



## **REQUEST FOR PROPOSALS**

### **One (1) New or Reconditioned Waste Handler Track Type Tractor (Bulldozer)**

**ISSUED: August 17, 2018**

#### **CLOSING DATE AND TIME:**

**Proposals are requested to be received at the Closing Location prior to:  
2:00 PM (14:00 hrs) Pacific Time on September 7, 2018**

**Regional District of Nanaimo (RDN) Contact for Questions:**

**Jane Hamilton**

**Superintendent Landfill Operations**

**Regional District of Nanaimo**

**(250)722-2044 (tel.)**

**[jhamilton@rdn.bc.ca](mailto:jhamilton@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 Proposal prior to the closing time of 2:00 PM (14:00 hrs), Pacific Time, September 7, 2018. Select one (1) of the Submission Methods below:

1. By Email: A PDF document with **“Waste Handler Bulldozer”** as the subject line at this electronic address: [swf@rdn.bc.ca](mailto:swf@rdn.bc.ca)

**Please note: Maximum email file size limit is 15MB, or less.**

2. By hand/courier delivery: One (1) copy of the Proposal along with one (1) electronic copy of the Proposal on a USB stick should be enclosed and sealed in an envelope clearly marked: **“Waste Handler Bulldozer”** delivered to the:

Regional District of Nanaimo Landfill  
1105 Cedar Road  
Nanaimo, B.C., V9X 1K9  
Attention: Jane Hamilton

Should there be any differences between the hard copy and the electronic copy, the hard copy will prevail.

3. Proposals by facsimile will be accepted at 250- 722- 9437 attention: Jane Hamilton.

Proposals will not be opened in public. The RDN reserves the right at its sole discretion to accept late proposals.

### Amendment to Proposals

Proposals may be amended in writing and sent via email at [swf@rdn.bc.ca](mailto:swf@rdn.bc.ca) Amendments should be a PDF document with **“Waste Handler Bulldozer”** as the subject line signed by the authorized signatory of the Proponent.

### Addenda

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



### **Withdrawal of Proposals**

A Proponent may withdraw their Proposal at any time prior to the closing date and time in writing by email to [swf@rdn.bc.ca](mailto:swf@rdn.bc.ca) with “**Waste Handler Bulldozer**” in the subject line or facsimile at 250- 722-9437.

### **1. INTRODUCTION**

The purpose of this Request for Proposal is to solicit submissions from experienced and qualified firms for One (1) **New or Reconditioned Waste Handler Dozer** to assist in the processing of waste at the Regional Landfill. The bulldozer will be used for placing municipal solid waste on our landfill site, grading slopes, building roads, and various other suitable utility work.

Proponents are encouraged to submit more than one machine for consideration. Each different machine should be submitted as a distinct and separate proposal.

There is one piece of equipment offered as a trade-in associated with this RFP. It is a \*2012 CAT 973D Track Loader currently with 9000 total hours. See the attached information with photos. Please contact Bill Hill at 250-722-2044 ext. 3224 to arrange to view the trade-in unit located at 1105 Cedar Rd, Nanaimo, BC. The allowance for the trade-in and all applicable fees must be clearly identified in the proposal.

Delivery terms are Delivered Duty Paid (DPP) as per INCOTERMS 2010 to the Regional District of Nanaimo Landfill, 1105 Cedar Road, Nanaimo, B.C., V9X 1K9. Clear title to the Equipment, free of all charges, liens and encumbrances shall pass to RDN when the Equipment is received, inspected, deficiencies rectified and accepted by the RDN at the RDN Landfill.

### **2. PROPOSAL SUBMISSION INSTRUCTIONS**

Suppliers are to complete and return the attached template cover page (Appendix A), specification table (Appendix B) and pricing schedule (Appendix C) with each proposal submission. Additional information should be included on separate pages. Each different machine should be submitted as a distinct and separate proposal.

### **3. PROPOSAL EVALUATION**

To assist in receiving similar and relevant information, and to ensure your Proposal receives fair evaluation, the RDN asks Proponents to provide the following information. Awards shall be made on Proposals that will, in the opinion of the RDN, give the greatest value based on quality, service and price. Evaluations will be based on “best value” for the RDN as solely determined by the selection committee.

Operational Requirements: the RDN seeks to purchase a machine that meets the technical and functional requirements for use at the Regional Landfill. The landfill is located on Vancouver Island, a temperate area with significant rainfall for approximately half the year. The remainder of the year is generally excessively dry. This dozer will be used for pushing garbage off the dumping deck, pushing soil cover piles, stripping cover soils, towing stuck vehicles and working on side-slopes as much as possible



throughout the year. A landfill is one of the most corrosive and challenging environments for heavy equipment and we intend to use this dozer for a mix of waste and soils handling with significant travel to cover a large land area.

Our preferences are for a LGP model for better flotation on garbage and in the wet conditions, for it to be heavily armored or guarded to handle waste and to be operator-friendly and easily cleanable. We place additional value on features such a pushing/high blade with a top rack and/or a 6-way blade, a winching system as well as any upgrades to heavier-duty bearings in the drive-train. Given we are a seven day a week operation and garbage flows steadily, prompt service and repair is critical to our operations.

