



REQUEST FOR PROPOSALS No. 19-050

Property Management Services – Administration Buildings

ISSUED: July 10, 2019

CLOSING DATE AND TIME:

Submissions must be received at the Closing Location on or before:

3:00 PM (15:00 hrs) Local Time on August 15, 2019

Regional District of Nanaimo (RDN) Contact for Questions:

Tom Armet, Manager, Building & Bylaw Services

Telephone: 250-390-6535

Email: tarmet@rdn.bc.ca

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

Proponent's Information Meeting:

10:00 a.m. on July 25, 2019 convening in the main floor lobby at 6300 Hammond Bay Road,
Nanaimo, B.C.

Proposals will not be opened in public



Instructions to Proponents

Closing Date/Time/Location

Submissions must be received at the closing location on or before 3:00 PM (15:00 hrs), Local Time, on August 15, 2019. Select one (1) of the Submission Methods below:

1. By Email: With "19-050 Property Management Services" as the subject line at this electronic address: tarmet@rdn.bc.ca

Please note: Maximum email file size limit is 20MB, 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: "19-050 Property Management Services" delivered to the:

Regional District of Nanaimo
Main Reception – 2nd Floor
6300 Hammond Bay Road
Nanaimo, B.C., V9T 6N2
Attention: Tom Armet, Manager, Building & Bylaw Services

Should there be any differences between the hard copy and the electronic copy, the hard copy will prevail. Proposals received by facsimile are not accepted.

Amendment to Proposals

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

Addenda

If the RDN determines that an amendment is required to this RFP, the RDN will post the Addendum on the RDN (www.rdn.bc.ca) and BC Bid (www.bcbid.gov.bc.ca) websites. 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

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

Unsuccessful Vendors

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



1. INTRODUCTION

The Regional District of Nanaimo is requesting proposals from qualified building management service providers for the management of building and property maintenance and other related services for its Main Administration Office building and the Transit Administration building both located at 6300 Hammond Bay Road, Nanaimo, BC as well as maintenance of certain off-site premises including Transit exchanges and bus shelters in the City of Nanaimo.

The Regional District of Nanaimo expects to enter into an initial three (3) year contract with one (1) two (2) year extension. Any extension is subject to exemplary past performance, successful negotiations, funding and may include RDN Board approval.

It is anticipated the agreement will commence November 1, 2019.

2. BACKGROUND

The Main Administration Office building consists of a membrane roofed, wood framed, cedar and stucco faced Administration building, which includes meeting and office space of approximately 24,000 square feet over two floors housing 100 staff. The Transit building of approximately 6,500 square feet (excluding shop area) consists of a flat roofed two-story wood framed combined office premises, and cement block motor vehicle (transit bus) shop housing 30-35 regular office and shop staff, but serving a total workforce of approximately 55 persons daily. The Main Administration Office building is approximately 46 years old and has undergone multiple additions and renovations with the newest addition of approximately 6,000 square feet added 10 years ago. The administrative area (office premises) of the Transit building is 8 years old. Both buildings are in good condition.

The buildings are located on a heavily treed property. Landscaping around the perimeter of the buildings consists largely of evergreen plantings including numerous rhododendrons and level grassy areas, and a green roof on the Transit building. The property is bordered by a public sidewalk on three sides.

In addition to the Administration sites on Hammond Bay Road, exterior site cleaning and interior janitorial services are required for the following Transit bus exchanges, shelters and driver's respite areas:

There is one (1) Transit Driver's respite area that requires interior cleaning/janitorial services and is located at the Downtown Nanaimo Exchange (350-400 sq. ft.) on Front Street across from the Port Place Mall.

