Invitation to Tender No. 22-068
Lions Community Park Playground Project

The Regional District of Nanaimo, hereinafter referred to as the "Regional District", invites Tenders for the Lions Community Park Playground project.

SCOPE: This project shall include supply of all labour, materials, equipment, products, and safety requirements necessary to complete the project as defined in the project drawings. In general, this will consist of:

a) Installation of a new playground, including play structures, playground surfacing, edging
b) Excavation, grading, and installation of a drainage system
c) Supply and installation of various park furnishings, trees, and fencing

The work is requested to be completed prior to March 31, 2023.

Tenders are to be submitted **via email** in PDF format with "22-068 Lions Community Park Playground" as the subject line to Jordan Vander Klok at JVanderKlok@rdn.bc.ca on or before on or before 3:00:00 p.m. local time on **August 18, 2022**. The Owner will not be responsible for any technological delays. It is the Tenderer's sole responsibility to ensure their Tender is received when, where and how it is specified in this document. Tenders received in any other manner will not be accepted.

There will be a non-mandatory site visit on **July 25, 2022, at 10:00 a.m., meeting at the playground location within Lions Community Park, 3480 Lioness Boulevard, Qualicum Beach, BC**. All persons in attendance must bring their own personal protection equipment (i.e., steel toe footwear, high visibility vest, etc.).

All enquiries related to this Tender are to be directed in writing to, **Jordan Vander Klok, Parks Planner at JVanderKlok@rdn.bc.ca.** Questions are requested to be received at least 5 days prior to closing.

Tenders will not be opened in public. The Regional District will endeavor to post unverified bid results by 10:00 a.m. the business day following the Tender Closing.

The Owner reserves the right to reject any or all tenders, to accept the tender deemed most favourable in the interests of the Owner. The lowest or any tender may not necessarily be accepted.

Regional District of Nanaimo

Invitation to Tender No. 22-068

Lions Community Park Playground

Issue Date: July 11, 2022

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END OF SECTION

PART 1 INVITATION

1.1 INVITATION TO TENDER

The Regional District of Nanaimo (the "Regional District") invites tenders for the Lions Community Park Playground project.

1.2 DESCRIPTION OF WORK

This project includes the supply of all labour, materials, equipment, products, safety, and environmental protection requirements necessary to complete the project as defined in the project drawing sets created by Lanarc and by Koers & Associates Engineering. In general, this work consists of, but is not limited to the following:

- Survey and staking work for site layout.
- Excavation, grading, and drainage improvements.
- Supply and installation of playground edge, boulder seat wall, gravel pathway, split rail fence, and various site furnishings.
- Supply and installation of all playground equipment. Provide a playground inspection report from a certified CSA Playground Inspector.
- Supply and installation of all playground surfacing. CSA playground inspection to include drop test results of playground surfacing.
- Supply and installation of all landscape plant material, including trees, shrubs, and perennials
- Supply and installation of topsoil and hydroseed.
- Remediation and restoration of all areas disturbed due to construction.
- Provision of as-built drawings upon completion.

Additional Contractor Requirements and Responsibilities:

- Location of all services and BC One-Call prior to construction.
- Notice of Project requirements as per WorkSafe BC.
- Develop a Site Safety Plan for this project and provide a copy to RDN.
- Provide temporary construction fencing to secure access to the project area for all equipment and materials.
- Provide adequate measures to always protect public safety for the duration of the project.
- Provide spill response kits for each piece of heavy equipment.

1.3 TENDER SUBMISSION

1.3.1 Tenders are to be submitted **via email** in PDF format with "22-068 Lions Community Park Playground" as the subject line to Jordan Vander Klok at JVanderKlok@rdn.bc.ca on or before on or before 3:00:00 p.m. local time on **August 18, 2022**. The Owner will not be responsible for any technological

delays. It is the Tenderer's sole responsibility to ensure their Tender is received when, where and how it is specified in this document. Tenders received in any other manner will not be accepted.

1.3.2 Electronically submitted Tenders will be deemed to be successfully received at the time as posted on the incoming email on the RDN's server.

1.3.3 Tenders received after the Tender Closing will not be considered by the Regional District.

1.3.4 The submission of a Tender constitutes the agreement of the Tenderer to be solely responsible for all costs and expenses incurred by it in preparing and submitting its Tender, including any costs incurred by the Tenderer after the Tender Closing.

PART 2 TENDER DOCUMENTS

2.1 Documents may be viewed and obtained directly from the Regional District of Nanaimo website at www.rdn.bc.ca or the BC Bid website at www.bcbid.gov.bc.ca

PART 3 PRE-TENDER ENQUIRIES AND ADDENDA

3.1 Enquiries should be addressed to:

Jordan Vander Klok, Parks Planner
Email: jvanderklok@rdn.bc.ca

Please Note: The Project Manager named above is the only valid contact for enquiries. No explanation, interpretation, or clarification of the Tender Documents by any other person whatsoever shall bind the Regional District in the interpretation of the Tender Documents.

3.2 Any requests for explanations, interpretations or clarifications made by Tenderers should be submitted in writing to the Regional District at least five (5) calendar Days before Tender Closing to allow enough time for a response.

3.3 If the Regional District, in the Regional District's sole discretion, determines that a clarification, addition, deletion or revision of the Tender Documents is required then the Regional District will issue a written addendum. Notice of the issuance of a written addendum, and the issued written addendum, will be posted on the Regional District of Nanaimo website https://www.rdn.bc.ca/current-bid-opportunities and the new BC Bid website https://new.bcbid.gov.bc.ca/page.aspx/en/rfp/request_browse_public. It is the sole responsibility of all prospective Tenderers to check for any addenda prior to submitting their Tender.

3.4 All Addenda issued by the Regional District shall be incorporated into and become part of the Tender Documents.

3.5 If a Tenderer finds any errors, omissions, or discrepancies in the Tender Documents, it shall immediately notify the Regional District in writing.

3.6 No oral explanation, interpretation, or clarification of the Tender Documents by any person whatsoever shall bind the Regional District in the interpretation of the Tender Documents.

