REQUEST FOR PROPOSALS No. 20-045

Emergency Communications Trailer

ISSUED: July 20, 2020

CLOSING DATE AND TIME:
Submissions must be received at the Closing Location on or before:
3:00 PM (15:00 hrs) Local Time on August 14, 2020

Regional District of Nanaimo (RDN) Contact for Questions:
Catherine Morrison, Manager, Emergency Services
Tel: 250-390-6557
Email: cmorrison@rdn.bc.ca

Questions are requested at least five (5) business days before the closing date.

Proposals will not be opened in public

Instructions to Proponents

Closing Date/Time/Location
Submissions must be received at the closing location on or before 3:00 PM (15:00 hrs), Local Time, on August 14, 2020.

Submission Method:

By Email: With "20-045 Emergency Communications Trailer**"** as the subject line at this electronic address: cmorrison@rdn.bc.ca

Please note: Maximum email file size limit is 20MB, or less. The RDN will not be liable for any technological delays of submissions.

Amendment to Proposals
Proposals may be amended in writing and sent via email at cmorrison@rdn.bc.ca on or before the closing. Such amendments should be signed by the authorized signatory of the Proponent.

Addenda
If the RDN determines that an amendment is required to this RFP, the RDN will post the Addendum on the RDN (www.rdn.bc.ca) and BC Bid (www.bcbid.gov.bc.ca) websites/send to your firm directly. Each addendum will be incorporated into and become part of the RFP. No amendment of any kind to the RFP is effective unless it is contained in a written addendum issued by the RDN. It is the sole responsibility of the Proponent to check and ensure all amendments are included prior to submitting their final Proposal submission.

Withdrawal of Proposals
The Proponent may withdraw their Proposal at any time by submitting a written withdrawal email to cmorrison@rdn.bc.ca on or before the closing.

Unsuccessful Vendors
The District will offer debriefings to unsuccessful Proponents, on request, at a mutually agreeable time.

1. INTRODUCTION

The purpose of this Request for Proposal is to solicit submissions from qualified firms to build and equip a new custom built towable cargo style trailer to provide adequate space for amateur radio, satellite communications and first responder radio in the event of an emergency or disaster where a direct link to radio communications is required.

This project is partially grant based and work must be completed by May 31, 2021.

The delivery address is:

Regional District of Nanaimo Emergency Services
6300 Hammond Bay Road,
Nanaimo, BC, V9T 6N2

The budget for this project may not exceed $60,000 including alternate options. The budget figure includes delivery costs and PST but excludes GST. The value of GST does not need to be included in the budget figure although it will be paid by the RDN to the successful vendor.

2. BACKGROUND

A vital part of emergency response is alternative communication methods, including radio communications. The RDN may open an Emergency Operations Centre (EOC) in response to an emergency within the region as a central support facility for the community. The communication team can support the EOC through amateur radio, satellite communications and first responder radio. The purpose of this project is to build and equip a mobile emergency communications trailer so the emergency communication team can work independently either outside at the RDN EOC or at any mobile location as required. The mobile trailer will be able to accommodate up to 5 workstations and can be relocated anywhere.

3. SCOPE OF SERVICES

Working with the RDN Emergency Services department, the successful proponent will build and equip a towable Emergency Communications Trailer. For the following proposal, a brief description of the trailer is provided. This is intended to guide responses to this Proposal. The RDN requests that the cost and availability of alternative options be provided, if available.

1. 24-foot trailer with wide body and high ceiling.
2. Preferably 1/2 ton towable
3. Total fully loaded weight (including gear) cannot exceed 4,600 kgs so that no special licensing for drivers will be required.
4. Bearing buddies
5. Dual axle (leaf over or lift for additional clearance)
6. Ability to create up to 5 workstations and seat 6
7. Roof mounted AC Heat and Air conditioning

8. Propane fan less furnace or catalytic heater and appropriate plumbing and exhaust
9. Ventilation (Window and roof Vent)
10. Electric brakes
11. Spare tire on secure mount
12. Vented Battery Storage Compartment (6 deep cycle) and a solar control unit. Could be combined with generator storage.
13. Ideally two doors (1 in the front and one in the back) and two windows (on side opposite of workstations)- No fold down door at the back *(If trailer reduced to 20-21ft, one door with two windows)*
14. Electric foldable entry stairs at each door
15. Metal cargo rack on the roof for tying down antennas and mounting antennas, and mounting solar panels
16. Lockable Generator storage compartment (typical 5 kw generator) on front
17. 1 x 20 lbs propane tank mount.
18. 1 manual levelling jack at each corner
19. Aluminium ladder to access roof
20. Roof is rated to support a person and equipment (antenna and tower sections). Walls are sturdy enough and constructed to accommodate hanging cabinets and workstations
21. Reinforced mounting locations (at front and rear top and bottom corners and at some locations on sides of trailer for outdoor lighting)
22. Non-slip and sealed one piece or sprayed in floor.
23. Walls and ceiling finished with something other than unfinished plywood that does not interfere with future cabinetry or wiring.
24. Ability to mount an antenna tower on rear of trailer
25. Insulation in floor, walls, ceiling in a way which prevents sweating and condensation
26. White trailer
27. LED lighting
28. Small comfort station (vertically stacked microwave, small counter to plug in a coffee maker, and below that a bar-sized refrigerator)
29. Trailer must meet all applicable safety standards and be certified and inspected prior to delivery. An appropriate label installed on the exterior of the trailer is required.
30. No company identifying labels are to be attached to the trailer.

Optional items: Please provide individual add-on pricing for each item below

1. Lockable storage lockers accessible from outside
2. Electric Awning over side with exterior doors

4. DELIVERABLES AND OUTCOMES

The final deliverable will be a fully equipped Emergency Communications trailer with the specs as agreed upon in the final contract.

5. REFERENCE/BACKGROUND INFORMATION

See photos contained herein of example communications trailers.

