REQUEST FOR STANDING OFFERS (RFSO) No. 23-019

Graphic Design Services

ISSUED: March 1, 2023

CLOSING DATE AND TIME:
Proposals are requested to be received at the Closing Location prior to:
3 p.m. (15:00 hrs) Pacific Time on March 21, 2023

Regional District of Nanaimo (RDN) Contact for Questions:
Rebecca Taylor, Communications Coordinator
T: 250-390-6502 or rtaylor@rdn.bc.ca

Deadline for questions is five (5) business days before the closing date.

Instructions to Proponents

Closing Date/Time/Location
Proponents are requested to submit their Standing Offers prior to the closing time of 3 p.m. (15:00 hrs), Pacific Time, March 21, 2023. Submission method:

1. By Email: With "**23-019 Graphic Design Services RFSO"** as the subject line at this electronic address: rtaylor@rdn.bc.ca
   Please note: Maximum email file size limit is 15MB.

Proposals received in any other manner will not be accepted.

Amendment to Standing Offers
Standing Offers may be amended in writing and delivered by email before the closing date and time. Such amendments should be signed by the authorized signatory of the Proponent.

Addenda
If the RDN determines that an amendment is required to this RFSO, the RDN will post a copy of the written addendum on the RDN (www.rdn.bc.ca/current-bid-opportunities) and the new BC Bid (https://new.bcbid.gov.bc.ca/) websites. Each addendum will be incorporated into and become part of the RFSO. No amendment of any kind to the RFSO is effective unless it is contained in a written addendum issued by the RDN. It is the Proponent's sole responsibility to check the BC Bid website for any addenda prior to submitting their Standing Offer.

Withdrawal of Standing Offers
The Proponent may withdraw their Standing Offer at any time prior to the closing date and time by submitting a written withdrawal by email to the named RDN contact.

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

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 RFSO, other than the RDN contact named in this document.

Litigation Clause
The RDN may, in its absolute discretion, reject a Standing Offer submitted by a Proponent, if the Proponent, or any officer or director of the Proponent is or has been engaged either directly or indirectly through another RDN 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 Region'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 submission 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.

No Claim for Compensation
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 Standing Offer or participating in negotiations for a Contract, or other activity related to or arising out of this RFSO. Proponents agree that by participating in the RFSO process they have no claim for compensation.

SCOPE OF SERVICES

1. INTRODUCTION

The purpose of this Request for Standing Offers is to solicit submissions from qualified firms for Graphic Design Services. Contractors selected from this RFSO will support all of the RDN's departments each with their own unique requirements. Successful firms will need to demonstrate their versatility to accommodate the wide variety of assignments.

RDN departments that may use the Standing Offers are Corporate Services, Strategy and Intergovernmental Services, Development and Emergency Services, Recreation and Parks, Regional and Community Utilities and Transportation Services. For more information on each department, please visit rdn.bc.ca.

2. DESCRIPTION OF THE WORK

The provision of graphic design services on an "as and when required" basis for a five (5) year term. Billable rates outlined in respondent submissions shall be valid and honoured for the first three (3) years of the RFSO. At the end of the first three (3) years of the RFSO, the rates will be reviewed, updated if applicable and agreed upon for the two (2) remaining years of the RFSO. Services are anticipated to commence in April 2023.

It is the intention of the RDN to enter into a Standing Offer Agreement (SOA) with up to a maximum of five (5) of the highest ranked Respondents as a result of this RFSO. Work will be assigned to individual Respondents "as and when required" based on: expertise, pricing, availability, responsiveness and demonstrated ability to provide prompt service. The allocation of work will be at the sole discretion of the RDN.

A copy of the "Standing Offer Agreement– Standard Terms and Conditions" is attached for reference (see Appendix C). Standing Offer Agreements are not contracts. The SOA is open to multiple acceptances during the term indicated resulting in an individual contract with each acceptance by way of the RDN's standard purchase order or purchase card.

