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:

Route 124 - Wellington 2017
District 24
Section 12402, Station 440-1440

For a distance of 1.00 km

This project commences at the intersection of Route 124 (Mill Road) and Commerical Street and proceeds north for a distance of 1,000 metres,

This work includes: (STA 440 - 800) Cold planing (45mm), placing asphalt seal B (45mm); (STA 800-1440) Cold planning (50mm), placing asphalt levelling A (55mm), placing asphalt seal B (45mm), shouldering; and all other work necessary to complete the Contract.

TENDER CLOSES:
2:00 p.m., Thursday, March 30, 2017
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 Contract 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 Contract, 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 Sub-Contractors.

The Contract 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 Contractor’s submission for consideration by the Minister, the Contractor understands that until, and unless, the Contract is endorsed by the Minister, no Contract between the parties shall exist and the Minister shall not be bound to endorse any Contract.

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 Contractor 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 fulfillment 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

OR

b) a bank draft in the amount stipulated in Schedule A - Schedule of Special Provisions

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

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

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 minimum amount of ten percent (10%) of the Contract value, excluding HST, which shall be retained until the warranty period (one (1) year after substantial completion) has elapsed.

OR

f) a bank draft in the minimum amount of ten percent (10%) of the Contract value, excluding HST, which shall be retained until the warranty period (one (1) year substantial completion) has elapsed.

OR

g) a performance format irrevocable standby letter of credit on a government approved form in the minimum amount of ten percent (10%) of the Contract value, excluding HST, which shall be retained until the warranty period (one (1) year after substantial completion) has elapsed.

OR

8. Bid and Performance Security (continued)

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 both of which shall be retained until the warranty period (one (1) year 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 Contract, 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 Contract as fully and to the same effect as if the same had been set forth at length in the body of the Contract.

13. Completion of Work

The Contractor agrees to complete the work on, or before **September 1, 2017.**

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[ ].

.....
CONTRACTOR

In the presence of:

.....

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

.....
MINISTER

In the presence of:

.....

SCHEDULE A
SCHEDULE OF SPECIAL PROVISIONS

1) INSTRUCTIONS TO BIDDERS

The stipulated bid security amount shall be $20,000.00. Upon award, the successful Contractor shall replace the Bid Security with the Performance Security.

A mandatory preconstruction meeting between the successful Contractor and the Department shall be held at the Jones Building in advance of construction startup.

2) SECTION 102.13 - SCHEDULING OF THE WORK

The number of working days stipulated for this Contract is 10. These working days shall be consecutive. Liquidated damages will be assessed beyond the approved schedule.

3) SECTION 501 - ASPHALT CEMENT
(Item 50101 - Asphalt Cement)

Contractors shall note that for bidding purposes an artificial rack price of $700 per tonne (without anti-strip) shall replace the Government's posted Monthly Average Asphalt Binder Rack Price table for this Contract. The artificial rack price of $700 per tonne (without anti-strip) shall be used as the price index when calculating the liquid asphalt cement price adjustment.

4) SECTION 603 – HOT MIX ASPHALTIC CONCRETE
(Item 60350 - Asphalt Seal: B)

In an effort to eliminate seams, there shall be no visible longitudinal joints on the asphalt seal, with exception to the centerline of the roadway. In wider areas where this cannot be achieved with one paver, multiple pavers will be required. Layout and construction method must be approved by the Project Engineer.

5) SECTION 603.15 - HOT MIX ASPHALTIC CONCRETE – SMOOTHNESS

Section 603.15 shall not apply to STA 440 - 800 in the Contract.
Section 603.15 shall apply to STA 800 - 1440 in the Contract.

6) SECTION 712 - COLD PLANE, STOCKPILE AND REPLACE RAP AS SHOULDER MATERIAL
(Item 71201 - RAP: Shoulder Material)

Once placement of the shoulder material is complete, the excess material (RAP) will be hauled to a location determined by the Department and stockpiled. The Contractor shall be required to load, transport and stockpile the excess RAP from the temporary stockpile onto the trucks and deliver to the designated site with no additional compensation being provided.

