

# The Corporation of the Township of Huron-Kinloss



## BY-LAW No.

**2023-68**

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Being a By-Law to Accept a Tender for the Installation of Guide Rails on  
Township roadways for the Township of Huron-Kinloss

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**WHEREAS** the Municipal Act S.O. 2001, c 25, Section 5(1), as amended, provides that the powers of a municipal corporation are to be exercised by its Council;

**AND WHEREAS** the Municipal Act S.O. 2001, c 25, Section 5(3), as amended provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9, shall be exercised by By-law;

**AND WHEREAS** The Council for the Corporation of the Township of Huron-Kinloss deems it expedient to accept a tender from Royal Fence Ltd. for the purchase of guide rails for the Township of Huron-Kinloss, per Report PW-2023-06-35.

**NOW THEREFORE** the Council of The Corporation of the Township of Huron-Kinloss **ENACTS** as follows:

- 1.0 That The Corporation of the Township of Huron-Kinloss accepts the tender of Borall Fence and Guide Rail Company Ltd. for the purchase of guard rails in the amount of \$124,130.00 plus HST.
- 2.0 That the Mayor and Director of Public Works are hereby authorized to sign on behalf of the Council for The Corporation of the Township of Huron-Kinloss, any contracts and other documents required to authorize such purchase to proceed, and to affix the corporate seal of the Township of Huron-Kinloss.
- 3.0 This by-law shall come into full force and effect upon final passage.
- 4.0 This by-law may be cited as the "2023 Guide Rails Tender Acceptance By-Law".

**READ a FIRST and SECOND TIME this 19<sup>th</sup> day of June, 2023.**

**READ a THIRD TIME and FINALLY PASSED this 19<sup>th</sup> day of June, 2023.**

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Mayor

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Clerk

## **AGREEMENT**

CONTRACT NO. PW2023-05-01

THIS AGREEMENT MADE IN DUPLICATE THIS 19<sup>th</sup> DAY OF JUNE 2023.

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF HURON-KINLOSS  
(hereinafter called "the Corporation")

OF THE FIRST PART

- and -

BORALL FENCE AND GUIDE RAIL LTD. (hereinafter called "the Contractor")

OF THE SECOND PART

WITNESSETH

That the Corporation and the Contractor, in consideration of the fulfilment of their respective promises and obligations herein set forth covenant and agree with each other as follows:

### **ARTICLE 1**

a) A description of the work is:

The installation of guide rails on Lake Range Dr. and Grey Ox Ave as described in PW2023-05-01.

b) The Contractor shall, except as otherwise specifically provided, at his own expense, provide all and every kind of labour, machinery, plant, structures, roads, ways, materials, appliances, articles and things necessary for the due execution and completion of all the work set out in this contract and shall forthwith according to the instructions of the Corporation commence the works and diligently execute the respective portions thereof and deliver the works complete in every particular to the Corporation within the time specified.

### **ARTICLE 2**

In case of any inconsistency or conflict between the provisions of this Agreement and the Plans, or Specifications or General Conditions, or Quotation, or any other documents or writing, the provisions of such documents shall take precedence and govern in the following order;

- a) Agreement
- b) Addenda
- c) Standard Terms and Conditions
- e) Instruction to Bidders
- f) Standard Specifications
- g) Form of Tender
- h) General Conditions

### **ARTICLE 3**

The Contractor shall not without the consent in writing of the Corporation and without restricting in any way the provisions of the General Conditions make any assignment of any part or the whole of any monies due or to become due under the provisions of this contract.

### **ARTICLE 4**

The Corporation covenants with the Contractor that the Contractor having in all respects complied with the provisions of this contract, will be paid for and in respect of the works at the tendered lump sum or unit prices after measurement approved by the Corporation, the total which is presently estimated to be the sum of \$124,130.00 (one hundred twenty-four thousand one hundred thirty dollars and no cents), excluding H.S.T. subject to such additions and deductions as may properly be made under the terms hereof, subject to the provision that the Corporation may make payments on account monthly or otherwise as may be provided in the attached hereto.