6. PROPOSAL SUBMISSION AND EVALUATION CRITERIA

To assist in receiving similar and relevant information, and to ensure your Proposal receives fair evaluation, the RDN asks Proponents to provide the following information.

Please include with your proposal:

a) Year, Make and Model of trailer;
b) Complete technical specifications;
c) A conceptual drawing to give an idea of what the trailer will look like;
d) Warranty information;
e) Delivery lead time from receipt of Purchase Order;
f) Comprehensive proposed fee, in Canadian Dollars

Proposals will be evaluated on the following basis 60% Technical, 40% Financial.

The lowest price proposal will receive full marks. Other proposals will receive reduced scores based on the proportion higher than the lowest price. i.e. Score = Min Cost/Cost x Fee Points.

Proposals submitted should be in enough detail to allow the RDN to determine the Proponent's qualifications and capabilities from the documents received. The selection committee, formed at the RDN's sole discretion, will score the Proposals in accordance with the criteria provided.

The RDN may evaluate proposals on a comparative basis by comparing one proponent's proposal to another proponent's proposal. The RDN reserves the right to not complete a detailed evaluation if the RDN concludes the proposal is materially incomplete or, irregular or contain any financial or commercial terms that are unacceptable to the RDN.

The selection committee may proceed with an award recommendation or the RDN may proceed to enter into negotiations with the highest evaluated proponent with the intent of developing an agreement. If the parties after having bargained in good faith are unable to conclude a formal agreement, the RDN and the Proponent will be released without penalty or further obligations other than any surviving obligations regarding confidentiality and the RDN may, at its discretion, contact the Proponent of the next best rated Proposal and attempt to conclude a formal agreement with it, and so on until a contract is concluded or the proposal process is cancelled.

The RDN reserves the right to award the assignment in whole or in part or to add or delete any portion of the work. Throughout the evaluation process, the evaluation committee may seek additional clarification on any aspect of the Proposal to verify or clarify the information provided and conduct any background investigation and/or seek any additional information it considers necessary.

7. PROPOSED PURCHASE CONTRACT

The RDN's preferred form of Contract is attached herein. Proponents should carefully review this form of Contract. Proponents may (but are not required to) request that RDN consider revisions to the form of Contract, including the scope of Services. Proponents should submit such requests to the RDN well before the Closing Date and Time. If the RDN agrees to a request received prior to the Time, then RDN will issue an Addendum to modify the Contract. Failure to do so means acceptance of the agreement as presented.

8. GENERAL CONDITIONS

8.1 No Contract

By submitting a Request for Proposal and participating in the process as outlined in this RFP, proponents expressly agree that no contract of any kind is formed until a fully executed contract is in place.

8.2 Privilege Clause

The lowest or any proposal may not necessarily be accepted.

8.3 Acceptance and Rejection of Submissions

This RFP does not commit the RDN, in any way to select a preferred Proponent, or to proceed to negotiate a contract, or to award any contract. The RDN reserves the right in its sole discretion cancel this RFP, up until award, for any reason whatsoever

The RDN may accept or waive a minor and inconsequential irregularity, or where applicable to do so, the RDN may, as a condition of acceptance of the Submission, request a Proponent to correct a minor or inconsequential irregularity with no change in the Submission.

8.4 Conflict of Interest

Proponents shall disclose in their Proposals any actual or potential Conflict of Interest and existing business relationships it may have with the RDN, its elected officials, appointed officials or employees.

8.5 Solicitation of Board Members and RDN Staff

Proponents and their agents will not contact any member of the RDN Board or RDN Staff with respect to this RFP, other than the RDN Contact named in this document.

8.6 Litigation Clause

The RDN may, in its absolute discretion, reject a Proposal submitted by Proponent, if the Proponent, or any officer or director of the Proponent is or has been engaged either directly or indirectly through another corporation in legal action against the RDN, its elected or appointed officers and employees in relation to:

(a) any other contract for works or services; or
(b) any matter arising from the RDN's exercise of its powers, duties, or functions under the Local Government Act, Community Charter or another enactment within five years of the date of this Call for Proposals.

In determining whether to reject a Proposal under this clause, the RDN will consider whether the litigation is likely to affect the Proponent's ability to work with the RDN, its consultants and representatives and whether the RDN's experience with the Proponent indicates that the RDN is likely to incur increased staff and legal costs in the administration of this Contract if it is awarded to the Proponent.

8.7 Exclusion of Liability

Proponents are solely responsible for their own expenses in preparing and submitting a Proposal and for any meetings, negotiations, or discussions with the RDN. The RDN will not be liable to any Proponent for any claims, whether for costs, expense, losses or damages, or loss of anticipated profits, or for any other matter whatsoever, incurred by the Proponent in preparing and submitting a Proposal, or participating in negotiations for a Contract, or other activity related to or arising out of this RFP. Except as expressly and specifically permitted in these Instructions to Proponents, no Proponent shall have any claim for compensation of any kind whatsoever, as a result of participating in this RFP, and by submitting a Proposal each Proponent shall be deemed to have agreed that it has no claim.

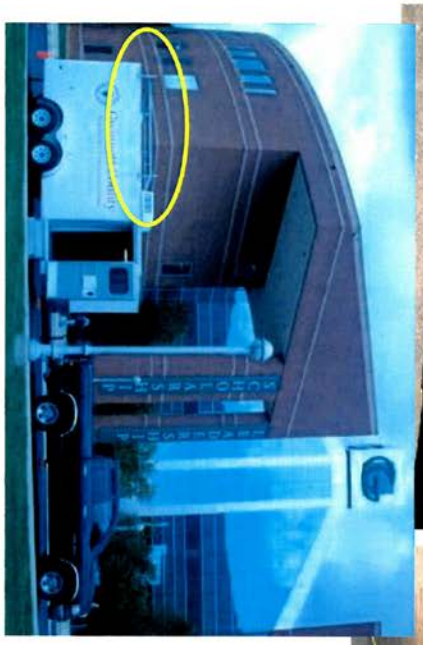
8.8 Ownership of Proposals

All Proposals, including attachments and any documentation, submitted to and accepted by the RDN in response to this RFP become the property of the RDN.