The selection committee will consider at least the following attributes and use their sole discretion in applying tradeoffs to determine best value and what best reflects the total cost of ownership:

**3.1 Evaluation and Selection Criteria**

An evaluation team will evaluate all Proposals received according to the criteria identified below. During the evaluation process, Proponents may be required to provide clarifications to statements made in their Proposals.

<i>Point-rated Criteria</i>	<b>Points Assigned</b>
Overall cost to the RDN	50
Ability to meet the desirable specifications, details of warranty, maintenance package and location of repair facility.	30
Qualifications and reputation of proponent, provision of three references	10
Anticipated delivery time from time of order	10
<b>Total Points</b>	<b>100</b>

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

Throughout the evaluation process, the evaluation committee may seek additional clarification on any aspect of the Proposal to verify or clarify the information provided.

**4. PROPOSED SUPPLY AGREEMENT**

Proponents should identify any specific provisions contained in this RFP and Draft Supply Agreement and General Conditions with which it is unwilling or unable to comply with and suggest replacement language.



**APPENDIX A – COVER LETTER**

**SUPPLIERS SHOULD COMPLETE THIS PAGE AND  
ATTACH IT TO THE FRONT OF THEIR PROPOSAL**

The undersigned Supplier, having carefully read and examined the **Waste Handler Bulldozer** Request of Proposals and having full knowledge of the work required, does hereby offer to provide all necessary materials in strict accordance with the RFP and to do all therein called for on the terms and conditions and under the provisions therein set forth at the:

LUMP SUM TOTAL QUOTED PRICE OF: CDN \$ (excluding PST & GST)

The above price includes and covers the equipment, duties, taxes, handling and transportation charges, and all other charges incidental to and forming part of this Proposal. The Supplier shall be responsible for Customs clearance and payment of any duties and/or taxes owing at time of importation into Canada, as applicable and all other costs to deliver to the RDN Landfill, 1105 Cedar Road, Nanaimo, B.C., V9X 1K9

The undersigned Supplier agrees to supply the equipment on site no later than: \_\_\_\_\_, weeks upon receipt of order.

Name of Supplier: \_\_\_\_\_

Supplier Address: \_\_\_\_\_

Telephone No. of Signing Officer: \_\_\_\_\_

Signing Officer E-mail: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Proponent Signing Officer: \_\_\_\_\_

Signature of Proponent Signing Officer: \_\_\_\_\_



**REGIONAL  
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OF NANAIMO**

**APPENDIX B – TECHNICAL SPECIFICATIONS**

**Type of Vehicle: Waste Handler Bulldozer**

**Desirable Specifications**

Proponents are to complete and submit this schedule with their Proposal and identify if their proposed bulldozer and attachments complies (Y) or does not comply (N) with the desired specifications or has other specifications not detailed in the table. Explanatory notes or comments can be included in the schedule or addressed by the submission of additional information as required.

**Leave section blank if bid is for new machine.**

ITEM	SPECIFICATIONS	YES	NO	DEVIATION/DESCRIPTION (may be included on a separate page)
1.	<b>General</b>			
	New or Used model with less than 2500 hours. State			
	Year of Manufacture. State:			
	Manufacturer. State.			
	Model: state.			
	Machine V.I.N. or Serial Number. State			
	Guards (other than provided in waste handling package)			
	Waste Handling Package: Please list all guarding/attachments included in Package.			



	<p>Engine: Tier 4 engine preferred. State tier and which exhaust treatment/regeneration system component types your machines uses:</p> <ul style="list-style-type: none"> <li>- Exhaust Gas Recirculation (EGR)</li> <li>- Diesel Oxidation Catalyst (DOC)</li> <li>- Diesel Particulate Filter (DPF).</li> <li>- Selected Catalyst Reduction (SCR)</li> <li>- Other: State</li> </ul> <p>If equipped with a DPF then state what the operating service life (engine hour meter hours) to replacement or reconditioning of diesel particulate filter.</p>			
	Operating Weight: State. Min. 22,000kgs			
	Ground Clearance: state.			
	Ground Pressure: state.			
	Bio diesel B20 compatible			
	House power: State.			
	Fly Wheel Power: State.			
	Transmission Type: State.			
<b>2.</b>	<b>History</b>			
	Frame Hours: State.			
	Engine Hours (Idle + Work = Total)			
	Previous Owner: State.			
	Major Historical Damage: State.			
	Additional Service History: List			
<b>3.</b>	<b>Service</b>			
	Undercarriage wear report			
	Vendor warranty details			
	Manufacturer Certified Rebuild			
	Manufacturer Certified Power Train			
	Manufacturer Certified Component Rebuild:			
	<ul style="list-style-type: none"> <li>• Engine</li> </ul>			



