Hudson Drive, Labrador City, Newfoundland, A2V 2K5
2. Tenders shall close at **3:00 p.m.** Local Time, Labrador City on **Wednesday, July 31st, 2019**.
3. The tender documents shall consist of the Form of Tender, Instructions to Bidders, Equipment Rental Agreement and any amendments issued during the tender period.
4. The Equipment Rental Agreement is included in the contract documents at the time of tendering for the purpose of information to bidders and shall not be completed at the time of tendering.
5. Every Tenderer shall submit with his tender a **Bid Bond** issued by an approved surety company licensed to do business in the Province of Newfoundland and made out in favour of the Town Council of Labrador City. The Bid Bond shall be at least **ten percent (10%) of the total quotation for the five (5) year contract period**. **A certified cheque will be accepted in lieu of the Bid Bond**. The bidding security will be returned upon receipt of the Performance Bond.

The terms of the bid security will be invoked and the amount retained by the Town if the bidder fails to enter into an agreement when notified of the award of the work within the tender validity period; or fails to provide the Performance Bond in the amount and within the period specified.

Every tenderer shall submit with his tender a **Surety’s Consent** issued by an approved surety company licensed to do business in the Province of Newfoundland and Labrador and made out in favour of the Town Council of Labrador City.

A Performance Bond will be required in the amount of **fifty percent (50%) of the annual quotation for each year of the agreement**. The initial Performance Bond is to be received not later than three (3) weeks after the award of the contract by the letter of intent and prior to the formal execution of the Agreement. No work is to be undertaken until the Performance Bond has been received. The Performance Bond for each of the (4) subsequent years of the agreement shall be provided to the Town of Labrador City on or before December 1st of the prior year. Failure to provide the Performance Bond by the specified dates will result in termination of the contract at the end of the calendar year. **A certified cheque will be accepted in lieu of the Performance Bond**.

6. Type or legibly print the information required on the tender form. Type or legibly print the Tenderer's full business name and address in the spaces provided on the Tender Form. Sign and Tender Form in the space provided as follows:
- In the case of a sole proprietorship: the sole proprietor shall sign where indicated and insert the words "sole proprietor" next to the signature. This shall be done in the presence of a witness who shall also sign where indicated.
 - In the case of a partnership: the partners shall sign where indicated and insert the word "partner" next to the signatures. This shall be done in the presence of a witness who shall also sign where indicated.
 - In the case of a limited company: the authorized signing officers shall sign where indicated and insert their corporate title next to the signatures. This shall be done in the presence of a witness who shall also sign where indicated.
7. Tenders will not be considered under the following:
1. Tenders received after the closing date.
 2. Incomplete tenders will be rejected.
 3. Tenders not accompanied by an approved security in the correct amount will be rejected.
 4. Tenders containing qualifying or additional clauses to the tender form will be rejected.
 5. Incorrectly prepared tenders may be rejected.
 6. Telegraphic telex, facsimile or email tenders will not be accepted.
8. For the purposes of preparing bids, tenders shall be based upon using the equipment as specified without substitution. Where two or more equipment models are specified, the choice shall be left to the contractor. Where only one equipment model stated, there shall be no substitution.

Where the specifications include the "or approved equal" clause, substitutions may be proposed provided that.

1. the request for a substitution is made in writing at least fourteen (14) days prior to bid date.
2. the request shall clearly define and describe the equipment for which the substitution is requested.
3. the substituted equipment is equivalent to the specified model with regards to the design, function, durability, operation and quality

4. approval for the substitution by the Town shall be in form of an addendum to the specifications which, at least **seven (7) days** prior to the tender closing date, shall be issued to all of those contractors listed as having received a copy of the contract documents.

9. The Town reserves the right to reject all tenders and perform the work itself if, after considering the bids submitted, it is considered to be in the best interest of the Town. The Town accepts no responsibility for any costs associated with the preparation of a tender including, without restricting the generality of the foregoing, the costs of a Bid Bond or of a Performance Bond.

10. Upon written acceptance of the tender within the tender validity period, the Tender Form becomes part of the Contract Documents and the successful tenderer becomes the Contractor.
 - (a) The contractor will be required to execute a formal agreement with the Town within thirty (30) days of receipt of the letter of intent.