8.9 Freedom of Information

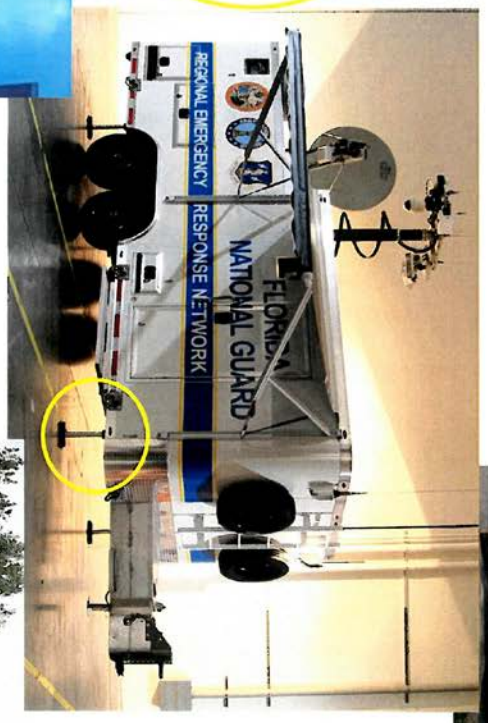
All submissions will be held in confidence by the RDN. The RDN is bound by the Freedom of Information and Protection of Privacy Act (British Columbia) and all documents submitted to the RDN will be subject to provisions of this legislation. The successful vendor and value of the award is routinely released.