Contractors will be requested to provide quotations indicating the number of hours and value of materials for each project. The General Conditions (see Appendix C) will be applicable to each individual contract purchase order resulting from the issuance of a Standing Offer Agreement.

While the value of the work is unknown, total expenditures could approach $75,000 - $100,000 per year depending on demand for these services. This is for information purposes only and does not constitute a guarantee or implied commitment by the RDN that the total amount of work to be done will correspond even approximately to this estimate. The actual expenditure shall be restricted to those services ordered and received by the RDN.

The RDN reserves the right to competitively bid separately for larger individual projects exceeding $20,000.00.

3. REQUIREMENTS OF SUCCESSFUL GRAPHIC DESIGNERS

The following sections provide a general description of work required by the Graphic Design Respondents in the areas of project management, design of communications projects, the product development process, technical capability, and scope of services.

3.1 Graphic Design Services

The Graphic Designers will be expected to develop design concepts, estimate cost and produce communication products. RDN staff will provide direction to the Graphic Designers regarding the timeline, budget, quality, and content of the product, and the expected format of the deliverable (electronic, hard copy etc.).

The Graphic Designer's work will be supervised and checked for accuracy by the RDN Project Lead. The approval process will be used to ensure the creation of products reflecting appropriate, consistent and integrated messaging while supporting existing corporate branding and standards. The Graphic Designer will have to demonstrate they have a documented quality control process to meet these objectives.

Throughout the term of the SOA, several projects may arise on short notice. The RDN requires its Graphic Designers to be able to respond quickly to these requests within a tight timeframe. There may also be an internal sign-off process that may require the designer to make a number of edits to files. An organized filing system and dedicated point of contact is necessary to ensure the designer is working off the most recent version of the document.

The RDN may require Graphic Designers to be available for face-to-face meetings at the RDN's head office located at 6300 Hammond Bay Road, Nanaimo B.C. or other administrative locations.

Graphic Designers must be available to communicate (by phone and e-mail) with the RDN's staff during business hours Monday to Friday, 8 a.m. to 4:30 p.m. year-round.

3.2 Design of Communication Products

The Graphic Designers are expected to have the required skills to develop communication products typically produced by the RDN and to manage any supplemental sub-contractors required in the development of the design.

Typical products include newsletters, guides, fact sheets, signage, newspaper advertisements, brochures, videos, and illustrations. The RDN's communication products are generally aimed at informing Regional District of Nanaimo residents about its mandates and services. Documents should be plain language, visual and easy to understand.

Product Development Process

The RDN develops communication products through a team process that often includes technical experts and writers both in-house and contracted to the RDN. The Graphic Designer(s) will be expected to work under the direction of a RDN Project Lead with other members of a team to develop communication products. The RDN's Project Lead will provide the Graphic Designer(s) with approvals for the final product in writing (via e-mail).

3.3 Technical Capability and Services:

The following section outlines the required technical capabilities and services required of Graphic Designers.

3.3.1 Technical Capability and Services:

The Graphic Designers will be expected to submit electronic proofs (PDFs) to the RDN for review. The Graphic Designers must have experience in executing a variety of communication products using current industry standard software such as: Adobe Creative Suite, Quark Xpress, PageMaker, MS Word, PowerPoint, Freehand, or any other comparable program, and Acrobat. Expertise in typography, layout design, illustration, and development of innovative graphic design concepts for print and easy conversion to PDF suitable for website posting will be required. Specifications for materials posted on the website will be provided by the RDN. Final products will be expected to be submitted in the following formats:

- text layout in word processing format (e.g. Word)
- documents as PDFs
- images and other design elements (e.g. tables, graphics) to be provided as jpeg, png or gif files and saved for the web
- original design files and other formats as needed

3.3.2 Scope of Services

Services expected of Graphic Designers include, but will not be limited to, the following:

- developing new communication products requiring graphic design
- revising existing RDN communication products