Transit exchanges and bus shelters require litter pickup, garbage removal, graffiti removal, snow removal and maintenance and repair of hard surfaces on shelters and are located as follows:

- Cedar Road, across from 49th Parallel Grocery (1 shelter)
- Country Club Centre Exchange, Norwell Drive (4 shelters)
- Woodgrove Centre Exchange (5 shelters)



- Downtown Nanaimo Exchange, Front Street (3 shelters)
- French Creek, Sunrise Drive (2 shelters)
- Nanaimo North Town Centre, Uplands Drive (2 shelters)
- Northwest Bay Road, Red Gap, Nanoose (2 shelters)
- Wembley Mall, Hwy 19, Parksville (2 shelters)

3. SCOPE OF SERVICES

The service provider will be expected to provide a full range of building maintenance and management services. These services include but are not limited to:

- Cleaning/janitorial services for staff offices, meeting rooms, washrooms and lunchrooms
- Grounds maintenance
- Tree inspection and maintenance
- Roof inspection and maintenance
- Fire and safety
- Plumbing/drainage systems
- Elevator maintenance
- Generator maintenance (admin only)
- Heating, ventilating and air conditioning (HVAC) maintenance
- Electrical and lighting
- Interior fabric/surface maintenance
- Minor interior building maintenance and repairs and installations
- Pest control
- Security (including regular patrols and alarm monitoring)
- Snow removal

More specific, but general in nature, descriptions of the requirements for each of the above noted services are outlined in Appendix 1. The firm must demonstrate its ability to deliver very competitive rates for the above noted services. This would be evidenced in part by describing your supplier selection process which ensures the Regional District obtains the best value for the services requested.

All contracts will be administered and paid for by the proponent – the Regional District wishes to be billed on an all-inclusive basis.

Of particular interest to the Regional District is the ability of the firm to demonstrate pro-active management of Regional District assets by assisting in the development of annual upgrade and maintenance projects with appropriate budgets. Further, the Regional District seeks a firm capable of providing project management support for more complex repair and upgrade projects. Demonstrated familiarity with building codes and construction techniques and materials is essential.



The Regional District is seeking evidence from proponents that they can satisfy the following experience requirements:

- Provide proof that in the last 24 months they have held a government or private sector contract of the type and size described in this request for proposal and have satisfactorily completed the contract;
- Have been employed in the type of service being proposed and can provide references as to their satisfactory performance;
- Can adequately demonstrate that they have the ability to provide the necessary expertise and resources to satisfactorily complete the contract.

4. PROPOSAL SUBMISSION AND 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. Proponents should submit the following documents in the following order:

- I. Company qualifications, experience and the available resources available to effectively and efficiently manage the portfolio of services required for this assignment. Demonstrate pro-active asset management by providing examples of previous work.
- II. Nominated Project Manager's qualifications and experience and their backup. Include Resumes or Curriculum Vitae. Demonstrate depth to effectively and efficiently manage the portfolio of services required.
- III. Property Management:
 - Describe your communication strategy with clients.
 - Describe your approach to financial management, reporting and invoicing.
 - How are incoming maintenance requests and work orders tracked?
 - What reports are available and their frequency?
 - What are expected response times for requests?
 - How are after hours maintenance requests and emergencies handled?
 - What system is in place for preventative maintenance and inspections?
 - What is your contractor selection process? What contractors do you work with? How do you evaluate vendor performance? How does this benefit and provide value to the Owner?
 - Provide three (3) references for current clients similar in scope and size.
- IV. Property Inspections:
 - What types of inspections are performed?
 - Who performs the inspections?
 - What is the frequency of internal and external inspections?
 - What inspection reports are available and their frequency?



V. Please provide firm pricing for **each** of the services listed for the following timeframe:

Year 1: November 1, 2019 – December 31, 2020

Year 2: January 1, 2021 – December 31, 2021

Year 3: January 1, 2022 – December 31, 2022

- Cleaning/Janitorial Services - Administration Building/Transit Offices/Transit Exchanges, Shelters and Respites. Firm pricing for years 1, 2, & 3.
- Grounds Maintenance - Administration Building/Transit Offices/Transit Exchanges, Shelters and Respites. Firm pricing for years 1, 2, & 3.
- Security Monitoring/Patrols - Administration Building/Transit Offices/Respite(s). Firm pricing for years 1, 2, & 3.

VI. Please provide firm pricing for Management Services/Annual Asset Maintenance Report for the following time frame:

Year 1: November 1, 2019 – December 31, 2020

Year 2: January 1, 2021 – December 31, 2021

Year 3: January 1, 2022 – December 31, 2022

Evaluation:

Proposals will be evaluated on the following basis 50% Technical, 50% Financial.