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	<ul style="list-style-type: none"> <li>• Transmission</li> </ul>			
	<ul style="list-style-type: none"> <li>• Torque Converter</li> </ul>			
	<ul style="list-style-type: none"> <li>• Other</li> </ul>			
	Supplier Rebuild			
	Supplier Service (list components)			
	Parts Replacement (list components)			
<b>4.</b>	<b>Equipment</b>			
	Tracks			
	<ul style="list-style-type: none"> <li>• Width (min. 30 inches) State.</li> </ul>			
	<ul style="list-style-type: none"> <li>• Raised sprocket</li> </ul>			
	<ul style="list-style-type: none"> <li>• Carrier Rollers (Number per side) State.</li> </ul>			
	<ul style="list-style-type: none"> <li>• Track rollers (Number per side) State.</li> </ul>			
	<ul style="list-style-type: none"> <li>• Grouser height/style: State.</li> </ul>			
	<ul style="list-style-type: none"> <li>• Overall length: State.</li> </ul>			
	<ul style="list-style-type: none"> <li>• Less than 20% wear</li> </ul>			
	Blade:			
	<ul style="list-style-type: none"> <li>• Configuration: Preferred: 6 way (PAT) blade with integral trash rack, tilt cylinder(s), blade lift cylinder(s), Angle blade cylinder(s), etc. Please State configuration.</li> </ul>			
	<ul style="list-style-type: none"> <li>• Trash rack on top of push blade (good visibility for machine operator).</li> </ul>			
	<ul style="list-style-type: none"> <li>• Blade capacity of approx. 11 m3 (14 yd3) with trash rack. State details:</li> </ul>			





	<p>Cab Filtration:          Powered, self-cleaning, cab air pressurizer/pre-cleaner filter unit rated for HEPA MERV 17(i.e. Sky-Clone RESPA).          State details: factory or dealer installed, mounting location, make &amp; model, etc.</p>			
	<p>HEPA cab air filter (state replacement filter part number)</p>			
	<p>Fire Suppression:          Must be Dry Chemical system.          Factory or Dealer installed.          If 3<sup>rd</sup> Party installer please specify vendor for servicing.</p>			
	<p>Misc. Equipment</p>			
	<ul style="list-style-type: none"> <li>• Portable Fire Extinguisher mounted on machine. State Size.</li> </ul>			
	<ul style="list-style-type: none"> <li>• Rear view camera with (min. 7") color monitor mounted in cab.</li> </ul>			
	<ul style="list-style-type: none"> <li>• Mirrors:              State amount and location.</li> </ul>			
	<ul style="list-style-type: none"> <li>• Lights:              Min. 6 cab lights, 2 forward facing and 4 rear facing. 4 lights attached to blade lift cylinders or in other location to illuminate blade/push material.</li> </ul>			
	<ul style="list-style-type: none"> <li>• LED Amber beacon mounted on cab roof</li> </ul>			
	<ul style="list-style-type: none"> <li>• Enclosed cab with heater, defroster and air conditioning (air conditioning condenser must be mounted separate from radiator on cab roof).</li> </ul>			
	<ul style="list-style-type: none"> <li>• 24 to 12 volt radio convertors 10 amp</li> </ul>			
	<ul style="list-style-type: none"> <li>• Interior dome light</li> </ul>			
	<ul style="list-style-type: none"> <li>• Tinted glass</li> </ul>			
	<ul style="list-style-type: none"> <li>• Front and rear window wipers with washer spray</li> </ul>			

	<ul style="list-style-type: none"> <li>Operator seat – high back, fabric covered, heated, fully adjustable, air suspension</li> </ul>			
	<ul style="list-style-type: none"> <li>Bluetooth AM/FM Stereo</li> </ul>			
	<ul style="list-style-type: none"> <li>Published edition of Parts Manual for serial number specific machine</li> </ul>			
	<ul style="list-style-type: none"> <li>CD copy or on line access to Parts Manual</li> </ul>			
	<ul style="list-style-type: none"> <li>4 each published edition of Machine Operation and Maintenance Manual in addition to a copy fastened into operator’s cab</li> </ul>			
	<ul style="list-style-type: none"> <li>One complete published edition of Service and Repair manual for serial number specific machine.</li> </ul>			
	Non-OEM Equipment (list)			
<b>5.</b>	<b>Warranty</b>			
	Full machine warranty (no extra cost). State terms and provide details.			
	Component warranty terms (included at no extra cost) for engine, hydraulic, drive train, emissions, etc.			



**APPENDIX “C”- PRICING SCHEDULE**

**Extended Warranty and Telematics**

<b>Option:</b> Full machine warranty extra plan coverage availability (beyond standard warranty period)	\$
<b>Option:</b> Telematics subscription per month or per year	\$
<b>Option:</b> Component part warranty extra plans available (engine, hydraulics, final drives, emissions system, undercarriage components, tracks, etc.) Provide all details and pricing.	\$
<b>GST</b> at 5%	\$
<b>PST</b> if applicable	\$
<b>Total Proposed Price of Extended Warranty/Telematics</b>	\$

**Maintenance Package**

Annual regular scheduled maintenance based on 1,500 hours per year	
Year 1	\$
Year 2	\$
Year 3	\$
Year 4	\$
Year 5	\$
Year 6	\$
Subtotal	\$
GST at 5%	\$
PST at 7%	\$
<b>Total Proposed Price of Maintenance Package</b>	\$
Option: Guaranteed scheduled maintenance cost per hour for 9000 hours of use over 72 months.	\$



**Service Rates**

Proponent to state rates which will apply for repair services which are not covered by warranty for the term this proposed bulldozer is owned by the RDN.	\$
Shop rate for heavy duty mechanical repair at your facility	\$
Field rate for heavy duty mechanical repair at our site	\$
Travel rate for heavy duty mechanical repair technician	\$
Minimum charge per call to RDN Regional Landfill site in Nanaimo, BC	\$
Additional charges	\$
Location of repair facility: State address.	