3.7 There will be a non-mandatory site visit on July 25, 2022, at 10:00 a.m. The meeting will be held at the playground location within Lions Community Park, 3480 Lioness Boulevard. All persons in attendance must bring their own person protection equipment (i.e. steel toe footwear, high visibility vest, etc.).

PART 4 INSPECTION OF SITE

4.1 It is the responsibility of the Tenderer to examine the Work Site before submitting a Tender. It is the Tenderer's responsibility to be familiar with and allow for all site conditions which might affect the Work and the Tender. The Regional District will not grant, and the Tenderer will not be entitled to any additional payments or extensions of time due to site conditions which were or would have been reasonably foreseeable upon a proper inspection of the Work Site by the Tenderer.

4.2 The submission of a Tender by the Tenderer shall be deemed to be an acknowledgement that the Tenderer has relied and is relying on its own examination of the Work Site, and all other matters related to the completion of Work.

4.3 The Tenderer shall comply with all applicable regulations of the Workers' Compensation Board of British Columbia and the Regional District's corporate safety policies and regulations while attending the Work Site.

PART 5 COMPLETION OF TENDER DOCUMENTS

5.1 The Tenderer should complete the Tender Form in ink or in type.

5.2 All prices are to be in Canadian currency. Prices shall include all necessary costs including but not limited to supply, fabrication and finishing, conveyance and delivery to the Work Site, packing, crating, freight, cartage, shipping charges, unloading, installation, overhead, profit and all tariffs, duties, and taxes (excluding GST) unless otherwise indicated, including British Columbia Provincial Sales Tax. The applicable Federal Goods and Services Tax shall be shown as a separate item in the Tender Price.

PART 6 BID SECURITY

6.1 A Bid Bond is not required.

PART 7 BID RIGGING

7.1 The Tenderer's attention is directed to the Competition Act which provides that bid-rigging as defined in the Act is an indictable offence punishable upon conviction by a fine or imprisonment or both.

7.2 The Tenderer shall not engage in collusion of any sort and shall ensure that no person or other legal entity, other than the bidder has an interest in the bidder's tender and prepare the tender without any knowledge of, comparison of figures with, or arrangement with any other person or firm preparing a Tender for the same work.

PART 8 SOLICITATION

8.1 The Tenderer may not make any representations or solicitations to any director, officer, or employee of the Regional District with respect to the Tender either before or after submission of the Tender except as provided herein. If any director, officer, employee, agent sub-contractor, supplier or other representative of the Tenderer communicates with any director, officer or employee of the Regional District or any consultant engaged by the Regional District in connection with this Invitation to Tender about this Invitation to Tender, other than the person named under Part 3 – Pre-Tender Enquiries and Addenda, the Regional District shall have the unfettered right, regardless of the nature of the communication, to reject the Tender submitted by the Tenderer.

PART 9 CONDITIONS OF TENDER

9.1 Tenders which contain qualifying conditions or otherwise fail to conform to the requirements of the Tender Documents may be disqualified or rejected. The Regional District may, however, in its sole discretion, reject or retain for its consideration Tenders which are non-conforming because they do not contain the content or form required by the Tender Documents or for failure to comply with the process for submission set out in this Section 00100.

PART 10 **SUBMISSION OF TENDER**

10.1 Tenders are to be submitted via email in PDF format with "22-068 Lions Community Park Playground" as the subject line to Jordan Vander Klok at JVanderKlok@rdn.bc.ca on or before on or before 3:00:00 p.m. local time on August 18, 2022. The Owner will not be responsible for any technological delays. It is the Tenderer's sole responsibility to ensure their Tender is received when, where and how it is specified in this document. Tenders received in any other manner will not be accepted.

10.2 All Tenders shall be signed by authorized officers in the case of the Corporate Firm and in the case of an individual partnership or non-incorporated organization, shall be signed and witnessed.

10.3 It is solely the responsibility of the Tenderer to ensure that it has obtained, prior to the Tender Closing, all Addenda issued by the Regional District.

10.4 The Regional District may not accept an amendment to a previously submitted Tender unless:

(1) it is in writing;

(2) it is electronically received via email as per 10.1 prior to the Tender Closing with the email entitled: "22-068 Lions Community Park Playground — Tenderer's Name".

(3) it indicates a change to a Tender already submitted; and

(4) it is signed by the person or persons who signed the original Tender.

10.5 Tenderers shall be solely responsible for the completion and delivery of Tenders and any amendments in the manner and time specified by Section 00100, Part 10. No extension of the Tender Closing will be given to accommodate Tenderers or amendments to Tenders that do not comply with the requirements of Section 00100, Part 10.

PART 11 VARIATION TO TENDER DOCUMENT

11.1 If the Tenderer wishes to propose any variations to the specifications and/or terms and conditions, it should submit the proposed variations to the contact person for enquiries as identified in Section 00100, Clause 3.1 at least seven (7) calendar Days before the Tender Closing, otherwise the variations may not be considered by the Regional District. The acceptability of any such variations will be at the Regional District's sole and unfettered discretion.

11.2 Requested variations should be submitted in sufficient detail to facilitate evaluation by the Regional District.

11.3 Approved variations will be incorporated in the specifications and/or terms and conditions by the issuance of Addenda posted on the RDN website and BC Bid website.

11.4 Unless otherwise expressly stated in the Tender, the Tenderer agrees to accept without reservation or amendment, the whole of the specifications and Tender Documents.

11.5 Variations to the specifications not submitted in accordance with 11.1 above will only be considered if they are: (a) submitted by the otherwise wholly compliant and lowest bidder; (b) in sufficient detail and in the same format as the original specification,

including cost implications, to facilitate evaluation by the Regional District; and (c) acceptable to the Regional District. Variations to the specifications not submitted in accordance with 11.1 and not in accordance with (a), (b) and (c) above will not be considered.

PART 12 IRREVOCABILITY OF OFFER

12.1 The Tender submitted by the Tenderer shall be irrevocable and remain open for acceptance by the Regional District for a period of 60 Days from the Tender Closing, whether another Tender has been accepted or not. If at any time after 60 Days from the Tender Closing, the Tenderer has not revoked its Tender in writing, the Regional District may accept the Tender.