Technical Evaluation 50%

- Company qualifications, experience and breadth and depth of resources.
- Nominated Project Manager's qualifications and experience including backup. Key Individuals.
- Approach to property management and property inspections.

Financial Evaluation 50%

The lowest price proposal based on the prices submitted as requested in Section 4(V) & (VI) will receive full marks. Other proposals will receive reduced scores based on the proportion higher than the lowest price. i.e. $\text{Score} = \frac{\text{Min Cost}}{\text{Cost}} \times \text{Fee Points}$.

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

The selection committee may proceed with an award recommendation or the RDN may proceed to enter into negotiations with the highest evaluated proponent with the intent of developing an agreement. If the parties after having bargained in good faith are unable to conclude a formal agreement within 30 days of the initial meeting, extended only at the RDN's sole discretion, 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.

The RDN reserves the right to award the assignment in whole or in part or to add or delete any portion of the work.

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

5. PROPOSED PURCHASE CONTRACT

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

6. GENERAL CONDITIONS

6.1 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.

6.2 Privilege Clause

The lowest or any proposal may not necessarily be accepted.

6.3 Acceptance and Rejection of Submissions

This RFP does not commit the RDN, in any way to select a preferred Proponent, or to proceed to negotiate a contract, or to award any contract. The RDN reserves the right in its sole discretion cancel this RFP, up until award, for any reason whatsoever without compensation.

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.

6.4 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.

6.5 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.



6.6 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.

6.7 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.

6.8 Ownership of Proposals

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

6.9 Freedom of Information

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



Appendix 1 – Scope of Services

Cleaning/Janitorial:

Includes daily cleaning of the Administration Building and specified areas of the Transit Building:

RDN Administration Office Building:

- Hard surfaced floor maintenance, mopping, vacuuming, and carpet cleaning (extraction once per year, traffic lanes 3 times per year).
- Dusting of surfaces including furniture, desks, cabinets, fixtures, computer terminals, and ledges. Dusting of walls (once per year), and removal of marks and smudges from walls, doors, glass partitions and other surfaces.
- Daily (during business days) hygienic cleaning of washrooms and shower facilities (including refill supplies of paper towels, paper cups, toilet paper, receptacle liners, napkin dispensers and soap) and daily cleaning of the lunchroom.
- Remove garbage, wet waste and recycling and place in bins/totes on Regional District property.
- Dishes from the Board Chambers and Committee Room to be put in the dishwasher, and dishes from the staff room to be put in the dishwasher.
- Exterior/interior washing of windows is to be done twice per year.

Transit Building:

As above except only in these specific areas:

- First and second floors of administration/office areas including all washrooms and shower facilities (including refill supplies of paper towels, paper cups, toilet paper, receptacle liners and soap).
- Cleaning of kitchen/break areas, and sink in the shop.
- Cleaning of lost and found room every two weeks and the secure room weekly.

Transit Bus Exchanges/Shelters/Respite Areas:

Generally clean bus exchanges and respites, including sidewalk, curb area and roadway in front of exchanges 4 times per week by sweeping/removing debris, removing garbage and litter, and cleaning hard surfaces, benches and glass on bus shelters. Hose areas with water once per week and pressure washing of exchanges and shelters on a monthly basis. Daily hygienic cleaning of washrooms and break area; remove garbage, wet waste and recycling; refill supplies including paper towels, toilet paper, receptacle liners and soap; and project cleaning once per year, including light fixtures, diffusers, and door grills.

Cleaning Inspections: minimum of one formal inspection per month of all locations with the manager or designate.



The Regional District has a Green Housekeeping Policy (attached as Appendix 2) which outlines the standards of practice required of service providers hired by the Regional District to clean facilities. The Policy sets out practices to reduce exposure of building occupants and maintenance personnel to potentially hazardous chemical contaminants that adversely impact air quality, occupant well-being and the environment in Regional District facilities. Proponents will be required to verify and ensure that cleaning products and equipment used are in compliance with the Policy.