**Parts**

Freight charges on regular parts orders	\$
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**Pricing**

Price of proposed waste handling LGP bulldozer, including all costs as per the terms and conditions of this RFP	\$
Option: Rear mounted cable winch.	\$
Operator machine introduction, orientation, safety and competency training.	\$
Less trade-in allowance for CAT 973D Track Loader	\$( )
Other charges or levies (identify)	\$
GST at 5%	\$
PST at 7%	\$
<b>Total Proposed Price</b>	\$
<b>Delivery time from time of order (in weeks):</b>	



AUTHORIZED BY: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Proponent Signing Officer)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Capacity of Signing Officer)

\_\_\_\_\_  
(Address of Proponent)



## **GENERAL TERMS & CONDITIONS**

### **SECTION 1**

#### **1.0 General Information**

- a) Pricing is to be in Canadian Dollars, Delivery Duty Paid (DDP) to the RDN Landfill, 1105 Cedar Road, Nanaimo, BC V9X 1K9 and is to include freight, pre-delivery inspection (PDI), unloading at destination, import duties, brokerage, royalties, handling, overhead, profit and all other costs included to supply and deliver the Equipment(s) offered. Unit prices quoted are to be excluding PST & GST.
- b) Proposal shall be irrevocable and shall remain open for acceptance by the RDN for a period of ninety (90) calendar days from the closing date. The lowest or any proposal may not necessarily be accepted.

### **SECTION 2**

#### **2.0 Payment**

Payment by the RDN will be made on a net thirty (30) days basis after acceptance of the Equipment by the RDN. The RDN will not pay any deposits or make scheduled payments.

#### **2.1 Transfer of Title/Ownership**

- a) Clear title to the Equipment, free of all charges, liens and encumbrances shall pass to RDN when the Equipment(s) is received, inspected, deficiencies rectified, and accepted by the RDN at the RDN Landfill, 1105 Cedar Road, Nanaimo, BC V9X 1K9.
- b) Until such time as title of Equipment(s) is accepted by the RDN, the Dealer shall be responsible for insurance claims related to the Equipment(s) and the RDN shall not be considered to have breached any Contract if there is a fire, damage or other cause which entitles an insurance company to seize or take possession of the Equipment or part thereof.
- c) The passing of title to the RDN shall not affect any of the Dealer's obligations.

#### **2.2 Commencement of Warranty Period**

- a) The warranty period shall commence once the RDN accepts clear title of the Equipment.
- b) The warranty should be made out to the Regional District of Nanaimo, RDN Landfill, 1105 Cedar Road, Nanaimo, BC V9X 1K9.

### **2.3 Pre-Delivery and Inspection**

- a) Prior to delivery, the Equipment shall be completely inspected and serviced by the Dealer and/or the manufacturer's Service Centre. The Dealer is responsible to ensure the Equipment is thoroughly tested inspected, and that all deviations are corrected prior to delivery. The Equipment should contain a delivery check sheet showing what operations have been performed on the Equipment by the selling Dealer. The Equipment is to be clean and all stickers are to be removed from glass prior to delivery with the exception of any sticker required by law.
- b) The Equipment(s) shall be inspected by the RDN to determine compliance with the specifications and/or to test its ability to perform its intended use. In the event deficiencies are detected, the Equipment may be rejected and it shall be the Dealer's responsibility to pick-up the Equipment, make the necessary corrections and re-deliver the Equipment for re-inspection and acceptance.
- c) The Dealer shall be responsible for securing any and all inspections required by law. Any fees charged for these inspections shall be the sole responsibility of the Dealer.

### **2.4 Delivery Requirements**

- a) The Dealer will deliver the Equipment free and clear of all liens and encumbrances in the manner and to the destination stipulated. In the event of the Dealer's failure to meet this condition, the Dealer will, on written notice from the RDN, forthwith return all monies paid by the RDN on account of the Equipment and in addition the RDN may by written notice terminate this Contract without liability, and in such event, in addition to the above, the Dealer will be liable for any and all expenses or losses incurred by the RDN resulting from such failure.
- b) Deliveries are to be made between the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding statutory holidays, unless other arrangements have been agreed to in writing from the RDN.
- c) The Dealer shall notify Jane Hamilton, Superintendent at 250-722-2044 ext. 3222 not less than three (3) working days prior to expected delivery / arrival to permit inspection scheduling. The RDN will not assume any liability for Equipment delivered to an unauthorized location.

### **2.5 Documentation at Time of Delivery**

- a) The Dealer should provide the following documentation upon delivery:
  - i. Copy of Purchase Order and Original Invoice(s).
  - ii. Delivery check sheet showing what operations have been performed on the Equipment by the selling Dealer

### **2.6 Deficiencies**

- a) The RDN shall have a reasonable time to inspect and to accept the Equipment. The RDN may reject any Equipment not in accordance with the Equipment specifications.
- b) The RDN may hold back from payments otherwise due to the Dealer, as determined by the RDN, on account of deficient or defective materials. This holdback may be held, without interest, until replacement Equipment is received or such deficiency or defect is remedied.