12.2 If a Tenderer, for any reason whatsoever, purports to revoke its Tender within 60 Days from the Tender Closing, or if for any reason whatsoever a successful Tenderer does not execute and deliver the Agreement in accordance with Section 00100, Clause 15.1, the Regional District, without limiting any other remedy it may have under the Tender Documents or otherwise, shall be entitled to:

(1) require the Tenderer to pay to the Regional District an amount equal to the difference between the Tender price of its Tender and any other Tender which is accepted by the Regional District, if such other Tender is for a greater price, plus the total of all costs, expenses, and damages, including legal fees on a solicitor and own client basis, incurred by the Regional District because of or related to such revocation or failure by the Tenderer.

PART 13 TENDER OPENING

13.1 **Tenders will not be opened in public.** The Regional District of Nanaimo will endeavour to make available the unevaluated results of the Tender to Bidders by 10:00 a.m. the business day following the Tender Closing. The Regional District of Nanaimo wishes to thank all Tenderers for their effort in responding to this bidding opportunity.

PART 14 ACCEPTANCE AND REJECTION OF TENDERS

14.1 Notwithstanding any other provision in the Tender Documents, any practice or custom in the construction industry, or the procedures and guidelines recommended for use on publicly funded construction projects, the Regional District, in its sole discretion, shall have the unfettered right to:

(1) accept any Tender;

(2) reject any Tender;

(3) reject all Tenders;

(4) accept a Tender which is not the lowest Tender;

(5) reject a Tender even if it is the only Tender received by the Regional District;

(6) accept all or any part of a Tender; and

(7) award all or a portion of the Work to any Tenderer.

14.2 If a Tender contains a defect or fails in some way to comply with the requirements of the Tender Documents, which in the sole and unfettered discretion of the Regional District is not material, the Regional District may waive the defect and accept the Tender.

14.3 Awards shall be made on Tenders that will, in the opinion of the Regional District, give the greatest value based on quality, service and price. In determining what constitutes greatest value, the Regional District may consider its previous experience with the Tenderer. Without limiting the generality of the foregoing, the Regional District may consider: the quality of work; the timeliness of completion; the number, scope, and reasonableness of requested change orders; public impact; compliance with applicable health, safety, labour, and environmental laws; environmental and social practices; and the number and reasonableness of any claims. The Regional District's previous experience with the Tenderer with regard to its competence and cooperation may also be taken into consideration in determining greatest value. The Regional District reserves the right to rely upon its records, references, and recollections in this regard. The Regional District may also obtain references other than those provided by the Tenderer and may use these references in determining greatest value.

14.4 The Regional District, in its sole discretion, reserves the right to reject the Tender in the event the Regional District determines, acting reasonably on the information available to it, that the Tenderer is in material non-compliance with, or has been convicted of a material offence or violation of, health, safety, labour or environmental laws. The Regional District's judgment in this regard will be final.

14.5 The Regional District will notify the successful Tenderer in writing that its Tender has been accepted (the "Notice of Intent to Award").

14.6 No information about an award of a contract will be given out between the time of opening and the time an award has been made.

PART 15 SUCCESSFUL TENDERER REQUIREMENTS:

15.1 The successful Tenderer should execute and deliver the Agreement to the Regional District within ten (10) business days after it has received the Agreement from the Regional District.

15.2 The successful Tenderer should submit to the Regional District of Nanaimo the following original documentation (facsimile or photocopy copies not acceptable) within seven (7)

business days of the notification of the successful Tender under Section 00100, Clause 14.5:

(1) Original Performance Bond and Labour and Material Payment Bond (the "Bonds") each of which shall equal fifty percent (50%) of the Contract Price, issued by a Surety licensed to transact the business of suretyship in the Province of British Columbia, in favour of the Regional District, signed and sealed by the successful Tenderer and the Tenderer's Surety. The form of Performance Bond and Labour and Material Payment Bond shall be in a form acceptable to the Regional District. The Performance Bond shall encompass the Warranty and Guarantee period and shall, in any event, be in effect for no less than two (2) years from the date of issuance of the Notice of Acceptance.

(2) A certificate of General Liability insurance pursuant to Section 23.2 of the General Conditions of Contract with the Regional District of Nanaimo named as additionally insured.

(3) A Workers' Compensation Board Clearance Letter of Clearance indicating good standing and remittance up to date.

15.3 The successful Tenderer shall not commence the Work until it has received a Notice to Proceed issued by the Regional District.

PART 16 AWARD OF CONTRACT

16.1 All contracts require the approval of the appropriate Regional District authority prior to award. Where a contract requires the approval of the Regional District's Board prior to award, the total price of any Tender and the reason for selecting the successful Tenderer may be released at a regular meeting of the Regional District's Board or a Committee of the Board.

16.2 Notwithstanding Clause 18.1(4) below, the Regional District reserves the right to release to the public the total price of any Tender, regardless of whether it was identified by the Tenderer as confidential. By submitting a Tender, each Tenderer consents to the release of the total price and, where applicable, information disclosable under the Act that is relevant to the selection of the successful Tenderer, to provide transparency in relation to expenditures of this type.

PART 17 FORM OF CONTRACT

17.1 The successful contractor will be expected to enter into the Form of Agreement and General Conditions of Contract contained herein.

PART 18 CONFIDENTIALITY AND SECURITY

18.1 The following conditions apply:

(1) The Tender Documents, or any portion thereof, may not be used for any purpose other than submission of Tenders; and

(2) The successful Tenderer must agree not to divulge or release any information that has been given to it or acquired by it on a confidential basis during the course of carrying out the Work or performing its services;

(3) It is the Regional District's policy to maintain confidentiality with respect to all confidential information related to the Tender, but the Tenderer acknowledges and agrees that the Tender becomes the property of the Regional District and any confidential information disclosed by it to the Regional District may be subject to a request for public disclosure under *the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c.165*, as amended from time to time (in this Clause and Clause 17.2, the "Act").

(4) The Tenderer acknowledges that the Act provides an exemption from disclosure for information as specified in Section 21 of the Act. Accordingly, if any information supplied to the Regional District fits within Section 21 of the Act, the Tenderer must specifically advise the Regional District and request the Regional District not to disclose that information, however confidentiality cannot be guaranteed.