### **ARTICLE 5**

Where any notice, direction or other communication is required to be or may be given or made by one of the parties hereto to the other or to the Corporation, it shall be deemed sufficiently given or made if mailed or delivered in writing to such party or to the Corporation at the following address:

THE TOWNSHIP OF HURON-KINLOSS  
21 Queen Street  
PO Box 130  
Ripley, ON N0G 2R0

Where any such notice, direction or other communication is given or made to the Corporation, a copy thereof shall likewise be delivered to any agent of the Corporation appointed in accordance with the General Conditions of this Contract and where any such notice, direction or other communications is given or made to such Agent, a copy thereof shall likewise be delivered to the Corporation.

## **ARTICLE 6**

A copy of each of the General Conditions, Standard Terms and Specification, Specifications related to the Tender, Addenda, Instruction to Bidders, and is hereto annexed and together with the Plans relating thereto and listed in the Specifications are made part of this Contract as fully to all intents and purposes as though recited in full herein.

## **ARTICLE 7**

No implied contract of any kind whatsoever by or on behalf of the Corporation shall arise or be implied from anything in this contract contained, nor from any position or situation of the parties at any time, it being clearly understood that the express covenants and agreements herein contained made by the Corporation shall be the only covenants and agreements upon which any rights against the Corporation may be founded.

## **ARTICLE 8**

Time shall be deemed the essence of this Contract.

## **ARTICLE 9**

The Contractor declares that in tendering for the works and in entering into this Contract, he has either investigated for himself the character of the work and all local conditions that might affect his tender or his acceptance of the work, or that not having so investigated, he is willing to assume and does hereby assume all risk of conditions arising or developing in the course of the work which might or could make the work or any items thereof, more expensive in character, or more onerous to fulfill than was contemplated or known when the tender was made or the Contract signed. The Contractor also declares that he did not and does not rely upon information furnished by any methods whatsoever by the Corporation or its officers or employees, being aware that any information from such sources was and is approximate and speculative only, and was not in any manner warranted or guaranteed by the Corporation.

## **ARTICLE 10**

The Contractor declares that in entering into this Contract, he shall uphold the obligations of the Ontario Human Rights Code, the Occupational Health and Safety Act, the Employment Standards Act, the Accessibility for Ontarians with Disabilities Act, the Criminal Code of Canada and the Charter of Rights and Freedoms. In addition, he shall uphold any obligations established by the Corporation's policies which prohibit harassment/discrimination on a number of grounds including political affiliation and the level of literacy.

WHERE LEGALLY MANDATED, the Contractor shall have in place the necessary policies, programs, information, instruction, plans and/or other supports that are consistent with his obligations and he shall have an internal process available for employees and service recipients to prevent, address and remedy discrimination, racism, harassment, hate and inaccessibility complaints. The Contractor agrees that he shall, upon request by the Corporation, provide evidence of the policies, programs, information, instruction, plans and other supports and an appropriate internal complaint resolution process required under this Declaration which is sufficient to allow the Corporation to determine compliance. The Contractor acknowledges that failure to demonstrate compliance with this declaration, to the satisfaction of the Corporation, may result in the termination of the contract.

**ARTICLE 11**

This contract shall apply to and be binding on the parties hereto and their successors, administrators, executors and assigns and each of them.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above written or caused their corporate seals to be affixed, attested by the signature of their proper officer, as the case may be.

FOR THE CORPORATION:

|           |       |       |       |
|-----------|-------|-------|-------|
| _____     | _____ | _____ | _____ |
| Signature | Name  | Title | Date  |

I/We have the authority to bind the corporation.

|           |       |       |       |
|-----------|-------|-------|-------|
| _____     | _____ | _____ | _____ |
| Signature | Name  | Title | Date  |

I/We have the authority to bind the corporation.

FOR THE CONTRACTOR:

\_\_\_\_\_  
Signature                      Name                      Title                      Date

I/We have the authority to bind the corporation.

\_\_\_\_\_  
Signature                      Name                      Title                      Date

I/We have the authority to bind the corporation.