11. Bidders are advised that the Town will not guarantee any minimum number of hours of work for this contract. Estimates of hours have been provided on the Tender Form for the purpose of:
 1. Calculating the low bid
 2. Determining the amount of the bid bond and the performance bond required.

12. Workers Compensation & Insurance

The Contractor covenants with the Town that its employees shall be fully covered within Worker's Compensation Regulations, and the Company shall on request furnish to the Town satisfactory proof that its employees are fully covered under the Workers Compensation Act. Prior to performing work hereunder, the Company agrees to provide the Town with confirmation of full insurance coverage including, without restricting the generality of the foregoing, Comprehensive General Liability Insurance of at least two million dollars covering all perils. The Company shall be required to add the Town Council of Labrador City to this insurance policy as a named insured. The Town shall require thirty (30) days written notice of any material change in or cancellation of the insurance policy.

13. Certificate of Recognition

The contractor shall within 14 days of award of the contract, and prior to commencement of the work, provide a Letter of Good Standing under the Certificate of Recognition Program from the Newfoundland and Labrador Construction Safety Association.

At anytime during the Contract, when requested by the Town, the Contractor shall provide such evidence of compliance by any or all of his Subcontractors.

The Town of Labrador City will strictly enforce safety requirements as per the Occupational Health & Safety Act. All items of safety apparel/equipment shall be the responsibility of the contractor.

14. Taxes

- a. The Town of Labrador City is subject to the Harmonized Sales Tax of 15 %.
- b. Where applicable, the above referenced tax shall be shown separately on all invoices for payment presented to the Town of Labrador City.

Snow Clearing / Gravel Street Grading

Equipment Rental Agreement

This Agreement made at the Town of Labrador City, in the Province of Newfoundland & Labrador this _____ day of _____, Anno Domini, Two Thousand and _____.

Between:

THE TOWN COUNCIL OF LABRADOR CITY

(hereinafter called the “Town”)

OF THE ONE PART

And:

(hereinafter called the “Company”)

OF THE OTHER PART

Whereas the Town has invited tenders for the clearing and removal of snow/ice and the grading of all gravel streets under the jurisdiction and/or responsibility of the Town Council of Labrador City and the closing date for bids was July 31, 2019.

And Whereas the Company submitted a tender which was duly accepted by the Town,

And therefore this agreement witnesseth that in consideration of the covenants, agreements and conditions herein contained the parties hereto agree as follows:

1. The Company agrees to be responsible for and provide snow clearing, ice removal and gravel street services for the Town and for all roadways under the jurisdiction and/ or responsibility of the Town Council of Labrador City and the Company agrees to provide said services in a skillful and efficient manner.

- (vii) The Company agrees to provide snow clearing, ice removal and gravel street grading during the period of January 1st, 2020 to June 30th, 2025.

- (viii) The Company shall provide the Town prior to execution of this Agreement, a performance bond in the amount of _____ representing fifty percent (50%) of the annual quotation for the first year of the agreement.

A certified cheque will be accepted in lieu of the performance bond.

The Company shall provide to the Town a performance bond for each of the four and a half (4^{1/2}) subsequent years of the agreement thereafter on or before December 1st of the prior year.

- (ix) The Town agrees to pay the Company the following compensation for services rendered:
 - a. An hourly rate on a demand basis for equipment listed in Schedule “A” and paid in accordance with the Schedule of Rates in Schedule “A” for the period of January 1st, 2020 – June 30th, 2025 with a guaranteed minimum payment of \$184,000 (H.S.T. included) during each contract year (herein after called the Guaranteed Minimum Annual Contract Price.)

 - b. The Company shall submit an invoice to the Town at the end of each month for the actual hours worked during that month. The payment shall be the greater of the Minimum Guaranteed Monthly Payment or an amount equaling the hours worked during the month times the hourly rate provided in the Schedule of Rates. This payment will be made to the Company on or before the 30th day of the following month.

 - c. In addition to the services performed during the contract year, it is contemplated that other services may be required during the period of May 1st to September 30th. Such services shall be invoiced separately at the end of each month at the hourly rate provided in the schedule of rates and payments shall be made to the Company on or before the 30th day of the following month.