PART 19 DISCLAIMERS/LIMITATIONS OF LIABILITY

19.1 Neither acceptance of a Tender nor execution of an Agreement shall constitute approval of any activity or development contemplated in any Tender that requires any approval, permit, or license pursuant to any federal, provincial, regional district or municipal statute, regulation, or bylaw. It is the responsibility of the Contractor to obtain such prior commencement of the Work.

19.2 The Regional District, its directors, officers, servants, employees, agents, and consultants expressly disclaim all liability for representations, warranties, express or implied or contained in, or for omissions from this Tender or any written or oral information transmitted or made available at any time to a Tenderer by or on behalf of the Regional District. Nothing in this Tender is intended to relieve a Tenderer from forming its own opinions and conclusions in respect of this Tender.

19.3 Except as expressly and specifically permitted in these Instructions to Tenderers, no Tenderer shall have any claim for any compensation of any kind whatsoever, because of participating in this Invitation to Tender, and by submitting a Tender each Tenderer shall be deemed to have agreed that it has no claim.

PART 20 SUSTAINABLE PURCHASING PRACTICE

20.1 It is the Regional District's policy to ensure that procurement decisions for the supply of goods, services and construction consider economic considerations, as well as the Tenderer's environmental and social practices. The Regional District expects that each Tenderer has and will comply with internationally recognized labour conventions and recommendations of the International Labour Organization (ILO), of which Canada is a member, and any applicable legislation pertaining to workplace safety, health, labour and employment, human rights, and the environment. In Canada this includes but is not limited to the latest editions of the following: *Corruption of Foreign Public Officials Act* (Canada), *Human Rights Code* (BC), *Employment Standards Act, Workers Compensation Act* (BC), *Canadian Environmental Protection Act, Fisheries Act* (Canada), *Transportation of Dangerous Goods Act* (BC), *Transportation of Dangerous Goods Act,* (Canada), *Environmental Management Act* (BC).

PART 21 PRIME CONTRACTOR

21.1 The successful Contractor shall be deemed to be the Prime Contractor within the meaning of Part3, Division 3, Section 118(1) of the Workers Compensation Act. The successful Contractor must be qualified and willing to assume this responsibility.

PART 22 HOURS OF WORK

22.1 No work shall be performed under the Contract between the hours of 6:00 p.m. and 7:00 a.m. of the following day or on Saturdays, Sundays, or statutory holidays except as authorized in writing by the Regional District at the Regional District's sole discretion. In no event should the hours of work exceed those permitted by the governing municipal noise (or similar) bylaw.

PART 23 CONFLICT OF INTEREST

23.1 The Tenderer declares that it has no financial interest, directly or indirectly in the business of any third party that would be or be seen to be a conflict of interest in carrying out the services. It warrants that neither it nor any of its officers or directors, or any employee with authority to bind the Bidder, has any financial or personal relationship or affiliation with any elected official or employee of the Regional District or their immediate families which might in any way be seen by the Regional District to create a conflict.

PART 24 LITIGATION CLAUSE

24.1 The RDN may, in its absolute discretion, reject a Tender, if the Tenderer, or any officer or director of the Tenderer 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 Bid Call.

In determining whether to reject a Tender under this clause, the RDN will consider whether the litigation is likely to affect the Tenderer's ability to work with the RDN, its consultants and representatives and whether the RDN's experience with the Tenderer 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 Tenderer.

PART 25 TENDER IRREGULARITIES

25.1 The Regional District may accept or waive a minor and inconsequential irregularity, or where practicable to do so, the Regional District may, as a condition of bid acceptance, request a Tenderer to correct a minor and inconsequential irregularity with no change in bid price. The determination of what is, or is not, a minor and inconsequential irregularity, the determination of whether to accept, waive, or require correction of an irregularity, and the final determination of the validity of a bid, shall be at the Regional District's sole discretion.

END OF SECTION

PART 1 TENDERER'S NAME

This Tender for **22-068 Lions Community Park Playground** is hereby submitted by:

Company Name of Tenderer (please print)

Address of Tenderer

Telephone Number of Tenderer

GST Registration Number

e-mail address of Tenderer

Authorized Signature Date

Print Name

(the "Tenderer")

PART 2 TENDER DOCUMENTS

2.1 The Tender Documents for this Contract include the following:

(1) All documents listed in Section 00001, Table of Contents

(2) Addenda

PART 3 TENDERER'S DECLARATIONS

3.1 The Tenderer declares that it has read and understood and agrees to be bound by the Tender Documents.

3.2 Without limiting the generality of Section 00200, Clause 4.1, the Tenderer declares that it has fulfilled and complied with all the obligations and requirements under the Tender Documents which are required to be fulfilled by the Tender Closing.

3.3 The Tenderer confirms, represents, and warrants that all information which it has provided or will provide to the Regional District is true and accurate in every respect.

3.4 If the Tender is accepted by the Regional District, the Contractor shall commence the Work after issuance of the Notice to Proceed from the REGIONAL DISTRICT. The Contractor shall begin the Work no sooner than September 12, 2022 and shall attain substantial completion of the Work by March 31, 2023.

3.5 All prices are to be shown in Canadian currency.

3.6 The Tenderer hereby submits a lump sum price as required by the specifications and agrees that this price will be used for payment of work through approved Progress Payments. Any Extra Work will require a change order. The Tenderer agrees that the prices quoted shall remain in force until the date of completion of the Contract.

3.7 The Tenderer confirms that the Tender Price includes all necessary costs including but not limited to supply, fabrication and finishing, conveyance and delivery to Site, packing, crating, freight, cartage, shipping charges, off-loading, installation, construction, drafting charges, labour, overhead, profit, etc. and all tariffs, duties and taxes unless otherwise indicated, including British Columbia Provincial Sales Tax. The applicable Federal Goods and Services Tax shall be shown as a separate item to the Tender Price.

3.8 The Tenderer agrees to be deemed to be the Prime Contractor within the meaning of Part3, Division 3, Section 118(1) of the Workers Compensation Act and is qualified and willing to assume this responsibility.