REGIONAL DISTRICT OF NANAIMO







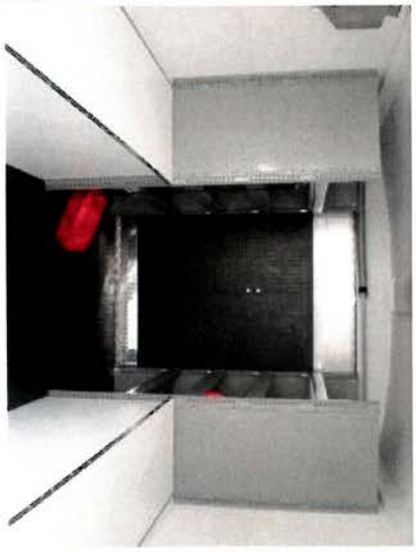




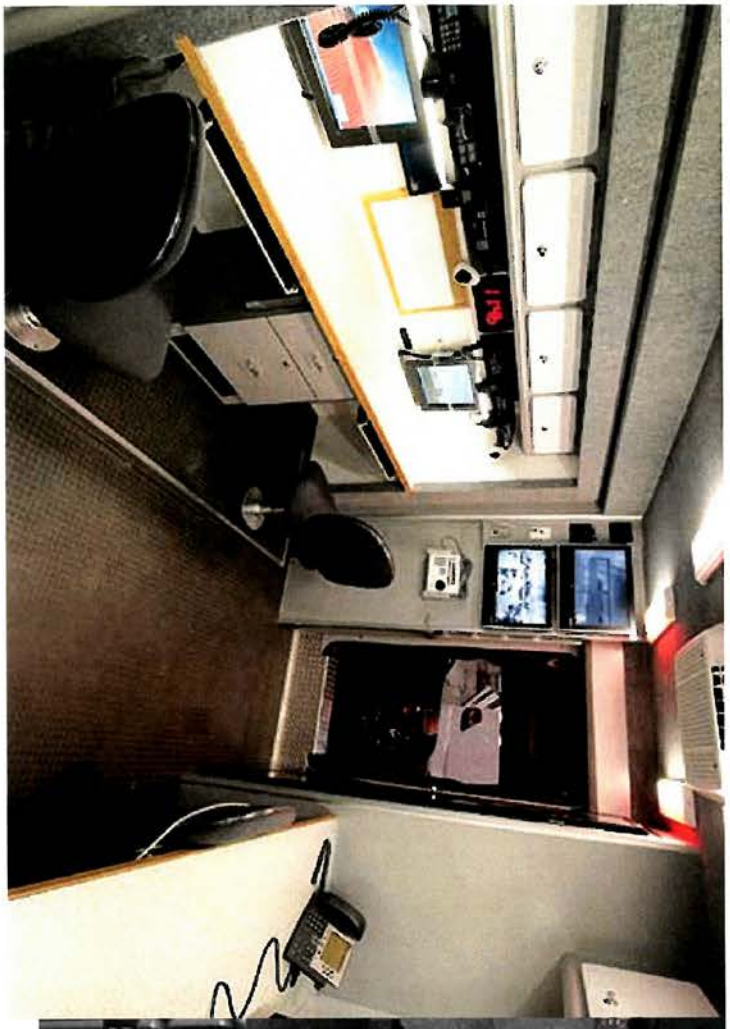


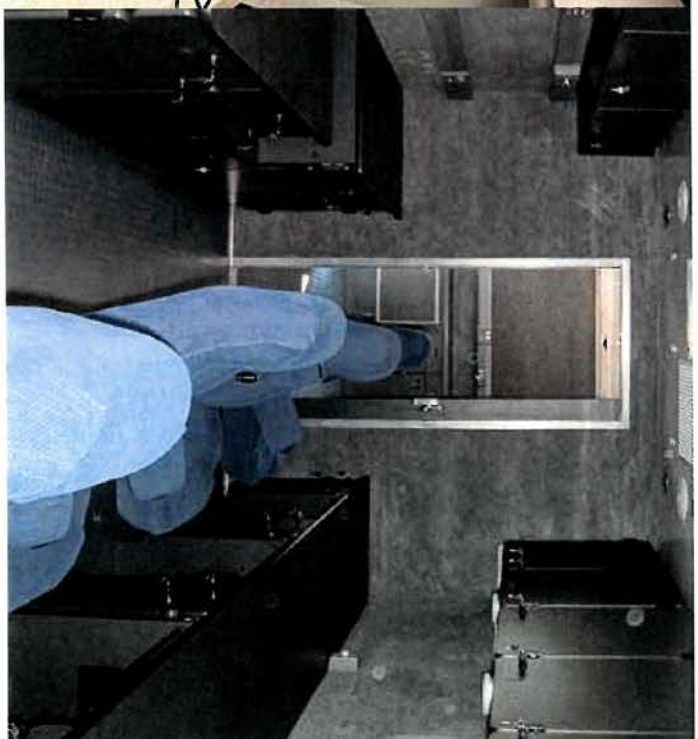
REGIONAL DISTRICT OF NANAIMO











BETWEEN: _____ (the "Supply Contractor")

AND: Regional District of Nanaimo (the "Corporation")

THIS AGREEMENT WITNESSES that the Supply Contractor and the Corporation agree as follows:

1. The Supply Contractor shall provide all labour, Supply Contractor's Plant and Equipment and materials required to supply the Goods within the required time, as required by the Contract Documents.

2. The Corporation shall pay the Supply Contractor the Contract Price, as required by the Contract Documents.

3. The Contract Price shall be the sum in Canadian Dollars of the following:

   (a) the Proposal Price, $ _____ , and

   (b) any payments made on account of changes, as may be required by the Contract Documents.

   The Contract Price shall be the entire compensation owing to the Supply Contractor by the Corporation for the Goods and shall cover and include necessary costs including but not limited to all supervision, labour, materials, Supply Contractor's Plant and Equipment, overhead, profit, financing costs, duty, shipping charges, fabrication and finishing, conveyance and delivery, packing, crating, freight, cartage, off-loading, drafting charges, tariffs, warranty and all other costs and expenses whatsoever incurred in performing the Contract.

4. The Supply Contractor shall supply all Goods to the Delivery Point no later than <XX weeks from receipt of order>.

5. The Contract Documents shall form a part of this Agreement as though recited in full.

6. The Contract supersedes all prior negotiations, representations or agreements, whether written or oral and is the entire agreement between the Corporation and the Supply Contractor with respect to the subject matter of this Agreement.

7. The Supply Contractor shall not assign the Contract, or any portion of the Contract, or any payments due or to become due under the Contract, without the express written consent of the Corporation.

8. No action or failure to act by the Corporation or an authorized representative of the Corporation shall constitute a waiver of any right or duty afforded any of them under

SAMPLE

the Contract or constitute an approval or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

9. This Agreement shall enure to the benefit of and be binding upon the Corporation and the Supply Contractor and their respective heirs, executors, legal representatives, successors and permitted assigns. In the event of more than one person being the Supply Contractor, the grants, covenants, provisos and claims, rights, powers, privileges and liabilities shall be construed and held to be several as well as joint.

10. Time shall be of the essence of this Agreement.

11. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument. Delivery by electronic transmission in portable document format (PDF) of an executed counterpart of this Agreement is as effective as delivery of an originally executed counterpart of this Agreement.

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IN WITNESS WHEREOF the parties hereto have executed this Agreement as follows:

REGIONAL DISTRICT OF NANAIMO
by its authorized signatory on _____ day of _____, 20__ (the date of Agreement):

SIGNED on behalf of the Corporation by:

Signature: _____

Name: _____

Title: _____

Signature: _____

Name: _____

Title: _____

[SUPPLY CONTRACTOR'S NAME]

by its authorized signatory on _____ day of _____, 20__:

SIGNED on behalf of the Supply Contractor by:

Signature: _____

Name: _____

Title: _____

Signature: _____

Name: _____

Title: _____

END OF SECTION

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GENERAL

1.1 DEFINITIONS

The following words and terms, unless the context otherwise requires, in all Contract Documents, shall have the meanings set out below. Words importing the male gender include the female gender and either includes the neuter and vice versa and words importing the singular number includes the plural number and vice versa.

"Addenda" means the supplemental written conditions issued prior to execution of the Agreement which modify or interpret the Contract Documents by addition, deletion, clarification, or corrections;

"Agreement" means the Standard Form Supply Contract Form of Agreement;

"Contract" means the agreement formed by the Corporation's acceptance of the Proposal for the supply and delivery of the equipment set out in the Contract Documents;

"Contract Documents" means the following documents:

(1) the executed Standard Form Supply Contract Form of Agreement
(2) the General Conditions
(3) any Addenda
(4) the Original Proposal Documents
(5) vendor’s completed Appendices A, B &C
(6) other relevant documents such as but not limited to letters of clarification and any reports, standards or the like included by reference;

"Contract Price" has the meaning set out in the supply form of agreement;

“Corporation” means the Regional District of Nanaimo;

"Day" means calendar day;

“Delivery Date” has the meaning set out in the supply form of agreement;

“Delivery Point” means the Regional District of Nanaimo, 6300 Hammond Bay Road, Nanaimo, B.C., V9T 6N2;

“Person” includes an individual, corporation, partnership and joint venture;

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“Specifications" means that part of the Contract Documents consisting of general requirements and written descriptions of the technical features of materials, equipment, construction systems, standards and workmanship;

“Supply Contractor" means the person who or which execute the Agreement;

"Supply Contractor's Plant and Equipment" means the equipment, material, supplies and all other items (except labour) brought onto the Delivery Point by the Supply Contractor, but not to be incorporated in the Goods;

CONTRACT REQUIREMENTS

1.1.1 Successors' Obligations

The Contract shall enure to the benefit of and is binding upon not only the parties hereto but also their respective successors and permitted assigns.