- d. The following is a breakdown of the Minimum Guaranteed Monthly Payments for each contract year:

<u>Contract Month</u>	<u>Minimum Guaranteed Monthly Payment</u>
January	\$30,000
February	\$30,000
March	\$30,000
April	\$14,000
October	\$20,000
November	\$30,000
December	\$30,000
<hr/>	
Guaranteed Minimum Annual Contract Price	\$184,000 (including H.S.T.)

- The Company shall be compensated for any reasonable travel time incurred, however, under no circumstances shall it exceed one (1) hour at the hourly rate quoted during any twenty-four (24) hour period.
- The Company agrees that monthly rates respecting the equipment being supplied shall be chargeable if the equipment is mobile and in full operating condition.

Price reductions in the guaranteed amounts being paid by the Town may be made in the event of non-availability of the equipment covered under this Agreement.

The Company shall have the responsibility of proving to the Town that the equipment is mobile and in full operating condition and the Town shall have the right to do inspections of this equipment at all reasonable times.

- The Company shall be responsible for supplying all equipment, persons and materials for the due execution of the work, and these, as well as any applicable taxes or other charges, including the cost of serrated cutting edges for cutting down ice and snow, chains and mobile radios, etc., are understood to be included in the quoted rates. In addition, the company will be responsible for the installation of GPS tracking equipment on all equipment under this contract. GPS equipment and associated fees will be the responsibility of the Town.
- It is expressly understood and agreed that the Company will have available adequate backup or support equipment in the event of the loss from service of one of the contracted machines for any reasonable period of time.

6. The Town shall have the right to provide certain pieces of equipment to supplement that being used by the Company. If the Town shall exercise this right with respect to any equipment referred to in Schedule "A" of this Agreement, then in such case the guaranteed monthly rate referred to in paragraph two of this Agreement shall not be reduced.
7. The Company shall provide equipment of the standard and quality that meets the specifications set forth by the Town in Schedule "B" and that all equipment including radios supplied by the Company are kept fully operational and mobile.
8. In the event that the Contractor is desirous of parking or temporarily storing certain equipment on Town property or in a garage or other buildings owned or possessed by the Town, it shall be agreed as follows:
 - (a) All equipment, goods or chattels of the Company parked or stored on Town property or in a garage or building owned or occupied by the Town, shall at all times and in all instances be at the Company's risk.

For greater certainty it is expressly understood that the Town shall bear no responsibility for any loss or damage to any of the Company's goods or equipment, regardless whether or not such damage or loss shall be occasioned by the negligence or wrongful acts of the Town, its servants, employees or agents.

- (b) This Agreement shall not be construed as granting to the Company the right to utilize Town facilities or property. It is understood that such use shall at all times be at the sole discretion of the Town and may be terminated or refused without cause and without notice.
9. The Company shall employ orderly, competent and skillful persons to do the work herein and on or before October 1st of each year submit to the Town a list of the operators & supervisor(s) to be employed throughout the contract period. The Company shall advise the Town in writing within forty-eight (48) hours of any change in the list of operators/supervisors previously submitted.

The Company covenants that the employees shall be fully covered within Worker's Compensation Regulations and the Company shall on request furnish to the Town satisfactory proof that its employees are fully covered under the Worker's Compensation Act and Regulations thereto.

10. Notwithstanding any other provisions of this Agreement, it is expressly understood and agreed that the Company shall, at all times, provide qualified supervisory personnel

acceptable to the Town who are familiar with the scope of the work to be carried out under the contract. Said supervisory personnel shall be responsible for the call-out of equipment when snowfall reaches 3 cm for the efficient and orderly removal of snow and ice; provide information with respect to equipment availability and breakdown; the carrying out of other duties normally assigned to supervisory personnel. The Town reserves its right to direct and may utilize its own supervisor at any time it deems necessary.