3.9 All payments will be subject to a 10% holdback as per the BC Builders Lien Act.

SCHEDULE 1 - QUANTITIES AND PRICES

A – Site Works

Item No.	Description	Lump Sum Price
A1	Mobilization and Demobilization	
A2	Grubbing and Stump Removals	
	Subtotal:	

B – Civil and Drainage

Item No.	Description	Lump Sum Price
B1	Excavation, Rough Grading, Stockpiling Excess Fill	
B2	Drainage Improvements (including all subgrade pipes, trenching, culverts, headwalls, catch basins, etc)	
B3	Concrete Wheel Stops for Parking Lot (supply and install)	
B4	Accessible Parking Stall Sign (supply and install)	
	Subtotal:	

C – Paving and Surfacing

Item No.	Description	Lump Sum Price
C1	Engineered Wood Fibre (EWF) Playground Surfacing (supply and install)	
C2	Flush Concrete Curb Edge for Playground (supply and install)	
C3	Dimensional Timber Edge for Playground (supply and install)	
C4	Log Seat Edge for Playground (supply and install)	
C5	Concrete Ramp Entry to Playground (supply and install)	
C6	Boulder Retaining Wall / Seat Wall (supply and install)	
C7	Landscape Boulders (supply and install)	
C8	Crushed Gravel Path with Edging (supply and install)	
C9	Concrete Pads for Picnic Tables and Park Sign (supply and install)	
	Subtotal:	

D – Playground Equipment

Item No.	Description	Lump Sum Price
D1	LSI Venti Play Structure with Slide ages 5-12 (supply)	
D2	LSI Motion Play Structure ages 2-5 (supply)	
D3	LSI Swings (2x belt seat, 1x toddler seat, 1x accessible seat) (supply)	
D4	Installation of Playground Equipment	
D5	Playground Inspection and Report (Including Impact Testing for EWF Surfacing)	
	Subtotal:	

E – Site Furnishings

Item No.	Description	Lump Sum Price
E1	Picnic Tables (supply and install)	
E2	Restoration and Installation of Existing Benches (including footings)	
E3	Waste / Recycling Receptacle and Base (supply and install)	
E4	Cedar Split Rail Fencing (supply and install)	
	Subtotal:	

F – Soft Landscape and Plantings

Item No.	Description	Lump Sum Price
F1	Tree Planting (supply, installation, staking, growing medium)	
F2	Shrub and Perennial Planting (supply, installation, growing medium)	
F3	Bark Mulch Surfacing, 75mm Depth (supply and install)	
F4	Lawn Areas (topsoil, fine grading, hydroseed)	
	Subtotal:	

Subtotal (A – F): $ _____

GST: $ _____

TOTAL: $ _____

Provisional Items (At the sole discretion of the Regional District to accept all, some, or none)

G – Provisional Items

Item No.	Description	Lump Sum Price
G1	Flush Concrete Curb Edge for Playground (supply and install) Note: This Provisional Item is to replace Item C3 – Dimensional Timber Edge	
G2	Drip Irrigation for Trees (design, supply, install) Note: Water access is located within the concrete bleachers. Irrigation system will require all necessary components and connections, including backflow preventer. System to meet or exceed the City of Nanaimo irrigation specifications.	

BETWEEN: _____ (the "Contractor")

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

THIS AGREEMENT WITNESSES that the Contractor and the REGIONAL DISTRICT agree as follows:

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

2. The REGIONAL DISTRICT shall pay the 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) Up to the Tender Price set out in the accepted Tender Form and;

   (b) Payments made on account of change orders, as may be required by the Contract Documents.

   The Contract Price shall be the entire compensation owing to the Contractor by the REGIONAL DISTRICT for the Work and shall cover and include all supervision, labour, materials, Contractor's Plant and Equipment, overhead, profit, financing costs and all other costs and expenses whatsoever incurred in performing the Contract.

4. The Contractor shall commence the Work after issuance of the Notice to Proceed from the REGIONAL DISTRICT. The Contractor shall begin the Work no sooner than September 12, 2022 and shall attain substantial completion of the Work by March 31, 2023.

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 REGIONAL DISTRICT and the Contractor with respect to the subject matter of this Agreement.

7. Defined terms in this Agreement shall have the same meanings as set out in the General Conditions, except where the contrary is expressed.

8. In entering into and executing this Agreement, the Contractor has relied on its own examination of the Site, access to the Site, and on all other data, matters and things requisite to the fulfilment of the Work, and on its own knowledge of existing services or utilities along or crossing or in the vicinity of the route or facility to be installed or

SAMPLE

constructed under this Contract, and not on any representation or warranty of the REGIONAL DISTRICT.

9. The 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 REGIONAL DISTRICT.

10. No action or failure to act by the REGIONAL DISTRICT or an authorized representative of the REGIONAL DISTRICT shall constitute a waiver of any right or duty afforded any of them under the Contract or constitute an approval or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

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

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

13. 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.

SAMPLE

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

The Regional District of Nanaimo by its authorized signatory on _____ day of _____, 20__ (the date of Agreement):

SIGNED on behalf of the REGIONAL DISTRICT by:

Signature: _____

Name: _____

Title: _____

[CONTRACTOR'S NAME]

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

SIGNED on behalf of the Contractor by:

Signature: _____

Name: _____

Title: _____

END OF SECTION

SAMPLE

REGIONAL DISTRICT OF NANAIMO
ESTABLISHED 1967

GENERAL CONDITIONS of CONTRACT

PART 1 LAW APPLICABLE

This Contract shall be construed under and according to the laws of the Province of British Columbia, Canada.

PART 2 ACCEPTANCE

For the purpose of this Tender, acceptance of the work shall mean the acceptance of the work for final payment of the contract price but not for the purpose of extinguishing any covenant or agreement on the part of the Contractor to be performed or fulfilled under this contract which has not in fact been performed or fulfilled at the time of such acceptance, all of which covenants and agreements shall continue to be binding on the Contractor until they have been fulfilled.