1.1.2 Assignment of Contract

The Supply Contractor shall not assign the Contract in whole or in part, nor any payments due or to become due under the Contract without the prior written consent of the Corporation. No assignment of the Contract shall relieve the Supply Contractor from any obligation under the Contract or impose any liability on the Corporation. Involuntary assignment of the Contract as a result of, inter alia, bankruptcy, assignment of the Contract for the benefit of creditors or appointment of a receiver, or insolvency shall be deemed default under the Contract entitling the Corporation to terminate the Contract as hereinafter provided.

1.1.3 Waiver of Rights

Except as herein provided, no act or failure to act by the Supply Contractor or the Corporation at any time with respect to the exercise of any right or remedies conferred upon them under this Contract shall be deemed to be a waiver on the part of the Supply Contractor or the Corporation, as the case may be, of any of their rights or remedies. No waiver shall be effective except in writing. No waiver of one right or remedy shall act as a waiver of any other right or remedy or as a subsequent waiver of the same right or remedy.

1.1.4 Amendment of Contract Documents

The Contract Documents shall not be amended except as specifically agreed in writing signed by both the Corporation and the Supply Contractor.

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1.2 LAWS, REGULATIONS AND PERMITS

1.2.1 The Contract shall be construed under and according to the laws of the Province of British Columbia and subject to an agreement to refer a dispute to mediation as per clause 2.3 Dispute Resolution. The parties agree to irrevocably attorn to the jurisdiction of the Courts of the Province of British Columbia.

1.2.2 The Supply Contractor shall give all notices required by law and shall comply with all laws, acts, ordinances, rules and regulations relating to or affecting the Goods. If any permits, authorizations, approvals or licences from any government or governmental agencies are necessary or desirable for the prosecution of the work they shall be obtained by the Supply Contractor at its expense, provided that the Supply Contractor shall not make application for any such permit, authorization, approval or licence without first obtaining the written consent of the Corporation.

1.2.3 Patents, Royalties and Copyright
The Supply Contractor shall pay all fees, royalties or claims for any patented invention, article, process or method that may be used upon or in a manner connected with the Goods or with the use of the Goods by the Corporation. Before final payment is made on the account of this Contract, the Supply Contractor shall, if requested by the Corporation, furnish acceptable proof of a proper release from all such fees or claims.

1.2.4 All references to money in the Contract Documents shall be interpreted as meaning lawful currency of Canada.

PART 2 CORPORATION-SUPPLY CONTRACTOR RELATIONS

2.1 AUTHORITY OF CORPORATION

2.1.1 Acceptability of Goods

The Corporation shall make the final determination of the acceptability of the Goods.

2.1.2 Appointment and Authority of Inspector

2.1.2.1 The Corporation may appoint an Inspector for the Goods at any time before or after award of the Contract. If the Corporation appoints an Inspector, the Inspector shall represent the Corporation at the Delivery Point. The Inspector shall have the authority set out in the Contract Documents and such other

SAMPLE

authority as may be delegated in writing by the Corporation including but not limited to the following:

(a) to make decisions regarding the Goods;

(b) to make decisions regarding the manner of performance of the Goods;

(c) to make determinations regarding deficiencies;

2.2 RESPONSIBILITIES OF THE SUPPLY CONTRACTOR

2.2.1 Attention to the Goods

The Supply Contractor shall diligently attend to the supply of the Goods so that they are delivered faithfully, expeditiously and in accordance with the Contract Documents.

2.2.2 Authorized Representative

The Supply Contractor shall advise the Corporation in writing of the name of the Supply Contractor's authorized representative.

2.2.3 Off-loading of Goods

The Supply Contractor shall provide all necessary instructions to ensure satisfactory off-loading of the Goods.

2.2.4 Shipment

The Supply Contractor shall properly package all Goods for safe shipment to the Delivery Point and a Notice of Shipment shall be sent by the Supply Contractor to the Corporation in advance of final delivery. The Notice of Shipment shall state the delivery date, the Purchase Order number, description of the goods, the Supply Contractor's name and the carrier by which the shipment is being made. Clear title to the Equipment, free of all charges, liens and encumbrances shall pass to RDN when the Equipment(s) is received, inspected, deficiencies rectified, and accepted by the RDN. Until such time as title of Equipment(s) is accepted by the RDN, the Dealer shall be responsible for insurance claims related to the Equipment(s) and the RDN shall not be considered to have breached any Contract if there is a fire, damage or other cause which entitles an insurance company to seize or take possession of the Equipment or part thereof.

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The passing of title to the RDN shall not affect any of the Dealer's obligations.

2.2.5 Errors and Omissions

If the Supply Contractor discovers that there are any errors or omissions in the Contract Documents, it shall immediately notify the Corporation in writing. The Corporation will review the matter and if it concludes that there is an error or omission, it shall determine the corrective actions to be taken and will advise the Supply Contractor accordingly. If the corrective work associated with an error or omission increases or decreases the amount of work called for in the Contract, the Corporation shall issue an appropriate change order. After discovery by the Supply Contractor of an error or omission in the Contract Documents any work thereafter performed by the Supply Contractor shall be done at its risk unless otherwise agreed by the Corporation.

2.3 DISPUTE RESOLUTION

2.3.1 Disputes

A dispute occurs between the Corporation and the Supply Contractor where there is a difference between the parties as to the interpretation, application or administration of the Contract.

2.3.2 Dispute/Claim Resolution

(1) All matters in dispute under this Agreement which is not first resolved between the parties acting reasonably may, with the concurrence of both the Regional District and the Supply Contractor be submitted to mediation to a single mediator appointed jointly by them.

(2) No one shall be nominated to act as a mediator who is in any way financially interested in the business affairs of either the Regional District or the Supply Contractor.

(3) If the parties cannot agree on the choice of a mediator, each party shall select a nominee and the nominees shall jointly appoint a mediator.