- apply corporate branding on all existing and future communication products
- researching the availability of images from local suppliers
- providing advice to RDN staff on the most cost effective, timely, technically feasible and aesthetically presentable method for production of communication products
- managing sub-contractors required to complete the production of communication products (e.g. print and illustration sub-contractors)
- communicating regularly with the RDN project lead regarding project status
- meeting deadlines as negotiated and agreed upon and adjusting deadlines as necessary with approval of the RDN project lead
- when required, contacting the selected printing/production company, forwarding the electronic files directly to the firm and assuring the product is produced on a date specified by the RDN Project Lead
- conducting quality control prior to printing/production of product (e.g. checking registration, colour reproduction, blue line accuracy, etc.)
- supplying electronic files of completed projects in archived format (e.g. .zip) to the RDN, at the end of every calendar year
- cost estimating, project, and budget managing
- submitting project invoices to the project lead that include the name of the project and product, number of hours billed, rates for each segment of the project, purchase order number and the name of the RDN project lead
- providing the RDN with communication products that are web ready
- providing communication products that incorporate fonts from languages other than English

4. STANDING OFFER EVALUATION

EVALUATION

1.1 Standing Offers will be evaluated by the RDN. Any or all Standing Offers will not necessarily be accepted.

1.1.1 All Standing Offers will be evaluated within a two-stage process. In Stage One, all Standing Offers will be evaluated for the Technical Criteria only. Any Standing Offer evaluated with a score of less than (36/60) for Technical Criteria may be eliminated from further consideration.

1.1.2 All Standing Offers with a technical score of (36/60) or higher, will be evaluated in Stage Two. Stage Two includes the Technical Criteria score and the Financial and Sustainability Criteria score, to reach an overall score out of 100 points.

1.2 Evaluation of Standing Offers

It is the RDN's intent to evaluate Standing Offers as promptly as possible. The RDN evaluation team may contact a Respondent if a clarification is required, otherwise, they are unable to provide any details concerning the evaluation process until after the evaluation has concluded and a Standing Offer is awarded.

The award of the Standing Offers will be published after internal approvals have been obtained and award notices issued. The RDN wishes to thank all Respondents for their effort in responding to this

opportunity. Unsuccessful Respondents wishing to be debriefed should contact the Standing Offer contact person within 30 days of award notification.

FORMAT OF STANDING OFFER & RELEVANT WEIGHTINGS

Each Standing Offer should be arranged in the format described in the table below. For evaluation purposes, the relevant weightings are identified in the column on the right.

Section 1.	**Relevant Weightings:**
Title Page	n/a
Showing RFSO title, closing date and time, Respondent name, address, telephone number, GST number, contact person and their e-mail address.	
Letter of Introduction	n/a
One page, introducing the Respondent and signed by the person(s) authorized to sign on behalf of the Respondent.	
Table of Contents	n/a
Include page numbers.	
Section 1: Executive Summary	n/a
One page summary of the key features of the Standing Offer and why the RDN should select your firm.	

	Relevant Weighting:
Section 2: Qualifications & Experience of Firm & Team:	**60%**
1. Provide an in-depth description of experience, qualifications, technical capabilities, key accomplishments, and strengths of the firm including quality control processes. 2. Description of project management ability and availability during regular working hours. Explain processes in place that allow for availability on short notice. 3. Provide experience, qualifications, technical capabilities, and a brief description of duties for each member of the team (including sub-consultants or sub-contractors). 4. Provide three client references* for projects completed between 2018 and 2023. For each reference, provide the name of the individual, their company name, their business address, telephone number and email address. Only references of Respondents who are shortlisted may be contacted. 5. Samples - Please submit five (5) work samples of work done for least two (2) separate references. Collection of samples should include examples the following: • At least one print communications piece (e.g. fact sheet, newsletter) • At least one graphic illustration of a process and timeline • Two others of the designer's choice Each sample should include a one paragraph description about the objective and target audience.	

