

**DEPARTMENT OF TRANSPORTATION, INFRASTRUCTURE AND ENERGY
Province of Prince Edward Island**

**TENDER FORM AND AGREEMENT
Revision 0**

THIS AGREEMENT made by and between, herein called the Contractor, the Party of the First Part and The Government of Prince Edward Island as represented by the Honourable Paula J. Biggar, herein called the Minister, the Party of the Second Part.

WITNESS, AS FOLLOWS:

1. Definitions

The definition of terms used in this Tender Form and Agreement shall conform in all respects to the definition of terms contained in the document entitled "General Provisions and Contract Specifications for Highway Construction," published by the Department of Transportation, Infrastructure and Energy of the Province of Prince Edward Island as amended on the date of closing of Tenders pursuant to this Agreement.

2. General Covenant

The Contractor hereby covenants and agrees with the Minister as herein provided in connection with the following work, namely:

BORDEN-CARLETON PLANTS 2019
District 19

This project is to supply, plant and maintain annual plants and flowers in six different flower beds at various locations within the green space in Borden-Carleton for the 2019 growing season.

**TENDER CLOSES:
2:00 P.M., Wednesday, December 19, 2018
11 Kent Street, 3rd Floor Jones Building, Charlottetown, PE**

3. No Implied Contract

It is hereby understood and agreed between the parties hereto that no implied contract of any kind whatsoever, by, or on behalf, of the Minister shall arise or be implied from anything contained in this Contract, or from any position or situation of the parties at any time, and that this Contract made by the Minister is, and shall be, the only Contract upon which any rights against the Minister are to be founded.

4. How Party of the First Part is Read

Whenever this agreement is entered into by more than one party or parties of the first part, the word "Contractor" shall be read "Contractors," and pronouns in the contract referring to the Contractors shall be read as plural and whenever a corporation is the Party of the First Part, the said pronouns shall be read accordingly.

5. Consideration of Clauses as Covenants

Wherever it is stipulated that anything shall be done or performed by either of the Parties hereto, it shall have the same effect and be constructed as if such Party had entered into a covenant with the other Party to do or perform the same, and as if such covenant had been expressly made on the part of the Contractor, not only on the Contractor's own behalf, but also on the behalf of the Contractor's legal representative, successors or assigns; and as if any such covenant on the part of the Minister has been made on behalf of the Minister, and the Minister's successors in office.

6. Contractors Submission Respecting the Agreement

The Contractor shall, as part of the Contractor's submission respecting this agreement, complete the attached Schedule B, Identification of Principles, Schedule C, Schedule of Tendered Unit Prices, Schedule D, Schedule of Equipment to be used on the work, and Schedule E, Schedule of Subcontractors.

The agreement including all appended schedules shall be completed in complete conformity with the instructions to bidders contained in the document entitled "General Provisions and Contract Specification for Highway Construction."

In presenting the Contractors submission for consideration by the Minister, the Contractor understands that until, and unless, the agreement is endorsed by the Minister, no agreement between the parties shall exist and the Minister shall not be bound to endorse any agreement.

7. Performance by Contractor

The Contractor, at the Contractor's own expense, shall, except as herein otherwise specifically provided, furnish and provide all and every kind of labour and superintendence, services, tools, implements, machinery, plant materials, articles and whatsoever is necessary for the due execution of the work. The Contractor shall fully construct and erect the work in the most thorough, professional and substantial manner, in every respect to the satisfaction and approval of the Engineer. The Contractors shall complete the work within the time specified herein and deliver it to the Minister in the manner and upon the terms and conditions of the Contract.

8. Bid and Performance Security

The Contractor hereby and herewith deposits with and delivers to the Minister, as security of the due fulfilment of the Contract, one of the following, which shall remain in effect for a minimum of 30 days after tender closing:

- a) a certified cheque in the amount stipulated in Schedule A - Schedule of Special Provisions, excluding HST.

OR

- b) a bank draft in the amount stipulated in Schedule A - Schedule of Special Provisions, excluding HST.