- 11.** The scope of the work to be carried out under this Agreement includes, but is not limited to:
 - (a) Snow clearing, ice removal and gravel street grading of all streets under the jurisdiction and/or responsibility of the Town Council of Labrador City.
 - (b) The clearing of the Golf Course Road and Cemetery Road on a demand basis.
 - (c) Removing snow from the sides of roads in spring in the following areas or other areas as deemed necessary by the Town:
 - (i) Smokey Mountain Road both sides.
 - (ii) Bartlett Drive from Newfoundland & Labrador Housing to the intersection of Bartlett Drive and Circular Road, both sides.
 - (iii) Circular Road from the intersection of Route 500 to the intersection of Bartlett Drive, both sides.
 - (iv) Baden Powell Road to the White Wolf Snowmobile Club, both sides.
 - (v) Rear of Tamarack Drive, even numbered side.
 - (vi) Avalon Drive from Drake to the Iron Ore Company property and the Industrial Park both sides.
 - (vii) Tamarack Extension from Drake to Route 500.
- 12.** The Company shall provide the Town with a weekly record of the work carried out under this Agreement. The weekly record shall indicate a description of the work performed by each piece of equipment, the duration of the work including start time and end time. This weekly record shall be presented to the Town on Monday of each week for review and approval by the Town Supervisor responsible for snow clearing.
- 13.** The Town reserves the right to determine whether or not the methods being used by the Company respecting snow/ice removal and grading are satisfactory and to make

responsible changes thereto. This clause however shall not be construed to create any liability on the Town for any work performed by the Company, and will in no way create an agency relationship between the Town and the Company.

14. The Company agrees to provide the Town prior to performing work hereunder with confirmation of full insurance coverage including, without limiting the generality of the foregoing, Comprehensive General Liability Insurance of at least two million dollars covering all perils. The Company shall be required to add the Town of Labrador City to this insurance policy as a named insured. The Town shall require thirty (30) days written notice of any material change in or cancellation of the insurance policy.
15. The Company agrees to indemnify and to hold the Town harmless for all actions, claims, loss, expense and costs relative to property damage, injuries or death caused by the operations of the Company relative to this Agreement including the use of the equipment. This clause would not apply where such damages, injuries or deaths were caused by the negligence of the Town, its authorized employees or authorized agents.
16. It is expressly understood and agreed that the Company carries on its activities and will continue to do so in accordance with this Agreement, as an independent contractor and not as an agent of the Town. The Company agrees that the personnel engaged by it in the handling of its affairs will be its own employees, subject to its direction and it shall be totally responsible for their acts and omissions as well as for losses or damages which may result.
17. (a) The Town may terminate this Agreement at any time by notifying the Company in writing of its intentions to terminate in any one of the following events, namely:
 - (i) the Company fails to provide the performance bonds within the period specified under Article 1(viii);
 - (ii) the Company is unable to perform the work under the Agreement;
 - (iii) the Company goes into bankruptcy;
 - (iv) the Company becomes insolvent;
 - (vi) the Company commits an act of bankruptcy as defined in the Bankruptcy Act;
 - (vii) the shares of the Company are transferred so as to effectively change control of the Company without the prior authorization of the Town.
 - (viii) any other breach of the Agreement by the Company

- (b) In such case that the Town does terminate the agreement:
 - (i) the Town shall not be required to pay any amount greater than that represented by the actual number of hours worked by the Company; and
 - (ii) the Town shall be entitled to reclaim payments made in advance where the hours worked by the Company are deficient.

18. All matters in difference in relation to this Agreement to the affairs of the business shall be referred to the arbitration of a single arbitrator, if the parties hereto agree upon the one, otherwise to three arbitrators, one to be appointed by each party and a third to be chosen by the first two named before they enter upon the business of arbitration.

- (a) A dispute shall be submitted for arbitration by written notice given by either party to the other. Each party shall either agree to a sole arbitrator or nominate its appointee within ten (10) days of the notice to arbitrate. In the event such dispute is referred to three (3) arbitrators, the respective appointees shall have a further seven (7) days to nominate a third arbitrator.
- (b) If either party shall neglect or refuse to name its arbitrator in the time specified, the arbitrator named by the other party shall proceed with the arbitration and the award of such arbitrator shall be final and binding on the parties hereto and their respective heirs, executors, administrators and assigns.
- (c) If the two arbitrators appointed by the parties hereto do not agree upon a third, then a third arbitrator may, upon petition of either party, be appointed by a Judge of the Supreme Court of Newfoundland.
- (d) The award and determine of such arbitrator or arbitrators, or any two of such three arbitrators, shall be binding upon the parties hereto and their respective heirs, executors and administrators and assigns.
- (e) Each party shall pay its own costs and shall share equally the costs of the arbitration.