*Whereas previous experience with the RDN is not required and does not in any way confer an advantage, the RDN's previous experience with the Respondent may also be taken into consideration in its evaluation of Standing Offers. The RDN reserves the right to rely upon its records, references, and recollection in this regard. The RDN may also obtain references other than those provided by the Respondent and may use these references in determining greatest value. With the exception of references as described above, Standing Offers will be evaluated solely on information contained therein. As such, Respondents should ensure that any information they wish to be evaluated in the context of this RFSO should be clearly expressed in their submission.

	Relevant Weightings:
Section 3: Fees, Rates, Charges and Other Commercial Considerations	**30%**
1. Provide all commercial considerations with your Standing Offer. 2. Provide pricing in Canadian dollars, excluding any taxes. 3. Submit a completed Appendix B – Rate Sheet with your Standing Offer. It should indicate the seniority and/or skill level of each person performing that service. The purpose of Appendix B is for financial evaluation of Standing Offers by the RDN. 4. Special overtime rates will not be considered. 5. Travel time is payable at the Graphic Designers hourly rates and shall be charged at not more than straight time between office and destination. The RDN will not pay per kilometre mileage costs. 6. The RDN prefers not to pay a percentage mark-up for sub-consultant fees or disbursements. 7. The RDN will not pay disbursements and per diem rates for any personnel assigned to projects. The RDN will not pay for any travel costs (flight, meals, accommodation, taxi, mileage) for any personnel assigned to projects. 8. All hourly rates shall be firm for the first three (3) year term of the SOA. Should the RDN and the Contractor(s) wish to extend the SOA for the allowable extension periods; the RDN will enter negotiations to determine the rates with the Contractor(s). 9. Any exception(s) to the General Conditions and the RDN's preferred commercial terms should be clearly stated. Note that any exception or variation will be considered in the evaluation.	

	Relevant Weightings:
Section 4: Sustainability and Social Responsibility Best Practices	**10%**
1. Does your enterprise provide opportunities for those facing barriers or new to the workforce to gain experience (e.g. work placements, sub-contracting, mentoring)? 2. Does your company have a Corporate Social Responsibility (CSR) policy or initiative (e.g. do you prioritize suppliers who utilize sustainable and/or social responsibility best practices)? 3. Does your enterprise have policies or practices that demonstrate equity, diversity, and inclusion considerations? 4. Does your enterprise support community initiatives and/or non-profit organizations in the communities you operate?	
TOTAL WEIGHTING: (Section 2 + Section 3 + Section 4)	**100%**

APPENDIX A

REGIONAL DISTRICT OF NANAIMO (RDN)

STANDING OFFER AGREEMENT (SOA) – STANDARDS

The Standing Offer Agreement (hereafter called "Agreement") is issued to cover the supply of goods or services specified, on an as-and-when required basis, to the Regional District of Nanaimo ("RDN").

1. Definition

This Agreement is not an actual order for the supply of goods or services. It is an agreement to allow for the purchase of the specified goods and services when required by the RDN, in accordance with the prices, terms and conditions as detailed. It confirms the fact that you have offered to supply the goods or services.

2. Rights

The RDN reserves the right to increase or decrease the financial expenditure estimate, and to amend, change, or terminate this Agreement prior to the expiry date.

3. Payment

The Contractor shall receive payment for those goods or services as ordered and received or performed within this Agreement, on completion of the contractual obligations as detailed herein.

4. Procedure

The supply of any goods or services by the Contractor to the RDN shall be made by means of one of the following ordering procedures (actual acceptance of Standing Offer).

a) by the issuing of a purchase order;

b) by way of purchase card;

5. Shipping and Invoicing

Any goods or services supplied by the Contractor shall be shipped to or delivered to the address indicated at the time of ordering. All shipments of goods must be accompanied by a packing slip firmly attached to or enclosed in that shipment.