The transportation of the RAP to the temporary stockpile and from the temporary stockpile to the site (shoulders) shall be a closed haul.

The transportation of excess material from the temporary stockpile to any stockpile sites determined by the Department shall be an open haul, and open haul rates shall apply. A price adjustment shall apply based on the actual haul distance.

7) SECTION 716 - COLD PLANE, STOCKPILE
(Item 71601 - Cold Plane and Stockpile)

For this section, the RAP material shall be hauled to a location determined by the Department and stockpiled. The cold planing of asphaltic concrete, shall be paid for at the unit bid price per square metre and this shall be full compensation for cold planing, loading, transporting, stockpiling, equipment, tools, labour, and incidentals necessary to complete the work.

Open haul rates shall apply to this item. A price adjustment shall apply based on the actual haul distance.

8) SECTION 907 - VEHICLE CONFIGURATIONS AND RESTRICTIONS

The SADT on this project shall be understood to be 2,095.

9) SECTION 908 - TRAFFIC CONTROL PLAN
(Item 90802 - Traffic Control Plan)

Work shall not proceed until all conditions of this section are met. Failure to meet these conditions shall result in a stop work order as per Section 106.07 Suspension of Work.

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:

_____

Project Number: 4720

RTE 124 - WELLINGTON 201

23409

Estimate: 3847

Length: 0.970 km

Department of Transportation Infrastucture & Energy
Province of Prince Edward Island

Schedule C

schedule of item for tender

08 Mar 2017

Item Description and Price			Estimated Quantity	Contractor Total Price
ASPHALT CEMENT				
Section: 501 Item: 50101				
		PER Tonnes		
	$ ____ / 100	PER Tonnes	128.00 $	_____
TACK COAT				
Section: 601 Item: 60101				
		PER Square Metr		
	$ ____ / 100	PER M2	17,200.00 $	_____
ASPHALT LEVELLING : A				
Section: 603 Item: 60326				
		PER Tonnes		
	$ ____ / 100	PER Tonnes	890.00 $	_____
ASPHALT SEAL: B				
Section: 603 Item: 60350				
		PER Tonnes		
	$ ____ / 100	PER Tonnes	1,150.00 $	_____
HMA DRIVEWAY MIX				
Section: 610 Item: 61003				
		PER Tonnes		
	$ ____ / 100	PER Tonnes	80.00 $	_____
COLD PLANE CONST. JOINT				
Section: 705 Item: 70501				
		PER Square Metr		
	$ ____ / 100	PER M2	100.00 $	_____

Total Carried Forward $ _____
From Previous Page

Total Carried Forward $ _____

Department of Transportation Infrastucture & Energy
Province of Prince Edward Island

Schedule C
schedule of item for tender

Item Description and Price			Estimated Quantity	Contractor Total Price
RAP: SHOULDER MATERIAL				
Section: 712 Item: 71201				
		PER Square Metr		
	$ 100	PER M2	4,000.00 $	
COLD PLANE AND STOCKPILE				
Section: 716 Item: 71601				
		PER Square Metr		
	$ 100	PER M2	6,600.00 $	
SIGNALLERS				
Section: 901 Item: 90101				
		PER hrs		
Sixteen Dollars and 39 Cents	$ 16.39 100	PER hrs	400.00 $	6,556.00
TEMPORARY MARKING				
Section: 905 Item: 90501				
		PER Metres		
	$ 100	PER M	40.00 $	
RAISED TEMPORARY MARKING				
Section: 905 Item: 90502				
		PER unit		
	$ 100	PER unit	40.00 $	
TRAFFIC CONTROL PLAN				
Section: 908 Item: 90802				
		PER hrs		
Twenty-Five Dollars and 00 Cents	$ 25.00 100	PER hrs	80.00 $	2,000.00

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