19. It is expressly understood and agreed between the parties hereto that neither this Agreement or any part hereof is outside the capacity of the Town of Labrador City and if any portion of this Agreement shall be rendered invalid by the provision of any

governing law then such portion will be severable and the Town shall not be liable for damages in the case of such severance.

The Company shall have no right to assign or sublet all or any of its obligations under this Agreement without the prior consent of the Town, which consent may at the discretion of the Town be withheld.

20. The Town of Labrador City being the principle contractor must ensure the Company (subcontractors) work safely and comply with the OH&S Legislation. In order to accomplish this, the Supervisor or his or her designate shall receive the following documentation prior to awarding a job, but not limited to:

- Compliance Profile (History of subcontractor obtained from Service NL OH&S Division)
- Copy of Safety records before hiring/ awarding work
- Copy of OH&S documents e.g. programs/ safe work procedures, etc.
- Copy of names and contact information of adequate supervision
- Copy of all accidents after job starts
- Copies of safety meetings once the job starts
- Copy of maintenance records of tools/ equipment
- Copy of Hazard assessment
- Copy of training certificates
- Copy of Permits/ Utility clearances where required
- Emergency Plan (Strictly for Confined Space and working at heights using fall protection) where required.
- Copy of Letter of good standing
- Copy of Safe Work Practices
- Applicable standards and guidelines
- Copy of inspections once the work starts

The Company will adhere to the safety rules and regulations in the Town's Safety Program in addition to the Federal & Provincial regulations. The Company will establish its own Occupational Health and Safety Committee. The Town Safety Advisor will perform periodic review of the Company files. Details of all accidents shall be immediately communicated to the Supervisor/designate and or Safety Advisor by phone and followed up by a written report containing all relevant information as soon as possible. In the event of an accident involving the Company, which may result in a claim against the Town of Labrador City the following steps shall be taken;

- The details shall be immediately communicated by phone to the Supervisor or his or her designate.
- All damaged property should be safeguarded and left in the same condition as at the time of the accident until insurance surveyors have inspected the damage or waived such inspection.

- Within 24 hours of an accident, subcontractors shall submit to the Supervisor or his or her designate a detailed report including:
- Completed subcontractors Accident Report;
- Statement from witnesses (signed by witness and countersigned by subcontractor);
- Photographs whenever possible;
- Third party correspondence;
- Any other information, which is available. (Further information obtained to be forwarded when available);
- A statement reflecting the potential effect, if any, on the work program;
- Copies of reports or other documents filed or provided to subcontractors' insurers and regulatory authorities.

The above information shall be submitted to the Towns Safety Advisor for review and filed at the safety office.

In Witness Whereof the parties hereto have caused these presents to be executed in accordance with their rules and regulations the day and year first before written.

The Corporate Seal of the Town of Labrador City was affixed in the presence of:

Town of Labrador City (Per)

The Corporate Seal of was affixed in the present of:

_____ (Per)

Schedule "A" Schedule of Rates

Hourly Rate
Equipment Type

Contracted January 1st, 2020 – June 30th, 2025

Graders - 4 required
As per Schedule B

Loader - 1 required
As per Schedule B

(Hourly Rate –all equipment)

Schedule "B" Equipment Specifications

- Graders 4 Required - equipped with blade, wing, serrated edges and chains on demand. The following, or approved equal, are acceptable models of graders:
- Caterpillar Type 140, Caterpillar Type 12H, Champion Type 720, Champion Type 740, Gallion T500, Gallion T600, John Deere Type 670, Komatsu Type 650, Komatsu Type 675, Volvo 960, Volvo 970, Volvo 976.
- Loaders 1 Required - equipped with snow bucket and cutting edge. The following, or approved equal, are acceptable models of loaders
- Caterpillar 938, Caterpillar 950, John Deere 644, Komatsu 320, Komatsu 380
- Mobile Radios All equipment covered under this contract, including one vehicle owned by the Town of Labrador City, shall have mobile radios supplied and installed.
- Other While carrying out the terms of the contract, the Company shall have the discretion to substitute equipment when it is deemed that such substitution is more efficient in the performance of the work and will not impact on the overall contract price. Such discretion is subject to the over-riding direction and power of the Town of Labrador City.