All invoices as submitted by the Contractor, shall be for those goods/services that have actually been supplied and/or received by the RDN. For purchase orders, invoices are to be submitted for payment to the office as indicated on the ordering document. All packing slips and invoices must have the following details clearly shown:

- the purchase order number;

- itemized listing of goods/services supplied;
- quantities, unit, and extended prices; and
- Name of the RDN project lead.

6. Financial Expenditure Estimate

The RDN has determined the financial limitation based on previous and/or anticipated consumption. This estimate is provided in good faith, but by no means constitutes a firm or implied commitment by the RDN to expend that or any amounts. The actual expenditure against this agreement shall be restricted to those goods or services ordered and received by the RDN.

7. Payment Terms

For purchase orders, all suppliers' invoices shall be paid on a net 30 calendar days basis after receipt of invoices, or of the goods and services, whichever is later.

END OF APPENDIX A

REGIONAL DISTRICT OF NANAIMO

APPENDIX B – RATE SHEET

Rate	Team Member 1 Name: Position:	Team Member 2 (if applicable) Name: Position:	Team Member 3 (if applicable) Name: Position:	Team Member 4 (if applicable) Name: Position:	Team Member 5 (if applicable) Name: Position:
Project Manager (if applicable)	$_____ hour	$_____ hour	$_____ hour	$_____ hour	$_____ hour
Senior Graphic Designer	$_____ hour	$_____ hour	$_____ hour	$_____ hour	$_____ hour
Graphic Designer	$_____ hour	$_____ hour	$_____ hour	$_____ hour	$_____ hour
Administrative Support (if applicable)	$_____ hour	$_____ hour	$_____ hour	$_____ hour	$_____ hour

Note:

- Please add the following information as well as any other cost info that you think will be relevant.
  1. Billing increments e.g. every 15 or 30 minutes, by the hour etc.
  2. Minimum billable time

Billable rates outlined in respondent submissions shall be valid and honoured for the first three (3) years of the RFSO. At the end of the first three (3) years of the RFSO, the rates will be reviewed, updated if applicable and agreed upon for the two (2) remaining years of the RFSO.

REGIONAL DISTRICT OF NANAIMO

APPENDIX C

REGIONAL DISTRICT OF NANAIMO

GENERAL CONDITIONS

PREAMBLE

The RDN will contract for work by the issuance of a purchase order or purchase card. Each time the RDN contracts for work under a Standing Offer Agreement (SOA) that has resulted from this RFSO, a contract will be formed between the RDN and the Contractor for the specific project and the terms and conditions contained in this section will apply.

1.0 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 gender includes the neuter and vice versa and words importing the singular number includes the plural number and vice versa.

1.1 "Agreement" means the contract formed upon issuance of the RDN's purchase order or purchase card which includes all the terms and conditions contained in Appendix A – Standing Offer Agreement and Appendix C – General Conditions

1.2 "Contractor" and "Consultant" shall both mean the successful Respondent selected as a result of this RFSO.

1.3 "Respondent" shall mean the firm responding to the RFSO.

1.4 "Standing Offer" means a Respondent's formal response to the RFSO.

1.5 "Request for Standing Offers" and "RFSO" both mean this document consisting of the items listed in this Standing Offer and any subsequent Addenda.

1.6 "Subcontractors" means the independent contractors, associates and consultants retained by the Contractor to assist in the performance of the Services.

2.0 ASSIGNMENT:

2.1 The Contractor shall not assign the Agreement, in whole or in part, or any payments due or to become due under the Agreement, without the express written consent of the RDN, such consent not to be unreasonably withheld.

2.2 No assignment of the Agreement shall relieve the Contractor from any obligation under the Agreement or impose any liability upon the RDN.

3.0 STANDARD OF CARE AND QUALIFICATIONS:

3.1 The Contractor shall exercise the same degree of care, skill and diligence in the performance of the Services as is ordinarily possessed and exercised by Contractors experienced in providing such Services. The Contractor acknowledges that its qualifications and experience were a major factor in the selection of the Contractor for the work set out in this Agreement.