PART 3 PRIME CONTRACTOR DESIGNATION

The Contractor must be registered with WorkSafe BC and be in good standing with remittance up to date throughout the agreement and is designated as the Prime Contractor and shall fulfill the Prime Contractor responsibilities as defined in:

a) WorkSafeBC *Occupational Health and Safety Regulation,* Notice of Project, Section 20.2, and Coordination of multiple employer workplaces, Section 20.3;

b) *Workers Compensation Act* (BC), Coordination at multiple-employer workplaces, Section 118, Subsections (1) & (2); and

c) General Requirements, Section 3.10 WorkSafe BC.

PART 4 QUALITY OF WORK AND MATERIALS

The whole of the materials and/or the work, whether or not so stated herein, shall be done in the most substantial and professional manner with new materials, articles, equipment and work of the best quality and description and by employment of properly skilled trades and in strict conformity with and as required by this contract to the satisfaction of the REGIONAL DISTRICT whether or not so stated herein. Materials and equipment shall be the products of suppliers or manufacturers of established reputation engaged in the supply or manufacture of such materials or equipment.

Materials are to be installed or incorporated into the Work applied in accordance with the manufacturer's directions. Use the techniques and application best suited for the type of material being used.

SAMPLE

PART 5 JUDGE OF WORK AND MATERIALS

The REGIONAL DISTRICT shall be the final judge of all work, materials and plants in respect of both quality and quantity and their decisions of all questions in dispute with regard thereto will be final.

All materials shall be subject to inspection and test by and shall meet the approval of the REGIONAL DISTRICT.

In case any materials, equipment and supplies are defective in material or quality or otherwise not in conformity with the specifications of the contract, the REGIONAL DISTRICT shall have the right either to reject them or to require their correction.

Acceptance or rejection of the materials, equipment, supplies, etc. shall be made as promptly as practicable after delivery, but failure to inspect and accept or reject supplies shall not relieve the contractor from responsibility for such supplies as are not in accordance with the specifications.

PART 6 C.S.A. SEAL OR PROVINCIAL CERTIFICATE APPROVAL

All electrical material and equipment, and all manufacturing and assembling procedures and workmanship, shall be in accordance with the requirements of the current edition and revisions of the Canadian Electrical Code Part 1 (CSA Standard C22.1 – 2012) as adopted and amended by the Province of British Columbia (hereinafter referred to as the "Electrical Code"), as amended from time to time.

Only approved materials and equipment shall be used and where specified materials and equipment do not have current approval, as required by the Electrical Code, the Contractor shall offer approved substitutes.

Each completed assembly shall carry the approval seal either of the Inspection Department, and where alterations are required by the Department the Contractor shall make these at his own expense. The Contractor shall pay all fees and costs incurred in obtaining the required approvals.

PART 7 RECTIFICATION OF DAMAGE AND DEFECTS

The Contractor shall rectify any loss or damage for which, in the opinion of the REGIONAL DISTRICT, the Contractor is responsible, at no charge to the REGIONAL DISTRICT and to the satisfaction of the REGIONAL DISTRICT. In the alternative, the REGIONAL DISTRICT may repair the loss or damage and the Contractor shall pay to the REGIONAL DISTRICT the costs of repairing the loss or damage forthwith upon demand from the REGIONAL DISTRICT. Where, in the opinion of the REGIONAL DISTRICT, it is not practical or desirable to repair the

SAMPLE

loss or damage, the REGIONAL DISTRICT may estimate the cost of the loss or damage and deduct such estimated amount from the amount owing to the Contractor hereunder.

PART 8 WARRANTY AND GUARANTEE

The work shall be warranted to be free of defects, and shall be guaranteed by the Contractor for a period of one (1) year from the date of acceptance. On receipt of notice from the REGIONAL DISTRICT the Contractor shall promptly make all repairs arising out of defective work or any equipment or materials supplied by him.

The REGIONAL DISTRICT is hereby authorized to make such repairs if, ten (10) days after the giving of such notice to the Contract, the Contractor has failed to make or undertake with due diligence said repairs; provided, however, that in the case of an emergency, where, in the opinion of the REGIONAL DISTRICT delay would cause serious loss or damage, repairs may be made without notice being sent to the Contractor, and all expense in connection therewith shall be charged to the Contractor.

PART 9 ASSIGNMENT

The Contractor shall not assign, sub-contract or let out as task work any part of the work, and shall not assign any interest herein or any right to payment hereunder without first having had and obtained the consent in writing of the REGIONAL DISTRICT; which consent the REGIONAL DISTRICT may withhold in its absolute discretion. If the REGIONAL DISTRICT should consent to any such assignment, sub-contracting or letting out as task work of all or any part of the work, the Contractor shall by reason thereof be in no ways relieved from his responsibility for the fulfillment of the work, but shall continue to be responsible for the same in the same manner as if all the work had been performed by the Contractor himself.

PART 10 TERMINATION

The REGIONAL DISTRICT may by written notice to the Contractor terminate the whole or any part of this contract in any one of the following circumstances:

a) If the Contractor fails to perform the work within the time specified herein or any extension thereof.

b) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms and in any of these circumstances, does not cure such failure within a period of ten (10) days, or such longer period as the REGIONAL DISTRICT may authorize, in writing, after receipt of notice from the REGIONAL DISTRICT specifying any such failure.

SAMPLE

d) In the event that the Contractor performs any act or does anything by which the REGIONAL DISTRICT shall incur any liability whatsoever.

e) The REGIONAL DISTRICT 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.

f) In the event that any creditor of the Contractor causes a writ of execution or similar writ or court order to be served upon the REGIONAL DISTRICT requiring the REGIONAL DISTRICT to pay to such creditor or to a sheriff or other public official or to the Court any portion of the consideration due to the Contractor under this Contract.

g) In the event that the Contractor shall be adjudged bankrupt or if it should make a general assignment for the benefit of creditors or if it becomes insolvent or is appointed by a creditor of if it should take the benefit of any Act that may be in force for bankrupt or insolvent debtors.

Upon termination of the Contract as aforesaid, the REGIONAL DISTRICT shall have no obligation to the Contractor except for such labour and materials as have been supplied or performed up to the date of the termination of the Contract.