(4) The mediation shall take place in Nanaimo, British Columbia, unless agreed otherwise. Parties will be responsible for their own costs.

PART 3 MATERIAL, EQUIPMENT AND WORKMANSHIP

3.1 GENERAL

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The Goods shall be of the quality specified or better. All work related to the Contract Documents shall be done with equipment and workmanship of the best quality and description and by employment of properly skilled workers and in strict conformity with and as required by the Contract Documents. Materials and equipment shall be the product of suppliers or manufacturers of established good reputation, regularly engaged in the supply or manufacture of such materials or equipment.

3.2 DEMONSTRATION OF COMPLIANCE WITH CONTRACT REQUIREMENTS

3.2.1 Inspection

Inspections and testing shall not in any way relieve the Supply Contractor from any of its obligations or responsibilities under the Contract Documents, and shall not in any way prejudice or constitute a waiver of any rights or remedies of the Corporation or any guarantees, warranties or covenants in favour of the Corporation, and the Corporation shall be entitled to rely on the expertise and obligations of the Supply Contractor and its subcontractors and their consultants and engineers to the same extent as if such inspections and testing by the Corporation or any inspector or agent had not taken place.

If the Contract Documents, laws, ordinances, or any public regulatory authority requires parts of the Goods to be specially inspected, tested or approved, the Supply Contractor agrees that the Goods shall comply.

The Goods are subject to inspection and acceptance by the RDN within a reasonable time after receipt. The RDN will notify the Supply Contractor in writing of the rejection of any of the Goods which are not in accordance with the Contract Documents, and the Goods will be held subject to disposition by the Supply Contractor at the Supply Contractor's risk and subject to all charges accruing as a result of such rejection.

Notwithstanding any prior payment therefor, all Goods are subject to inspection and testing by the Corporation at the Delivery Point.

3.2.2 Certification

The equipment must be certified by the Supply Contractor in accordance with the local authorities with jurisdiction. Where compliance of Goods, materials or equipment with the Contract Documents is not readily determinable through inspection and tests, the RDN may require that the Supply Contractor provide, at the Supply Contractor's expense, properly authenticated documents, certificates or other satisfactory proof of compliance. These documents,

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certificates or other proof shall include performance characteristics, materials of construction and the physical or chemical characteristics of materials.

3.2.3 Electrical

Electrical products that plug into an electrical outlet must meet Canadian national safety standards and be certified by an accredited certification body such as CSA, cUL or cETL.

3.3 DEFECTIVE OR IMPROPER GOODS

3.3.1 Correction of Defective Goods

If upon inspection, testing or otherwise the Goods or any portion thereof are found to be non-conforming, unsatisfactory, defective, or inferior quality or workmanship, or fail to meet any guarantee of operating or other specifications contained herein, or any other requirements of the Contract Documents, then without prejudice to any other rights or remedies, the RDN may give notice of its dissatisfaction to the Supply Contractor in writing and the Supply Contractor shall immediately upon receipt of such notice do all things that are required to satisfy the RDN. If the Supply Contractor refuses or neglects to do all things that are required to satisfy the RDN within one week from the receipt of notice, the Corporation may employ some other person to do so and all expenses and costs consequent thereon or incidental thereto shall be charged to the Supply Contractor. The employment of such other person or the doing of the said work by the Corporation itself shall not affect the Supply Contractor's duties and liabilities hereunder or relieve the Supply Contractor from the performance and fulfilment of any or all of the Supply Contractor's warranties, covenants, undertakings, obligations and duties under the Contract.

3.3.2 If upon inspection, testing or otherwise the Goods or any portion thereof are found to be non-conforming, unsatisfactory, defective, or inferior quality or workmanship, or fail to meet any guarantee of operating or other specifications contained herein, or any other requirements of the Contract Documents, then without prejudice to any other rights or remedies, the Corporation may return the Goods or any part thereof to the Supply Contractor at the Supply Contractor's sole cost and all amounts theretofore paid by the Corporation to the Supply Contractor on account of the Contract Price of such returned Goods, shall be repaid to the Corporation by the Supply Contractor. The Supply Contractor shall advise the Corporation in writing, where to return the Goods, and failing such advice from the Supply

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Contractor, the Supply Contractor agrees to accept the returned Goods at the Supply Contractor's registered office. Neither the inspection nor failure to make inspection, nor acceptance of Goods shall release the Supply Contractor from any warranties or other provisions of this Contract nor impair the Corporation's right to reject non-conforming Goods. The Corporation reserves the right even after it has paid for and accepted Goods to make a claim against the Supply Contractor on account of any Goods which do not prove to be satisfactory or are defective irrespective of the Corporation's failure to notify the Supply Contractor of a rejection of non-conforming Goods or revocation of acceptance thereof, or to specify with particularity any defect in non-conforming Goods after rejection or acceptance thereof.

3.3.3 Retention of Defective Goods

If in the opinion of the RDN any portion of the Goods supplied under the Contract is defective or not in accordance with the Contract Documents and if the defect or imperfection in the same is not of sufficient magnitude or importance to make the Goods dangerous or undesirable, or if the removal of such Goods is impracticable, or will create conditions which are dangerous or undesirable, the Corporation shall have the right and authority to retain such Goods instead of requiring the defective or imperfect Goods to be removed and reconstructed, but the Corporation shall be entitled to make such deductions from the payments due or to become due to the Supply Contractor as are just and reasonable.

3.3.4 No Implied Approval

The fact that the Corporation has not disapproved of or rejected any part of the Goods shall not be deemed or be construed to be an acceptance of any such part of the Goods or any such materials.

3.4 WARRANTY AND GUARANTEE

3.4.1 The Supply Contractor agrees that the Goods manufacturer's standard warranty as outlined in the Supply Contractor’s Proposal and is to the benefit of the Corporation and that the Goods are free from all defects arising from faulty construction, manufacturing, materials, equipment or workmanship for the period of the Goods manufacturer's standard warranty period.