3.2 Without limiting any other remedy which the RDN may have, the Contractor at its sole cost upon written request of the RDN shall rectify any of the Services which have not been performed in accordance with the care, skill and diligence set out in Clause 3.1 or which have otherwise not been

performed in accordance with the terms of this Agreement and in addition the Contractor shall do all such things that may be reasonably required by the RDN to satisfy the RDN that the Services have been duly rectified or performed in accordance with the terms of this Agreement.

3.3 The Contractor shall be responsible for the degree of care, skill and diligence exercised by any Subcontractors and for selecting Subcontractors having the appropriate qualifications and experience to provide that portion of Services to be provided by such Subcontractors.

3.4 The Contractor shall advise the RDN in a timely manner of any changes to its key personnel.

4.0 CONFIDENTIALITY:

4.1 Definition of Confidential Information - In this Agreement, "Confidential Information" means all information and data disclosed orally, in writing or electronically, by one party to the other party on a confidential basis including, without limitation, all such information and data relating to the structure, personnel, and operations of the disclosing party, including financial, planning, marketing, advertising and commercial information and strategies; employee, supplier and customer information and data; contractual agreements, records and correspondence; computer programs, computer-related data and databases; trade secrets, inventions, designs, methods, processes and know-how; and items provided or disclosed to a party by third parties under an obligation of confidentiality.

4.2 Obligation of Confidentiality - It is contemplated that in the course of the performance of this Agreement each party may, from time to time, disclose its Confidential Information to the other party. During the term of this Agreement and for a period of five (5) years thereafter, each party agrees:

(a) to keep and use in strict confidence all Confidential Information of the other party that it acquires, sees, or is informed of, as a direct or indirect consequence of this Agreement and to not, without the prior written consent of the other party, disclose any such Confidential Information; and

(b) not to use, copy, duplicate or reproduce, either directly or indirectly, any of the Confidential Information of the other party or any recollections thereof for any purpose other than for the performance of its obligations under this Agreement, without the other party's prior written approval.

4.3 Freedom of Information and Protection of Privacy Act - The Contractor acknowledges and agrees that any Confidential Information disclosed by it to the RDN under this Agreement 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, the "Act").

4.4 Designation of Confidential Information - The Contractor 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 RDN fits within Section 21 of the Act, the Contractor must specifically advise the RDN and request the RDN not to disclose that information.

4.5 Return of Confidential Information - Upon expiration or earlier termination of this Agreement, each party shall promptly cease all use of the Confidential Information of the ***other*** party and upon written request will return all Confidential Information. This obligation shall not apply to any Confidential Information of the Contractor required by the RDN to make use of any work product under this Agreement.

5.0 RDN'S RESPONSIBILITIES:

5.1 The RDN shall provide timely support, guidance, direction, instruction, acceptances, decisions and information as they deem necessary or appropriate under this Agreement.

6.0 INDEMNITY:

6.1 The Contractor hereby agrees to indemnify and save harmless the RDN, and their successor(s), assign(s) and authorized representative(s) (the "Indemnified Parties") and each of them from and against losses, claims, damages, actions, and causes of action, (collectively referred to as "Claims") that the RDN may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, that arise out of errors, omissions or negligent acts of the Contractor or its Subcontractor(s), servant(s), agent(s) or employees(s) under this Agreement, excepting always that this indemnity does not apply to the extent, if any, to which the Claims are caused by errors, omissions or the negligent acts of the RDN, its other Contractor(s), assign(s) and authorized representative(s) or any other persons.

6.2 The terms and conditions of Clause 6.1 shall survive notwithstanding the completion of all Services and the obligations and duties under this Agreement and the termination for any reason whatsoever of this Agreement.

6.3 The indemnity provided in Clause 6.1 by the Contractor to the Indemnified Parties shall not in any way be limited or restricted by the insurance set out in Clause 11 or by limitations on the amount or type of damages, compensation or benefits payable under the Workers' Compensation Act or any other similar statute.