OR

- c) a bid format irrevocable standby letter of credit on a government approved form in the amount stipulated in Schedule A - Schedule of Special Provisions, excluding HST.

OR

- d) a bid bond in the amount stipulated in Schedule A - Schedule of Special Provisions excluding HST. The bond shall be from a surety company authorized to carry on business in Canada guaranteeing to supply a performance bond equal to 50% of the Contract value, excluding HST and a labour and material bond equal to 25% of the Contract value, excluding HST.

Performance security must be filed with the Department before work on the project commences. This security shall be held and retained by the Minister for the due and faithful performance, observance and fulfilment by the Contractor of all the covenants, provisos, agreements, conditions and reservations in this Contract contained on the part of the Contractors to be observed, performed and complied with shall be in the form of:

- e) a certified cheque in the amount of ten percent (10%) of the Contract value, excluding HST, which shall be retained until the warranty period (four (4) months after substantial completion) has elapsed.

OR

- f) a bank draft in the amount of ten percent (10%) of the Contract value, excluding HST, which shall be retained until the warranty period (four (4) months substantial completion) has elapsed.

OR

- g) a performance format irrevocable standby letter of credit on a government approved form in the amount of ten percent (10%) of the Contract value, excluding HST, which shall be retained until the warranty period (four (4) months after substantial completion) has elapsed.

OR

- h) a performance bond equal to 50% of the Contract value, excluding HST and a labour and materials bond equal to 25% of the Contract value, excluding HST which shall be retained until the warranty period (four (4) months after substantial completion) has elapsed.

All performance security which has an expiry date which precedes the end of warranty date must be renewed prior to the time that the security would expire. The bidder will forfeit security to the Minister if the bidder fails to enter into or carry out the Contract when called upon to do so.

It is understood and agreed that the Contractor assumes risk and must bear any loss in respect to the performance security as aforesaid, occasioned by the failure or insolvency of the banks on which any cheque was drawn or in which any deposit was made in connection with the security aforesaid.

If at any time hereafter the said Contractor should make default under the said Contract, or if the Minister acting under the powers reserved in the said Contract shall determine that the said works, or any portion thereof remaining to be done, should be taken out of the hands of the Contractor and be completed in any manner or way whatsoever than by the Contractor, or if the Contractor refuses or neglects to pay for work done or materials supplied by any person in connection with the said work, the Minister may, in either case dispose of said security for the carrying out of the construction and completion of the work of the Contract or for paying any salaries or wages for work done, or any accounts for materials supplied for the said works that may be left unpaid by the said Contractor.

In the event of any breach, default or non-performance being made or suffered by the Contractor in or in respect of any of the terms and conditions, covenants, provisions, agreements, or restrictions herein contained, which on the part of the said Contractor should be observed, performed or complied with, the said security so delivered to or deposited with the Minister or by the Minister received in respect thereof, shall by the contractor, be forfeited absolutely to the Minister.

Upon the due and faithful performance, observance and fulfilment by the Contractor of all the terms, provisions, covenants, agreements, conditions, reservations, hereinbefore contained, on the part of the Contractor to be observed, performed and complied with, the Minister shall surrender the performance security.

9. Minister Covenants to Pay

In consideration of the faithful performance by the Contractor of all and singular covenants, agreements and provisions of the Contract, the Minister hereby covenants and agrees with the Contractor that, on the full completion by the Contractor of all the work as specified in the Contract, within the time specified and limited for the final completion thereof, and to the entire satisfaction of the Engineer to be evidenced by the certificate of the Engineer in writing, the said Minister will well and truly pay, or cause to be paid, to the said Contractor the amount of the Contract price, representing the actual quantities in the several items in the Schedule of Prices, identified as Schedule C to this agreement, at the unit prices or lump sum prices quoted by the Contractor. This amount paid to the Contractor as above, shall include all and every kind of work, labour, superintendence, services, tools, implements, machinery, plant materials, articles and things whatsoever necessary for the full execution and completion of the work to the entire satisfaction of the Engineer.