3.4.2 During the warranty period, the Supply Contractor, upon the receipt of notice in writing from the Corporation, shall promptly make all repairs arising out of the defects. The Corporation shall be entitled to make such repairs, if 10 Days after the giving of such notice to the Supply Contractor, the Supply Contractor has failed to make or undertake with due diligence the repairs. In case of an

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emergency, where, in the opinion of the Corporation, delay could cause serious loss or damage, or inconvenience to the public, repairs may be made without notice being sent to the Supply Contractor, only after all reasonable attempts have been made to contact the Supply Contractor. The costs of any repair made by the Corporation in connection with this clause shall be charged to the Supply Contractor and the Supply Contractor shall reimburse the Corporation for such costs. All covenants and agreements shall continue to be binding on the Supply Contractor until they have been fulfilled.

3.4.3 The Corporation is relying on Supply Contractor's skill and judgment in selecting and providing the proper Goods and any applicable services for the Corporation's particular use. The Supply Contractor warrants to the Corporation and its successors in interest that the Goods and any services covered hereby will correspond with the description of the same in the Contract Documents, will conform to all applicable Specifications, will be of the best quality and, unless otherwise specified, will be fit for the purpose for which they are to be used and will conform in all aspects, both in the manufacture and use thereof, with all applicable safety orders or regulations of the Province of British Columbia. The Supply Contractor also warrants that the Goods are free and clear of all liens and encumbrances whatsoever and that the Supply Contractor has a good and marketable title to the same.

3.4.4 The Supply Contractor warrants and guarantees that the Goods are free from all defects arising at any time from faulty design in any part of the Goods.

3.4.5 The Supply Contractor represents that it has read the contract terms and the Specifications and has satisfied itself that the Goods can be supplied in accordance with the Specifications free of defects and fit for the purpose for which they are to be used.

3.4.6 The warranty period shall commence once the RDN accepts clear title of the Equipment.

3.4.7 The warranty should be made out to the Regional District of Nanaimo, 6300 Hammond Bay Road, Nanaimo, B.C. V9T 6N2

PART 4 INDEMNIFICATION AND INSURANCE

4.1 INDEMNIFICATION AND RELEASE

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4.1.1 The Supply Contractor shall save harmless and indemnify the Corporation and its directors, officers, servants, employees and agents (the "Indemnified Parties") from and against all actions, claims, demands, proceedings, suits, losses, damages, costs and expenses of whatsoever kind or nature (including but not limiting the generality of the foregoing, in respect of death, injury, loss or damage to any person or property) arising in any way out of or connected with the Goods or the supply, off-loading or delivery of the Goods by the Supply Contractor under this agreement, except to the proportionate extent that such actions, claims, demands, proceedings, suits, losses, damages, costs and expenses were caused by the Indemnified Parties or any of them.

4.1.2 Unless otherwise specified in the Contract, the Supply Contractor shall save harmless and indemnify the Indemnified Parties from and against all actions, claims, demands, proceedings, suits, losses, damages, costs and expenses of whatsoever kind or nature arising in any way from liability of any nature or kind for or on account of any copyrighted or uncopyrighted composition, secret or other process, patented or unpatented invention, articles or appliances manufactured, supplied or used in the Goods, and/or used or to be used by the Corporation before or after supply of the Goods as a result of work performed by the Supply Contractor, and if the Supply Contractor shall fail to save harmless and indemnify in manner aforesaid, any money collected from the Indemnified Parties shall be charged to the Supply Contractor.

4.1.3 The Supply Contractor shall release and discharge the Corporation and its directors, officers, servants, employees and agents (the "Released Parties") from and against all actions, claims, demands, proceedings, suits, losses, damages, costs and expenses of whatsoever kind or nature (including but not limiting the generality of the foregoing, in respect of death, injury, loss or damage to any person or property) which the Supply Contractor or its servants or employees might have in any manner arising in any way out of or connected with the Goods or the supply, off-loading or delivery of the Goods by the Supply Contractor under this agreement except to the proportionate extent that such actions, claims, demands, proceedings, suits, losses, damages, costs and expenses were caused by the Released Parties or any of them.

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4.1.4 The indemnity provided in this clause by the Supply Contractor to the Indemnified Parties shall not in any way be limited or restricted by any insurance or by limitations on the amount or type of damages, compensation or benefits payable under the Workers' Compensation Act or any other similar statute.

4.2 INSURANCE

4.2.1 General

The Supply Contractor and subcontractors shall provide at their own cost any insurance which they are required by law to provide or which they consider necessary to protect their own interests.

4.2.2 Indemnity Not Restricted by Insurance

The provisions for insurance shown above shall not in any way limit the indemnity granted by the Supply Contractor to the Indemnified Parties elsewhere in this section.

4.3 PATENT, TRADEMARK OR COPYRIGHT

4.3.1 The Supply Contractor represents that it has fully investigated all Specifications, including any furnished by the Corporation, in connection with the Goods and based on such investigation and its past experience and superior knowledge with respect to such Goods has determined that the production and supply thereof will not infringe any patent, trademark or copyright.

PART 5 SHIPMENT OF GOODS/DAMAGE TO GOODS

5.1 SHIPMENT OF GOODS

5.1.1 Delivery of Goods

The Supply Contractor must deliver the Goods to the Delivery Point. Delivery of the Goods to a carrier for transmission to the Delivery Site does not constitute delivery of the Goods to the Corporation. Any such carrier is deemed to be the Supply Contractor's agent and not the Corporation's agent.

5.1.2 Delivery Costs

The Supply Contractor is responsible for all costs and expenses whatsoever in relation to the supply and delivery of the Goods to the Delivery Point,

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including without limitations, all shipping, carrier, transportation, freight, insurance, storage, handling and off-loading costs, as well as any customs or excise charges or duties.