### **2.7 Emblems/Logos**

- a) The Dealer shall not install on the Equipment any logos, nameplates or stickers denoting the name of the company or Dealer that may be considered as advertising. Failure to comply with this requirement shall result in the Dealer being given the option to remove same, or reimburse the RDN for removal and restoration, if needed.

## **SECTION 3**

### **3.1 No Contract**

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

### **3.2 Acceptance, Rejection and Cancellation**

The RDN reserves the right to reject any and all Proposals for any reason or to accept any Proposal that the RDN, in its sole unrestricted discretion, deems most advantageous to itself. The lowest or any Proposal may not necessarily be accepted. The Proponent acknowledges the rights of the RDN under this clause and absolutely waives any right of action against the RDN for failure of the RDN to accept its proposal whether such right of action arises in contract, negligence, bad faith or any other cause of action. The acceptance of any proposal is subject to funds being legally available to complete this transaction and/or approval by the Board of the RDN or the officer or employee of the RDN having authority to accept the Proposal.

This RFP does not commit the RDN, in any way to select a preferred Proponent, or to proceed to negotiate a contract, or to award any contract. The RDN reserves the right in its sole discretion cancel this RFP, up until award, for any reason whatsoever with no compensation.

### **3.3 Minor Irregularities**

The RDN may accept or waive a minor and inconsequential irregularity, or where applicable to do so, the RDN may, as a condition of acceptance of the Submission, request a Proponent to correct a minor or inconsequential irregularity with no change in the Submission. Proposals which contain qualifying conditions or otherwise fail to conform to the requirements of the Documents may be disqualified or rejected.

### **3.4 Conflict of Interest**

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

### **3.5 Solicitation of Board Members and RDN Staff**

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





### **3.6 Litigation Clause**

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

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

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

### **3.7 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 Proposal, or participating in negotiations for a Contract, or other activity related to or arising out of this RFP. Proponents agree that by participating in the RFP process they have no claim for compensation.



## TRADE-IN INFORMATION

One piece of equipment is offered as a trade-in associated with this RFP; a 2012 CAT 973D Track Loader currently with 9,004 hours. This machine is still in use so hours will increase and has been maintained and serviced by Finning Nanaimo since purchased new in 2012. The machine is offered as is. A list of the larger services and repairs completed on the machine is attached.

Manufacture Date: 2012

Make and Model: Cat 973D Track Loader

Cat Certified Rebuilt Engine: 2017

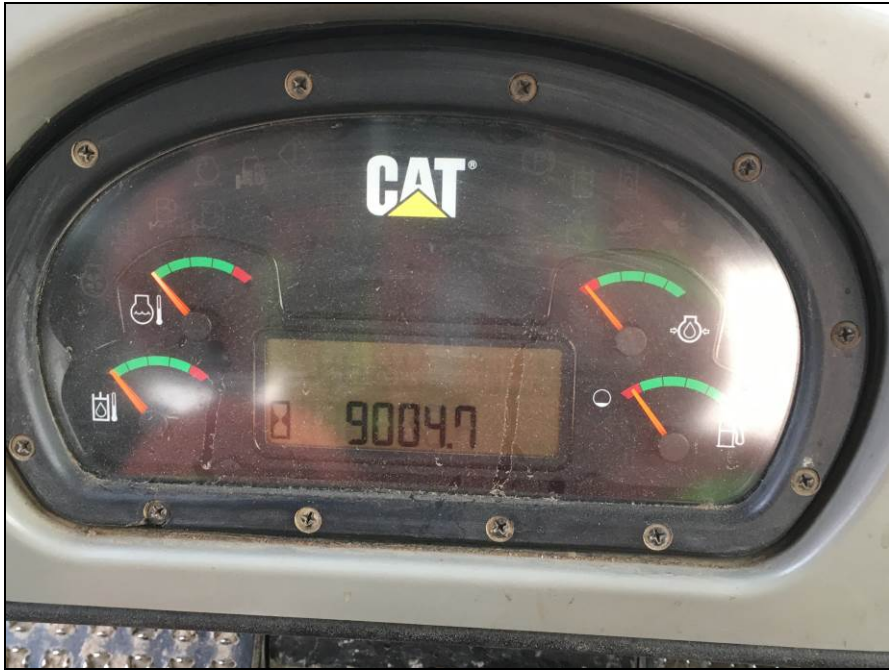
New Track Motors and Tracks: 2017

Please contact Bill Hill at 250-722-2044 ext. 3224 or Jane Hamilton at 250-722-2044 ext. 3222 to arrange to view the trade-in unit located at 1105 Cedar Road, Nanaimo, BC. The allowance for the trade-in and all applicable fees must be clearly identified.