PART 11 STATUTES, MUNICIPAL BY-LAWS AND PERMITS

Unless otherwise noted, the Contractor shall take out all necessary permits and licenses required to permit the Contractor to perform its obligations under the Contract. The Contractor shall give all notices and comply with all REGIONAL DISTRICT regulations, all laws, by-laws, ordinances, rules and regulations, whether federal, provincial or municipal, relating to the business it carries on and the services provided pursuant to the Contract, including the Workers' Compensation Act and the Employment Standards Act.

PART 12 SITE INSPECTION

The Contractor shall make site inspections of all appropriate areas to determine their general condition and to ensure the fulfillment of the contract requirements.

PART 13 USE OF PREMISES

The Contractor shall abide by, and shall ensure its employees abide by, all appropriate regulations, including but not limited to regulations relating to fire, safety, parking, traffic control and health. The Contractor will ensure that all of its employees are aware of the applicable regulations.

SAMPLE

PART 14 DAMAGE TO PERSON AND PROPERTY

The Contractor shall use due care that no persons are injured, no property damaged or lost, and no rights are infringed in the performance of the Work, and the Contractor shall be solely responsible for all loss, damages, costs and expenses in respect of any injury to persons, damage of property, or infringement of the rights of others incurred in the performance of the Work or caused in any other manner whatsoever by the Contractor, or its employees.

PART 15 CLEAN UP

The Contractor shall at all times conduct the work in an orderly and reasonably tidy manner, and shall at suitable intervals remove any accumulation of rubbish or refuse materials. At no time shall any person employed by the Contractor or by any of his Subcontractors discard any litter or garbage on or adjacent to the site, except into a suitable container. Upon completion and before final acceptance of the work, the Contractor shall remove all rubbish, surplus, or discarded materials and equipment and shall leave the site in a clean and neat condition.

PART 16 ACCESS AND PUBLIC SAFETY

The Contractor shall effectively warn and protect the public and other personnel from any danger as a result of the work being done.

No material or equipment shall be stored where it will interfere with the free and safe passage of vehicular or pedestrian traffic or where it creates a hazard or a nuisance.

PART 17 CURRENCY OF PAYMENT

All reference to money in this Contract shall refer to and mean lawful money of Canada.

PART 18 DAMAGES FOR DELAY

If the work is not completed and/or the materials delivered before or upon the expiration of the time limited therefore all costs which the REGIONAL DISTRICT shall be put to by reason thereof shall be charged to the Contractor.

SAMPLE

PART 19 PAYMENTS

The Contractor will be solely responsible for invoicing the REGIONAL DISTRICT ensuring to include the REGIONAL DISTRICT's Purchase Order number on all invoices to assure timely payment. Payments will be subject to a 10% holdback as per the Province of British Columbia's Builder's Lien Act.

All invoices are subject to prior review and approval by the REGIONAL DISTRICT and approved invoices will be paid on a net 30 day basis unless otherwise negotiated and agreed to in writing.

If the REGIONAL DISTRICT does not approve of the services or part of them which are the subject of the invoice, the REGIONAL DISTRICT shall advise the Contractor in writing of the reasons for non-approval and the Contractor shall remedy at no additional cost to the REGIONAL DISTRICT before the REGIONAL DISTRICT shall be obliged to pay the invoice or any part of it, as the case may be.

PART 20 CHANGE ORDERS

If for any reason it may become desirable during the course of the work to change the alignment, dimensions or design, or to add to or to omit portions thereof, the REGIONAL DISTRICT reserves the right to issue change orders to give effect to such changes as may, in the opinion of the REGIONAL DISTRICT be necessary or desirable.

The change may or may not result in a change in the amount of the work. If the changes do, in the opinion of the REGIONAL DISTRICT, change the amount of the work, the contract price shall be adjusted as mutually agreed between the Contractor and the REGIONAL DISTRICT.

Should the Contractor and the REGIONAL DISTRICT fail to agree on the value of the change in the amount of work, the Contractor shall nevertheless change the work so ordered, and the value thereof shall be referred to the arbitration of three persons, one to be appointed by the Contractor, one to be appointed by the REGIONAL DISTRICT, and the third to be appointed by such two persons before proceeding with the arbitration. The decision of any two of the arbitrators shall be binding, and shall be deemed to be a submission to arbitration within the provisions of the "Arbitration Act".

PART 21 STATUTORY DECLARATION

Prior to any payment to the Contractor, if requested by the REGIONAL DISTRICT, the Contractor shall deliver to the REGIONAL DISTRICT a statutory declaration in a form satisfactory to the REGIONAL DISTRICT declaring that all subcontractors, labour and accounts for material and equipment have been paid and that no persons, firms or REGIONAL DISTRICTs have any lien against the lands comprising the work site or the work

SAMPLE

together with such other documentation as the REGIONAL DISTRICT, acting reasonably, determines is necessary or desirable.

PART 22 BUILDERS LIENS

The Contractor shall, at its own expense, cause any and all builders liens and other liens for labour, services or materials alleged to have been furnished with respect to the lands comprising the work site or the work which may be registered against or otherwise affect the lands or the work, except liens properly filed by the Contractor on its own behalf, to be paid, satisfied, released or vacated forthwith after the REGIONAL DISTRICT has sent written notice of any claim for any such lien. In the event of a bona fide dispute regarding the validity or correctness of any claim for such lien, the Contractor shall be entitled to defend against a claim for such lien in any proceedings brought in respect therefor after first paying into court the amount claimed plus any interest payable, or providing sufficient security therefor and such cost as the court may direct and registering all such documents as may be necessary to cancel such lien, or providing such other reasonable security in respect of such claims as the REGIONAL DISTRICT may in writing approve. Upon receiving satisfactory security for any costs and an indemnity in writing from the Contractor, the REGIONAL DISTRICT may authorize the Contractor to apply to the court in the name of the REGIONAL DISTRICT to have any lien removed upon payment into court or deposit in court of satisfactory security therefor. All payments subject to 10% holdback.

PART 22 PROTECTION OF REGIONAL DISTRICT AGAINST CLAIMS

The Contractor shall assume the defense of and indemnify and hold harmless the REGIONAL DISTRICT and its officers, employees, and agents, from and against all claims relating to materials furnished and to inventions, copyrights, trademarks, or patents and rights thereto used by the Contractor in the execution of this contract and in subsequent use and/or operation by the REGIONAL DISTRICT.