7.0 NO WAIVER:

7.1 No action or failure to act by the RDN shall constitute a waiver of any right or duty under the Agreement or constitute an approval or acquiescence in any breach thereunder, except as may be specifically agreed in writing by the RDN.

8.0 CONTRACTOR STATUS:

8.1 This is an agreement for the performance of Services and the Contractor is engaged under the Agreement as an independent Contractor for the sole purpose of providing the Services. Neither the Contractor nor any of the Contractor's personnel is engaged by the Agreement as an employee, servant or agent of the RDN.

8.2 It is understood and agreed that the Contractor will act as an independent Contractor and that it is entitled to no other benefits or payments whatsoever other than those specified in the Agreement.

9.0 INTELLECTUAL PROPERTY:

9.1 Any Intellectual Property developed by the Contractor during or in connection with the performance of the Services, the Contractor retains ownership of such Intellectual Property. Provided the Regional District has paid the Contractor for the Services, the Regional District will have a non-exclusive license to use any proprietary concept, product or process of the Contractor which relates to or results from the Services for the life of the Project and solely for purposes of its own internal use and including updating the original work, with respect to that part of the Project to which the Services relate.

10.0 NOTICES:

10.1 Where in the Agreement any notice, request, direction, or other communication is required to be given or made by either party, it shall be in writing and is effective if delivered in person, sent by registered mail, electronic mail, or email or by facsimile addressed to the party for whom it is intended. Any notice, request, direction, or other communication shall be deemed to have been given if by

registered mail, when the postal receipt is acknowledged by the other party; by electronic mail, or email when received, by facsimile when transmitted. The address of either party may be changed by notice in the manner set out in this provision.

11.0 INSURANCE:
11.1 Insurance to be provided by the Contractor.
11.1.1 The Contractor shall provide, maintain, and pay for the following insurance:
(a) Professional liability (errors and omissions) insurance coverage shall be maintained to a limit of not less than $250,000 per claim, $1,000,000 aggregate.
11.1.3 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.

12.0 DELAY IN PERFORMANCE:
12.1 Neither the RDN nor the Contractor shall be deemed to be in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include, but are not limited to abnormal weather conditions, flood, earthquake, fire, pandemic, epidemic, war, riot and other civil disturbance, strike, lockout, work slowdown and other labour disturbances, sabotage, judicial restraint and inability to procure permits, licenses or authorizations from any local, provincial or federal agency for any of the supplies, materials, accesses or services required to be provided by either the RDN or the Contractor under this Agreement. If any such circumstances occur, the non-performing party shall, as soon as possible after being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

13.0 SEVERABILITY:
13.1 The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void portion or provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

14.0 CONFLICT OF INTEREST:
14.1 The Contractor declares that the Contractor has no pecuniary interest in the business of any third party that would cause a conflict of interest or be seen to cause a conflict of interest in carrying out the Services. Should such an interest be acquired during the term of the Agreement, the Contractor shall declare it immediately in writing to the RDN. If the Contractor does declare a conflict of interest the RDN may direct the Contractor to resolve the conflict of interest to the RDN's satisfaction.

15.0 GOVERNING LAW:
15.1 The Agreement shall be construed under and according to the laws of the Province of British Columbia.

16.0 DISPUTE RESOLUTION:

16.1 In the event of a dispute, the parties agree to resolve the dispute by:

a. Frank and open negotiations whereby both parties use their best efforts to resolve the dispute by mutual agreement including the most senior management of both parties.

b. If, after 30 business days, the dispute is not resolved, both parties agree to appoint a mediator to resolve the dispute and their decision will be final. The mediation shall take place in Nanaimo, British Columbia, unless agreed otherwise. Parties will be responsible for their own costs.

16.2 All claims, disputes, or issues in dispute between the RDN and the Contractor shall be decided by mediation if the parties agree, or failing agreement, in a Court of competent jurisdiction within the Province of British Columbia and be governed by the laws of British Columbia.