10. Final Payment

It is hereby agreed by the parties hereto that the payment of the final amount due under the Contract, and the adjustment and payment of any bills that may be rendered for work done, in accordance with any alteration in or addition to the same, shall release the Minister from any and all claims or liability on account of work performed under the said Contract or any alteration in or addition to the same.

11. No Waiver

It is hereby agreed that no condoning, excusing, or overlooking by the Minister, or any person acting on the Minister's behalf on previous occasions of breaches or defaults similar to that for which any action is taken or power is exercised, or forfeiture is claimed or enforced against the Contractor, shall be taken as a waiver of any provisions of the Contract, or as defeating, affecting or prejudicing in any way the right of the Minister under the Contract.

12. Components of the Contract

Any and all plans or drawings prepared by the Department, the document titled General Provisions and Contract Specifications for Highway Construction, the advertisement, the Tender Form and Agreement together with Schedule A, Schedule of Special Provisions, Schedule B, Identification of Principals, Schedule C, Schedule of Tendered Unit Prices, Schedule D, Schedule of Equipment, and Schedule E, Schedule of Sub-Contractors, as well as any addenda which may be issued by the Department pursuant to this Contract shall hereby be a part of this Agreement as fully and to the same effect as if the same had been set forth at length in the body of the agreement.

13. Completion of Work

For this contract, Substantially Complete shall be defined as the date which all flower beds have been constructed and all annual plants have been planted. The Contractor agrees to Substantially Complete the work on, or before **June 26, 2019**.

14. FOIPP Clause

1. By submitting your bid, you agree to disclosure of the information supplied, subject to the provisions of the Freedom of Information and Protection of Privacy Act (FOIPP).
2. Anything submitted in your bid that you consider to be "confidential information" because of its proprietary nature should be marked as "confidential" and will be subject to appropriate consideration under the Freedom of Information and Protection of Privacy Act.
3. During the delivery and installation of goods and/or services, you may have access to confidential or personal information. Should this occur, you must ensure that such information is not released to any third party or unauthorized individual.
4. Any information provided on this contract may be subject to release under the Freedom of Information and Protection of Privacy Act. You will be consulted prior to the release of any information.

IN WITNESS WHEREOF the parties hereto have hereby caused these presents to be signed and sealed on the dates stated.

SIGNED, SEALED AND DELIVERED
by the Contractor on the [] day
of [], 20[].

SIGNED, SEALED AND DELIVERED
by the Minister on the [] day
of [], 20[].

.....
CONTRACTOR

.....
MINISTER

In the presence of:

.....

In the presence of:

.....

SCHEDULE A
SCHEDULE OF SPECIAL PROVISIONS

1) INSTRUCTIONS TO BIDDERS

The stipulated Bid Security amount shall be \$4,000.00. Upon award, the successful contractor shall replace the Bid Security with a Performance Security in the amount of 10% of the tender amount excluding HST.

Plants will be stored at the nursery until delivery on Monday, June 10, 2019.

Contractor shall provide a copy of the paperwork to verify the quantity of each type of plant delivered to the site.

All plant material must be grown and delivered in proper potting soil, including vermiculite and perlite and a slow release fertilizer. Sterilized soil is not permitted.

Absolutely, no substitution of indicated plant material is allowed unless directed by the Department staff. All annual concerns from grower must be brought to the attention of the Department staff.

The successful bidder will be required to contact the Department staff no later than one (1) month after the contract is awarded to confirm that desired seeds have been successfully ordered. No changes are expected after that point with the cause being supplier.

All annuals stated must be at a size half of the potential of the plant at time of delivery. A "show" is immediately required for planting, a colour bud stage, no soil showing.

Annuals to be watered and fertilized on date of delivery as well as throughout the growing season as required. All plants (6 beds) shall also be watered throughout the growing season as directed by Department staff. All costs for watering the 6 beds shall be accounted for in the unit bid price per annual plant as listed in Schedule C.