**973D**

Order Date  
4-Jun-18  
29-May-18  
29-May-18  
13-Mar-18  
1-Mar-18  
26-Feb-18  
18-Jan-18  
2-Jan-18  
24-Nov-17  
20-Nov-17  
20-Nov-17  
3-Oct-17  
5-Sep-17  
28-Aug-17  
11-Aug-17  
17-Jul-17

**Regional District of Nanaimo**

Component Code  
4154-CARRIER ROLLER  
6001-BUCKET  
7525-500 SVC HOUR MAINTENANCE  
4155-SPROCKET SEGMENT  
1000-ENGINE  
1000-ENGINE  
7000-MACHINE ROLLOVER  
7525-500 SVC HOUR MAINTENANCE  
1051-AIR CLEANER  
1356-FAN  
7524-250 SVC HOUR MAINTENANCE  
4351-HYD PROPEL/DRIVE MOTOR  
1052-TURBOCHARGER  
7525-500 SVC HOUR MAINTENANCE  
7348-CAMERA  
4154-CARRIER ROLLER



# REGIONAL DISTRICT OF NANAIMO

10-Jul-17	9066-GRAPPLE HYDRAULICS
22-Jun-17	7320-AIR CONDITIONER
16-Jun-17	1000-ENGINE
26-May-17	7320-AIR CONDITIONER
21-Apr-17	1000-ENGINE
26-Apr-17	1000-ENGINE
31-Mar-17	4172-TRACK SHOE
13-Mar-17	4154-CARRIER ROLLER
28-Feb-17	1000-ENGINE
3-Jan-17	7524-250 SVC HOUR MAINTENANCE
2-Dec-16	7525-500 SVC HOUR MAINTENANCE
13-Oct-16	7524-250 SVC HOUR MAINTENANCE
11-Oct-16	7305-WINDOW WIPER
11-Oct-16	7401-FIRE SUPPRESSION SYSTEM
8-Aug-16	1400-ELECTRIC SYSTEM
8-Aug-16	7527-2000 SVC HOUR MAINTENANCE
13-Jul-16	6307-GRAPPLE
22-Jun-16	4158-RECOIL SPRING
7-Jun-16	7524-250 SVC HOUR MAINTENANCE
24-May-16	4157-TRACK ADJUSTER
13-Apr-16	5057-HYDRAULIC HOSES/LINES
29-Mar-16	7525-500 SVC HOUR MAINTENANCE
10-Dec-15	4150-UNDERCARRIAGE
4-Dec-15	4050-FINAL DRIVE
21-Jan-16	5456-BOOM CYLINDER
26-Nov-15	7526-1000 SVC HOUR MAINTENANCE
13-Feb-13	7347-CAMERA MONITOR
4-Jan-13	7524-250 SVC HOUR MAINTENANCE

BETWEEN: \_\_\_\_\_ (the "Supply Contractor")

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

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

1. The Supply Contractor shall provide all labour, Supply Contractor's Plant and Equipment and materials required to supply the Goods within the required time, as required by the Contract Documents.
2. The Corporation shall pay the Supply Contractor the Contract Price, as required by the Contract Documents.
3. The Contract Price shall be the sum in Canadian Dollars of the following:
  - (a) the Proposal Price, as per Appendix B, and
  - (b) any payments made on account of changes, as may be required by the Contract Documents.

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

4. The Supply Contractor shall supply all Goods to the Delivery Point no later than the date shown in Appendix B.
5. The Contract Documents shall form a part of this Agreement as though recited in full.
6. The Contract supersedes all prior negotiations, representations or agreements, whether written or oral and is the entire agreement between the Corporation and the Supply Contractor with respect to the subject matter of this Agreement.
7. The Supply Contractor shall not assign the Contract, or any portion of the Contract, or any payments due or to become due under the Contract, without the express written consent of the Corporation.
8. No action or failure to act by the Corporation or an authorized representative of the Corporation shall constitute a waiver of any right or duty afforded any of them under

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

9. This Agreement shall enure to the benefit of and be binding upon the Corporation and the Supply Contractor and their respective heirs, executors, legal representatives, successors and permitted assigns. In the event of more than one person being the Supply Contractor, the grants, covenants, provisos and claims, rights, powers, privileges and liabilities shall be construed and held to be several as well as joint.
10. Time shall be of the essence of this Agreement.
11. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument. Delivery by electronic transmission in portable document format (PDF) of an executed counterpart of this Agreement is as effective as delivery of an originally executed counterpart of this Agreement.



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

REGIONAL DISTRICT OF NANAIMO

by its authorized signatory on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the date of Agreement):

SIGNED on behalf of the Corporation by:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[SUPPLY CONTRACTOR'S NAME]

by its authorized signatory on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ :

SIGNED on behalf of the Supply Contractor by:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**END OF SECTION**

**GENERAL**

## 1.1 DEFINITIONS

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

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

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

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

"Contract Documents" means the following documents:

- (1) the executed Standard Form Supply Contract Form of Agreement
- (2) the General Conditions
- (3) any Addenda
- (4) the Original Proposal Documents
- (5) other relevant documents such as but not limited to letters of clarification and any reports, standards or the like included by reference;

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

"Corporation" means the Regional District of Nanaimo;

"Day" means calendar day;

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

"Delivery Point" means the Regional District of Nanaimo Landfill, 1105 Cedar Road, Nanaimo, B.C., V9X 1K9;

"Person" includes an individual, corporation, partnership and joint venture;