17.0 TERMINATION:

Termination for Default

17.1 The RDN 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.

17.2 The RDN may terminate the Agreement in whole or in part in writing if the Contractor defaults in the fulfilment of any or all its obligations under this Agreement provided that, except in the case where the RDN acting reasonably deems it impractical, the Contractor shall be entitled to cure the default within 10 days of receipt of written notice from the RDN. Failure to cure the default within the 10-day period or as mutually extended by agreement between the RDN and the Contractor, shall entitle the RDN to terminate this Agreement immediately.

17.3 If the RDN terminates the Agreement under Clause 17.1, or 17.2 upon receipt of written notice of termination, the Contractor shall discontinue providing the Services in accordance with the notice and within the period set out in the notice deliver to the RDN all drafts, reports, drawings, plans, specifications, computer discs, software and all other information and materials relating to the Services.

Termination without Default

17.4 Notwithstanding the provision of Clause 17.1 or 17.2 the RDN shall be entitled at any time during the Agreement to terminate this Agreement upon written notice to the Contractor. Upon receipt of written notice of termination, the Contractor shall discontinue providing the Services in accordance with the notice and within the period set out in the notice deliver to the RDN all drafts, reports, drawings, plans, specifications, computer discs, software and all other information and materials relating to the Services.

Payment on Termination without Default

17.5 Upon termination under Clause 17.4, the RDN shall pay the Contractor for the Services provided to the date of termination together with the actual and reasonable out-of-pocket expenses directly and necessarily incurred by the Contractor as a result of the termination.

18.0 PAYMENT:

18.1 The Contractor shall submit invoices to the RDN for Services performed monthly (the "billing period") during which the Services are performed under this Agreement; such invoices to be submitted as soon as practicable after each billing period.

18.2 The invoice submitted for each billing period shall be clearly itemized to show the amount of work performed, the billing rates, the reimbursable expenses and the costs incurred to employ any Subcontractors. The Contractor shall also provide to the RDN upon written request such receipts, bills, invoices, or other evidence in support of each invoice for a billing period as the RDN shall request.

18.3 Except for the amounts which the RDN in good faith is disputing and except for any set off which

the RDN may claim and except for invoices (or portions of invoices) in respect of which the RDN has requested and not received supporting evidence under Clause 18.2, the RDN shall pay suppliers' invoices on a net 30 calendar days basis after receipt of invoices, or of the goods and services, whichever is later.

18.4 The Contractor shall keep and shall cause any Subcontractors to keep books, records, documents, and other evidence relevant to the provision of the Services in accordance with generally accepted accounting principles and practices consistently applied. The RDN or any of its duly authorized representatives shall for the purpose of audit and examination have access to and be permitted to inspect such books, records, documents, and any other evidence for inspection, copying and audit for a period of three years after the termination, for any reason, of this Agreement.

19.0 SUBCONTRACTORS:

19.1 The Contractor may retain Subcontractors to assist in the performance of the Services provided that the terms of this Agreement shall apply to the Subcontractors and provided that the Contractor shall be wholly responsible for the professional standards, performance, and all actions of the Subcontractors. The Contractor shall only employ Subcontractors having the appropriate standards, qualifications, and experience in their respective areas of expertise.

20.0 EXTRA WORK:

20.1 Extra Work means the furnishing of services not directly or by implication called for in the Agreement. If the RDN requires extra work, it may do so by itself or by the employment of others or it may direct the Contractor to do the extra work by issuance of a written direction. The Contractor shall perform any extra work at the rates provided for in the Standing Offer.

21.0 WORK AND SERVICES OMITTED:

21.1 Upon receipt of written direction from the RDN, the Contractor shall omit Services to be performed under the Agreement. The Contractor shall have no claim against the RDN for loss associated with any omitted Services.

22.0 THIRD PARTY RIGHTS:

22.1 Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the RDN and the Contractor.

END OF APPENDIX C