During planting, 8-20-14 fertilizer shall be added at a rate of 10 lbs per 1000 sqft. This fertilizer shall be incidental to the work and no additional compensation shall be provided.

If a bidder determines that any proposed specification within this request for quote is not realistic or proper for growing within the specified container then this concern is to be brought to the attention of the Department prior to the close of this tender otherwise no changes will be considered.

Plants that do not meet the quote specification will not be received and will be deducted from payment based on unit price cost.

The Department may add or subtract to the number and type of plants delivered upon agreement with supplier. Changes in payment will be reflected by unit price cost.

All annuals must be grown in 1204 or 806 cell packs, or cell packs of equivalent soil volume. Sunpatiens, grasses and cannas should be grown in a 5.5 inch square pot or equivalent soil volume.

Beds must be freshly edged before planting.

After planting, the flower beds shall be weeded and maintained bi-weekly or when notified by Department staff to remove all weeds. Department staff will notify successful bidder when watering/weeding shall occur.

At the end of the season, around late September or as directed by the Department staff, all beds shall be tilled, working the plants back into the soil.

Successful bidder shall not be permitted to have any delivery vehicles in grassed areas around the slopes. Delivery trucks shall use trails when available.

Borden-Carleton Plants 2019

Page 9 of 17

Rev. 0

1) BED NUMBER 1

Located by the road that runs through Gateway Village

Plant Variety and Colour	No. of Plants
1) Sparkler Blush Cleome - 2 rows	332
2) Red Head Coleus - 3 rows	332
3) Victoria Blue Salvia - 3 rows	332
4) Taishan Orange African Marigold - 5 rows	400
5) Fresh Look Red Celosia - fill	4800
6) Snow Crystals White Alyssum - 1 row	360

2) BED NUMBER 2

420 feet long by 7 feet wide. Yellow celosia with 10 ovals spaced evenly throughout. Ovals are 10 feet long by 5 feet wide.

Oval Planting:	No. of Plants
1) King Humbert Red Canna Lily	50
2) Pennisetum Rubrum (Purple Fountain Grass)	60
3) Marigold Moonsong Deep Orange	1000
4) Fresh Look Yellow Celosia	7200

3) BED NUMBER 3

1650 square foot PEI bed in front of "Welcome to PEI" sign: The initials PEI are to be spelled out in green leaf white begonias with red leaf red bloom begonias as background. Dusty miller as a border. Letters shall be 18 feet tall and 2 feet wide.

Plant Variety and Colour	No. of Plants
1) Silver Dust Dusty Miller - 4 rows	680
2) Cocktail Series Vodka Red Wax Begonia - Background	5000
3) Ambassador Series White Wax Begonia - Letters	840

4) BED NUMBER 4

Located close to the Confederation Bridge approach. This bed is in the shape of a half moon. Coleus planted as a single row.

Plant Variety and Colour	No. of Plants
1) Sunpatiens Compact Electric Orange	310
2) Wizard Sun Series Coleus Golden	100

5) BED NUMBER 5

Located east of Ceretti's Irving along Route 1. The Sun Bed: Red salvia background, yellow marigold sunrays with a white border on the bottom with a total of nine rays.

Plant Variety and Colour	No. of Plants
1) Red Hot Sally Salvia 2	1400
2) Taishan Yellow African Marigolds	750
3) Ambassador Series White Wax Begonia	550

6) BED NUMBER 6

Located across from the Borden-Carleton Esso. This bed is in the shape of a horseshoe.

Plant Variety and Colour	No. of Plants
1) Fresh Look Red Celosia - fill	500

Payment for all materials, supplies, equipment, tools, labour and incidentals necessary to complete the work as defined in the contract shall be paid for at the unit bid price per annual plant as listed in Schedule C.

See the following figure for the approximate locations of the flower beds. Shape and size are not to scale.