PART 23 INDEMNIFICATION AND INSURANCE

23.1 Indemnification and Release

23.1.1 The Contractor shall save harmless and indemnify the REGIONAL DISTRICT 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 Work by the Contractor or its subcontractors, or their servants or employees under this Contract, except to the proportionate extent that such actions, claims, demands, proceedings, suits, losses,

SAMPLE

damages, costs and expenses were caused by the Indemnified Parties or any on them.

23.1.2 Unless otherwise specified in the Contract, the 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 un-copyrighted composition, secret or other process, patented or unpatented invention, articles or appliances manufactured, supplied or used in the Work, and/or to be used by the REGIONAL DISTRICT before or after completion of the Work as a result of the Work performed by the Contractor, and if the Contractor shall fail to save harmless and indemnify in manner aforesaid, any money collected from the Indemnified Parties shall be charged to the Contractor.

23.1.3 The Contractor shall release and discharge the REGIONAL DISTRICT 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 Contractor or its subcontractors or their servants or employees might have in any manner arising in any way out of or connected with the Work by the Contractor or its subcontractors, or their servants or employees under this Contract, 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 on them.

23.1.4 The indemnity provided in the Clause 24.1.1 by the 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 statutes.

23.2 Insurance Obtained by Contractor

23.2.1 General

The Contractor shall itself and cause each subcontractor to obtain and maintain, at its own expense, the insurance set out below until all conditions of the Contract have been fully complied with.

23.2.2 Commercial General Liability Insurance

SAMPLE

Commercial General Liability Insurance providing third party bodily injury, death and property damage coverage in an amount of not less than $5,000,000 per occurrence, indicating that the REGIONAL DISTRICT is added as Additional Insureds. The policy shall include Premises and Operations Liability; Contractor's Protective Liability with respect to the Operations of sub-contractors; Completed Operations Liability; Contractual Liability; Non-Owned Automobile Liability; and a Cross Liability and/or Severability of Interest clause protecting each insured to the same extent as if they separately insured.

The policy shall also contain a clause providing that the REGIONAL DISTRICT will receive 30 days' notice of cancellation or of any material change in coverage which will reduce the extent of coverage provided to the REGIONAL DISTRICT.

The Contractor shall file with the REGIONAL DISTRICT, prior to the commencement of work, a certificate of insurance in a form acceptable to the REGIONAL DISTRICT evidencing this policy. The Contractor shall also file with the REGIONAL DISTRICT evidence of the renewal on this policy. The Contractor is responsible for paying all deductibles.

23.2.3 Automobile Third Party Liability Insurance

A Standard Owner's Form Automobile Policy for each vehicle used in the performance of the Contract and regulated by the Insurance (Motor Vehicle) Act or similar legislation. The Third Party Legal Liability Limits are to be in an amount not less than $2,000,000 per occurrence.

23.2.4 Contractor's Equipment Insurance

The Contractor shall maintain an All Risk insurance policy covering all construction equipment, mobile equipment, miscellaneous equipment, tools, office contents and other miscellaneous property whether owned, leased or rented or for which the Contractor may be responsible, that is used in any way in connection with this Contract.

23.2.5 Other Insurance

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

23.2.6 Waiver of Subrogation

SAMPLE

Each insurance policy obtained by the Contractor or any subcontractor in accordance with clause 24.2.4 shall include the following clause:

"Waiver of Subrogation

It is understood and agreed that in the event of a loss and upon payment of any claim hereunder, the insurer will waive its right of subrogation against the REGIONAL DISTRICT and any of their servants, agents, employees, parent, subsidiary, affiliated or related firms."

23.2.7 Indemnity Not Restricted By Insurance

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

23.2.8 Maintenance of Insurance

All required insurance shall be maintained until final completion of the work, including the making good of faulty work and materials, except that coverage of Completed Operations Liability shall in any event be maintained for 12 months from date of final acceptance by the REGIONAL DISTRICT.

PART 24 HOURS OF WORK

No work shall be performed under the Contract between the hours of 6:00 p.m. and 7:00 a.m. of the following day or on Saturdays, Sundays, or statutory holidays except as authorized in writing by the Regional District at the Regional District's sole discretion. In no event should the hours of work exceed those permitted by the governing municipal noise (or similar) bylaw.

PART 25 FORCE MAJEURE

Neither party shall be responsible for any delay or failure to perform its obligations under this agreement where such a delay or failure is due to fire, flood, explosion, war, embargo, governmental action, act of public authority, act of god or to any other cause beyond its control, except labour disruption. In the event force majeure occurs, the party who is delayed or fails to perform shall give prompt notice to the other party and shall take all reasonable steps to eliminate the cause. Should the force majeure event last longer than 30 calendar days, the REGIONAL DISTRICT may terminate this agreement immediately by written notice to the contractor without further liability, expense, or cost of any kind.

SAMPLE

PART 26 DISPUTE RESOLUTION

26.1 If the parties to this Agreement are unable to agree on the interpretation or application of any provision in the Agreement, or are unable to resolve any other issue relating to this Agreement, the parties agree to the following process in the order it is set out:

(a) the party initiating the process will send written notice to the other party (the "Dispute Notice"); and

(b) the parties will promptly, diligently and in good faith, including the senior management of both parties, take all reasonable measures to negotiate an acceptable resolution to the disagreement or dispute.

26.2 If the parties are unable to negotiate a resolution within 30 days of the Dispute Notice, the parties may request the assistance of a mediator agreed to by the parties within 30 days written notice of a request to appoint a mediator by any party, failing which the mediator will be appointed by the B.C. International Commercial Arbitration Centre (BCICAC), and unless the parties agree otherwise, this mediation will follow BCICAC rules and will terminate 60 days after the appointment of the mediator.

26.3 The parties will be responsible for their own costs under the dispute resolution process set out in this part 21.0.

PART 27 INDEPENDENT CONTRACTOR

The Contractor shall be, and in all respects be deemed to be, an independent contractor and nothing in this *Agreement* shall be construed to mean that the Contractor is an employee of the REGIONAL DISTRICT or that any agency, joint venture or partnership exists between the *Contractor* and the *REGIONAL DISTRICT*.

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