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

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

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

### **CONTRACT REQUIREMENTS**

#### **1.1.1 Successors' Obligations**

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

#### **1.1.2 Assignment of Contract**

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

#### **1.1.3 Waiver of Rights**

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

#### **1.1.4 Amendment of Contract Documents**

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

## 1.2 LAWS, REGULATIONS AND PERMITS

- 1.2.1 The Contract shall be construed under and according to the laws of the Province of British Columbia and subject to an agreement to refer a dispute to mediation as per clause 2.3 Dispute Resolution. The parties agree to irrevocably attorn to the jurisdiction of the Courts of the Province of British Columbia.
- 1.2.2 The Supply Contractor shall give all notices required by law and shall comply with all laws, acts, ordinances, rules and regulations relating to or affecting the Goods. If any permits, authorizations, approvals or licences from any government or governmental agencies are necessary or desirable for the prosecution of the work they shall be obtained by the Supply Contractor at its expense, provided that the Supply Contractor shall not make application for any such permit, authorization, approval or licence without first obtaining the written consent of the Corporation.
- 1.2.3 **Patents, Royalties and Copyright**  
The Supply Contractor shall pay all fees, royalties or claims for any patented invention, article, process or method that may be used upon or in a manner connected with the Goods or with the use of the Goods by the Corporation. Before final payment is made on the account of this Contract, the Supply Contractor shall, if requested by the Corporation, furnish acceptable proof of a proper release from all such fees or claims.
- 1.2.4 All references to money in the Contract Documents shall be interpreted as meaning lawful currency of Canada.

## PART 2 CORPORATION-SUPPLY CONTRACTOR RELATIONS

### 2.1 AUTHORITY OF CORPORATION

#### 2.1.1 Acceptability of Goods

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

#### 2.1.2 Appointment and Authority of Inspector

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

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

- (a) to make decisions regarding the Goods;
- (b) to make decisions regarding the manner of performance of the Goods;
- (c) to make determinations regarding deficiencies;

## 2.2 RESPONSIBILITIES OF THE SUPPLY CONTRACTOR

### 2.2.1 Attention to the Goods

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

### 2.2.2 Authorized Representative

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

### 2.2.3 Off-loading of Goods

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

### 2.2.4 Shipment

The Supply Contractor shall properly package all Goods for safe shipment to the Delivery Point and a Notice of Shipment shall be sent by the Supply Contractor to the Corporation in advance of final delivery. The Notice of Shipment shall state the delivery date, the Purchase Order number, description of the goods, the Supply Contractor's name and the carrier by which the shipment is being made.

### 2.2.5 Errors and Omissions

If the Supply Contractor discovers that there are any errors or omissions in the Contract Documents, it shall immediately notify the Corporation in writing. The Corporation will review the matter and if it concludes that there is an error or omission, it shall determine the corrective actions to be taken and will advise the Supply Contractor accordingly. If the corrective work associated with an error or

omission increases or decreases the amount of work called for in the Contract, the Corporation shall issue an appropriate change order. After discovery by the Supply Contractor of an error or omission in the Contract Documents any work thereafter performed by the Supply Contractor shall be done at its risk unless otherwise agreed by the Corporation.

## 2.3 DISPUTE RESOLUTION

### 2.3.1 Disputes

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

### 2.3.2 Dispute/Claim Resolution

- (1) All matters in dispute under this Agreement which is not first resolved between the parties acting reasonably may, with the concurrence of both the Regional District and the Supply Contractor be submitted to mediation to a single mediator appointed jointly by them.
- (2) No one shall be nominated to act as a mediator who is in any way financially interested in the business affairs of either the Regional District or the Supply Contractor.
- (3) If the parties cannot agree on the choice of a mediator, each party shall select a nominee and the nominees shall jointly appoint a mediator.
- (4) The mediation shall take place in Nanaimo, British Columbia, unless agreed otherwise. Parties will be responsible for their own costs.

## PART 3 MATERIAL, EQUIPMENT AND WORKMANSHIP

### 3.1 GENERAL

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

### 3.2 DEMONSTRATION OF COMPLIANCE WITH CONTRACT REQUIREMENTS

### 3.2.1 Inspection

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

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

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

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

### 3.2.2 Certification

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

## 3.3 DEFECTIVE OR IMPROPER GOODS

### 3.3.1 Correction of Defective Goods

If upon inspection, testing or otherwise the Goods or any portion thereof are found to be non-conforming, unsatisfactory, defective, or inferior quality or workmanship, or fail to meet any guarantee of operating or other

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

3.3.2 If upon inspection, testing or otherwise the Goods or any portion thereof are found to be non-conforming, unsatisfactory, defective, or inferior quality or workmanship, or fail to meet any guarantee of operating or other specifications contained herein, or any other requirements of the Contract Documents, then without prejudice to any other rights or remedies, the Corporation may return the Goods or any part thereof to the Supply Contractor at the Supply Contractor's sole cost and all amounts theretofore paid by the Corporation to the Supply Contractor on account of the Contract Price of such returned Goods, shall be repaid to the Corporation by the Supply Contractor. The Supply Contractor shall advise the Corporation in writing, where to return the Goods, and failing such advice from the Supply Contractor, the Supply Contractor agrees to accept the returned Goods at the Supply Contractor's registered office. Neither the inspection nor failure to make inspection, nor acceptance of Goods shall release the Supply Contractor from any warranties or other provisions of this Contract nor impair the Corporation's right to reject non-conforming Goods. The Corporation reserves the right even after it has paid for and accepted Goods to make a claim against the Supply Contractor on account of any Goods which do not prove to be satisfactory or are defective irrespective of the Corporation's failure to notify the Supply Contractor of a rejection of non-conforming Goods or revocation of acceptance thereof, or to specify with particularity any defect in non-conforming Goods after rejection or acceptance thereof.