**SCHEDULE B
IDENTIFICATION OF PRINCIPALS**

Name of Contractor:

Mailing Address:

Telephone:

Fax:

Principal's Name:

Title:

Mailing Address:

If Contractor is a corporation in which province of Canada is the corporation registered:

Schedule C

schedule of item for tender

Item Description and Price		Estimated Quantity	Contractor Total Price
SPARKLER BLUSH CLEOME			
Section: 804	Item: 80409		
-----		PER unit	
-----		\$ -----	PER unit
-----		100	332.00 \$
RED HEAD COLEUS			
Section: 804	Item: 80410		
-----		PER unit	
-----		\$ -----	PER unit
-----		100	332.00 \$
VICTORIA BLUE SALVIA			
Section: 804	Item: 80411		
-----		PER unit	
-----		\$ -----	PER unit
-----		100	332.00 \$
TAISHAN ORANGE AFRICAN MARIGOLD			
Section: 804	Item: 80412		
-----		PER unit	
-----		\$ -----	PER unit
-----		100	400.00 \$
FRESH LOOK RED CELOSIA			
Section: 804	Item: 80413		
-----		PER unit	
-----		\$ -----	PER unit
-----		100	5,300.00 \$
SNOW CRYSTALS WHITE ALYSSUM			
Section: 804	Item: 80414		
-----		PER unit	
-----		\$ -----	PER unit
-----		100	360.00 \$

Total Carried Forward \$ _____

From Previous Page

Total Carried Forward \$ _____

Schedule C

schedule of item for tender

Item Description and Price	Estimated Quantity	Contractor Total Price
KING HUMBERT RED CANNA LILY		
Section: 804 Item: 80415		
----- PER unit		
----- \$ ----- PER unit	50.00 \$	_____
----- 100		
PENNISSETUM RUBRUM		
Section: 804 Item: 80416		
----- PER unit		
----- \$ ----- PER unit	60.00 \$	_____
----- 100		
MARIGOLD MOONSONG DEEP ORANGE		
Section: 804 Item: 80417		
----- PER unit		
----- \$ ----- PER unit	1,000.00 \$	_____
----- 100		
TAISHAN YELLOW AFRICAN MARIGOLD		
Section: 804 Item: 80418		
----- PER unit		
----- \$ ----- PER unit	750.00 \$	_____
----- 100		
SILVER DUST DUSTY MILLER		
Section: 804 Item: 80419		
----- PER unit		
----- \$ ----- PER unit	680.00 \$	_____
----- 100		
COCKTAIL SERIES VODKA RED WAX BEGONIA		
Section: 804 Item: 80420		
----- PER unit		
----- \$ ----- PER unit	5,000.00 \$	_____
----- 100		

Total Carried Forward \$ _____

From Previous Page

Total Carried Forward \$ _____

Schedule C

schedule of item for tender

Item Description and Price	Estimated Quantity	Contractor Total Price
AMBASSADOR SERIES WHITE WAX BEGONIA		
Section: 804 Item: 80421		
----- PER unit		
----- \$ ----- PER unit	1,390.00 \$	_____
----- 100		
SUNPATIENS COMPACT ELECTRIC ORANGE		
Section: 804 Item: 80422		
----- PER unit		
----- \$ ----- PER unit	310.00 \$	_____
----- 100		
WIZARD SUN SERIES COLEUS GOLDEN		
Section: 804 Item: 80423		
----- PER unit		
----- \$ ----- PER unit	100.00 \$	_____
----- 100		
RED HOT SALLY SALVIA 2		
Section: 804 Item: 80424		
----- PER unit		
----- \$ ----- PER unit	1,400.00 \$	_____
----- 100		
FRESH LOOK YELLOW CELOSIA		
Section: 804 Item: 80425		
----- PER unit		
----- \$ ----- PER unit	7,200.00 \$	_____
----- 100		

Total Carried Forward \$ _____

From Previous Page

Total Carried Forward \$ _____

HST \$ _____

Grand Total \$ _____

SCHEDULE D

SCHEDULE OF EQUIPMENT TO BE USED ON THE WORK

SCHEDULE E
SCHEDULE OF SUB-CONTRACTORS