5.1.3 Supply Contractor to Bear Risk

The Supply Contractor shall bear all risks and shall assume all responsibility for the Goods, including, without limitation, any loss or damage to the Goods from any cause whatsoever, up to and including the delivery and off-loading of the Goods at the Delivery Point.

5.1.4 Loss or Damage

If loss or damage to the Goods occurs for which the Supply Contractor is responsible, the Supply Contractor shall immediately effect repairs or replace any property as necessary in order to make good any such loss or damage. If the Supply Contractor refuses or neglects to do so, the Corporation may make good any such loss or damage, either by itself or by employing some other person, and the expense of doing so shall be charged to the Supply Contractor. If any repair or replacement of property is performed on the Goods as a result of loss or damage to the Goods for which the Supply Contractor is responsible the Supply Contractor represents and warrants that the warranty provided shall not be affected or changed to any manner or respect whatsoever.

5.1.5 Acceptance of Delivery of Goods by Corporation

Notwithstanding any other provision in the Contract Documents, the Corporation is not deemed to have accepted the Goods until the Goods have been delivered to and off-loaded at the Delivery Point and the Corporation has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the Contract. The Corporation's acceptance or deemed acceptance of the Goods shall not prejudice any rights or remedies the Corporation may have hereunder relating to Goods that are found to be non-conforming, unsatisfactory, defective, of inferior quality or workmanship, or which fail to meet any specifications or requirements of the Contract Documents.

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PART 6 PROGRESS AND COMPLETION

6.1 CONTRACT TIME

6.1.1 Prosecution of the Goods

Time shall be strictly of the essence. The Supply Contractor shall supply the Goods in accordance with the Contract Documents. The Supply Contractor acknowledges that the schedule for supply of the Goods as set out in the Contract Documents is reasonable.

6.1.2 Schedule

The Supply Contractor shall provide a schedule and periodic updates co-ordinating the supply of Goods within the prescribed time. Contract time extensions, if any, shall be incorporated into updated schedules. The failure of the Supply Contractor to comply with this requirement may entitle the Corporation to terminate the Supply Contractor's right to continue with the supply of Goods or to delay progress payments.

6.2 TERMINATION

6.2.1 The Corporation may terminate the Contract if the Supply Contractor at any time becomes bankrupt, makes an assignment of his property for the benefit of his creditors, or if a receiver or liquidator should be appointed. Such termination shall be effective upon the Corporation giving notice thereof.

6.2.2 The Corporation may terminate the Contract if at any time the Corporation forms the opinion that the Supply Contractor is in default under this Contract because the Supply Contractor:

(1) has breached a fundamental term of the Contract or is in substantial breach of the terms of the Contract;

(2) has failed to supply the Goods, within the time specified in the Contract Documents or extensions mutually agreed between the parties in writing;

(3) has failed or is failing to furnish or to maintain a detailed schedule;

(4) has become in any way unable to supply the Goods or any part thereof;

(5) has repeatedly failed to make prompt payments to subcontractors, suppliers or others for labour, materials or equipment; then the

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Corporation may give notice in writing to the Supply Contractor of such opinion and require that such default or defaults be remedied forthwith. If, within five Days of such notice, such default or defaults are not remedied to the satisfaction of the Corporation, the Corporation may terminate the Contract. Such termination shall be effective immediately.

6.2.3 The Corporation may terminate the Agreement, without any cost or penalty or consequence whatsoever, if it concludes, acting reasonably on the information available to it, that the Contractor is in material non-compliance with, or has been convicted of a material offence or violation of, health, safety, labour or environmental laws.

6.3 NO CLAIM

Except as herein before provided, the Supply Contractor shall have no claim against the Corporation for any reason whatsoever by reason of the termination of the Contract.

PART 7 PAYMENT

7.1 PAYMENTS TO SUPPLY CONTRACTOR

7.1.1 Payments to the Supply Contractor will be made as per the Supply Agreement

7.1.2 Notwithstanding Clause 7.1.1 the Corporation may withhold from payment:

(2) Any deduction the Corporation may be entitled to under the Contract;

(3) Such reasonable amount as the Corporation determines appropriate with respect to any part of the goods otherwise not in compliance with the Contract Documents.

7.1.3 Payments may be withheld until the relevant operating manuals and all operating and maintenance materials together with all warranties have been delivered to the Corporation.

7.1.4 In addition to any other remedy the Corporation may have in the Contract or law, the Corporation may refuse to make payment because of subsequently discovered evidence or test results, and shall be compensated for any payment previously made to the Supply Contractor to such extent as may be necessary to protect the Corporation from loss as a result of:

(1) Defective or damaged Goods;

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(2) A deductive change order;

(3) Failure of the Supply Contractor to supply the Goods in accordance with the Contract Documents, including failure to maintain the supply of the Goods in accordance with the schedule;

(4) Disregard by the Supply Contractor of the authority of the laws of any public body having jurisdiction.

The Corporation may refuse to make payment of the full amount because of claims made against the Corporation on account of the Supply Contractor's performance or supply of Goods. In such case, the Corporation shall give the Supply Contractor prompt written notice stating the reasons for each action.

7.1.5 The Corporation may withhold from payment to the Supply Contractor:

(1) Any set-off the Corporation may be entitled to under the Contract;

(2) The amount of any bona fide builder's lien claim asserted against the Corporation or which the Corporation acting reasonably anticipates will be made against the Corporation.

7.1.6 Prior to payment to the Supply Contractor, if requested by the Corporation, the Supply Contractor shall deliver to the Corporation a statutory declaration in form satisfactory to the Corporation declaring that all subcontractors, labour and accounts for material and equipment have been paid and that no persons, firms or corporations have any lien against the lands comprising the Delivery Point or the work together with such other documentation as the Corporation, acting reasonably, determines is necessary or desirable.

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