### 3.3.3 Retention of Defective Goods

If in the opinion of the RDN any portion of the Goods supplied under the Contract is defective or not in accordance with the Contract Documents and if the defect or imperfection in the same is not of sufficient magnitude or



importance to make the Goods dangerous or undesirable, or if the removal of such Goods is impracticable, or will create conditions which are dangerous or undesirable, the Corporation shall have the right and authority to retain such Goods instead of requiring the defective or imperfect Goods to be removed and reconstructed, but the Corporation shall be entitled to make such deductions from the payments due or to become due to the Supply Contractor as are just and reasonable.

#### 3.3.4 No Implied Approval

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

### 3.4 WARRANTY AND GUARANTEE

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

3.4.2 During the warranty period, the Supply Contractor, upon the receipt of notice in writing from the Corporation, shall promptly make all repairs arising out of the defects. The Corporation shall be entitled to make such repairs, if 10 Days after the giving of such notice to the Supply Contractor, the Supply Contractor has failed to make or undertake with due diligence the repairs. In case of an emergency, where, in the opinion of the Corporation, delay could cause serious loss or damage, or inconvenience to the public, repairs may be made without notice being sent to the Supply Contractor, only after all reasonable attempts have been made to contact the Supply Contractor. The costs of any repair made by the Corporation in connection with this clause shall be charged to the Supply Contractor and the Supply Contractor shall reimburse the Corporation for such costs. All covenants and agreements shall continue to be binding on the Supply Contractor until they have been fulfilled.

3.4.3 The Corporation is relying on Supply Contractor's skill and judgment in selecting and providing the proper Goods and any applicable services for the Corporation's particular use. The Supply Contractor warrants to the Corporation and its successors in interest that the Goods and any services covered hereby will correspond with the description of the same in the Contract Documents, will conform to all applicable Specifications, will be of the best quality and, unless otherwise specified, will be fit for the purpose for which they are to be used and

will conform in all aspects, both in the manufacture and use thereof, with all applicable safety orders or regulations of the Province of British Columbia. The Supply Contractor also warrants that the Goods are free and clear of all liens and encumbrances whatsoever and that the Supply Contractor has a good and marketable title to the same.

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

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

#### **PART 4 INDEMNIFICATION AND INSURANCE**

##### **4.1 INDEMNIFICATION AND RELEASE**

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

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

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

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

## 4.2 INSURANCE

### 4.2.1 General

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

### 4.2.2 Indemnity Not Restricted By Insurance

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

## 4.3 PATENT, TRADEMARK OR COPYRIGHT

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

**PART 5 SHIPMENT OF GOODS/DAMAGE TO GOODS****5.1 SHIPMENT OF GOODS****5.1.1 Delivery of Goods**

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

**5.1.2 Delivery Costs**

The Supply Contractor is responsible for all costs and expenses whatsoever in relation to the supply and delivery of the Goods to the Delivery Point, including without limitations, all shipping, carrier, transportation, freight, insurance, storage, handling and off-loading costs, as well as any customs or excise charges or duties.

**5.1.3 Supply Contractor to Bear Risk**

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

**5.1.4 Loss or Damage**

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

**5.1.5 Acceptance of Delivery of Goods by Corporation**

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

## **PART 6 PROGRESS AND COMPLETION**

### **6.1 CONTRACT TIME**

#### **6.1.1 Prosecution of the Goods**

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

#### **6.1.2 Schedule**

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

### **6.2 TERMINATION**

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

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

- (1) has breached a fundamental term of the Contract or is in substantial breach of the terms of the Contract;
- (2) has failed to supply the Goods, within the time specified in the Contract Documents or extensions mutually agreed between the parties in writing;
- (3) has failed or is failing to furnish or to maintain a detailed schedule;
- (4) has become in any way unable to supply the Goods or any part thereof;
- (5) has repeatedly failed to make prompt payments to subcontractors, suppliers or others for labour, materials or equipment; then the Corporation may give notice in writing to the Supply Contractor of such opinion and require that such default or defaults be remedied forthwith. If, within five Days of such notice, such default or defaults are not remedied to the satisfaction of the Corporation, the Corporation may terminate the Contract. Such termination shall be effective immediately.

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

### 6.3 NO CLAIM

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

## **PART 7 PAYMENT**

### 7.1 PAYMENTS TO SUPPLY CONTRACTOR

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

7.1.2 Notwithstanding Clause 7.1.1 the Corporation may withhold from payment:

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

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

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

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

- (1) Defective or damaged Goods;
- (2) A deductive change order;
- (3) Failure of the Supply Contractor to supply the Goods in accordance with the Contract Documents, including failure to maintain the supply of the Goods in accordance with the schedule;
- (4) Disregard by the Supply Contractor of the authority of the laws of any public body having jurisdiction.

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

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

- (1) Any set-off the Corporation may be entitled to under the Contract;
- (2) The amount of any bona fide builders lien claim asserted against the Corporation or which the Corporation acting reasonably anticipates will be made against the Corporation.

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

Delivery Point or the work together with such other documentation as the Corporation, acting reasonably, determines is necessary or desirable.

SAMPLE