Grounds Maintenance:

General upkeep, weeding and pruning of landscaped areas. Mow lawns once per week as seasonally required. Sweep parking lot and road entrances to Administration parking lot once every two weeks for six months (generally end of September to end of April each year) and once a month in remaining months. Clean sidewalks, walkways and exterior steps on a daily basis, ensuring that all litter is removed and properly disposed of. Major pruning and invasive species control (mainly Himalayan blackberry and scotch broom) will be at extra cost to the Regional District.

Snow Removal:

Clear snow from walkways and parking lot around the Administration and Transit Buildings and City sidewalks; apply ice control pellets (sand on street side sidewalks) to sidewalk areas in icy conditions. The work will generally be carried out and completed prior to the start of work each business day, but will also be done as conditions demand during business days. Snow removal of all parking lots is required after 2 inches of snow, salting/sanding will occur prior to frost. Snow removal includes all Transit exchanges and shelters including:

- Cedar Road, across from 49th Parallel Grocery (1 shelter)
- Country Club Centre Exchange, Norwell Drive (4 shelters)
- Woodgrove Centre Exchange (5 shelters)
- Downtown Nanaimo Exchange, Front Street (3 shelters)
- French Creek, Sunrise Drive (2 shelters)
- Nanaimo North Town Centre, Uplands Drive (2 shelters)
- Northwest Bay Road, Red Gap, Nanoose (2 shelters)
- Wembley Mall, Hwy 19, Parksville (2 shelters)

Includes de-icing application and sanding to ensure passenger safety. (Note: piles cannot exceed 6 feet or 2 metres in height).

Security:

Security services include daily alarm/security system monitoring and maintenance. The service will also include emergency response and regular patrols of the property at 6300 Hammond Bay Road consisting of at least three patrols and door checks per day on weekends and holidays by a security guard and three patrol and door checks by a security guard each night. Security patrols will include all treed areas of the property to discourage individuals from loitering or camping on the property, including the treed



area adjacent to the Regional Library property at the corner of Hammond Bay Road and Calinda Drive. Security guards will leave a drop note in the front entrance mail slot following each property check.

Fabric/Surface Maintenance:

Will consist of minor repairs to door closers, door locks and hardware, melamine or plastic laminate repairs and minor ceiling tile replacements when conducted by the service providers' staff during regular visits to the building. When necessary, procure contracted resources for such repairs or replacements.

HVAC Maintenance:

Will consist of quarterly maintenance including filter changes, belt changes, equipment lubrication, and chiller system start-up and shutdown. Maintenance and inspection of ERV units, ceiling-mounted gas heaters, heat pump, cooling tower, fans and dampers, boiler, domestic hot water system, loop circulating pumps and documentation of the above maintenance. The RDN (Administration Building only) utilizes a Delta (Energrated Systems) electronic Direct Digital Control (DDC) system to monitor and control the building mechanical systems for space temperature comfort and energy conservation. A high speed LAN communicates control signals through an on-board RS-485 LAN port. Programming is implemented using a GCL+ Language (ORCAview V3.33 software). The proponent will monitor, using an offsite computer terminal, thermostatic conditions and render such adjustments to controls as necessary to optimize performance and minimize air quality complaints to the extent that the HVAC equipment and controls will reasonably perform. Procure as necessary resources to perform major repairs and replacements to motors, controls and associated drive mechanisms.

Electrical and Lighting:

Includes replacement of interior lamps and ballasts and replacement of interior devices such as lighting switches and receptacles. Procure as necessary resources to replace exterior lamps and ballasts, circuit breaker and fuse replacements, panel board repairs, feeder or branch circuit replacements and control(s) replacements.

Fire and Safety:

Includes inspection and servicing of safety equipment such as fire extinguishers, fire alarm system and emergency lighting as per code requirements. The fire inspection includes the sprinkler system and the annual testing of backflow prevention valves. Procure necessary resources to replace major system components.

Plumbing/Drainage Systems:

Includes faucet washer replacements, clearing plumbing blockages within the confines of the building perimeter with plunger or snake devices. Procure necessary resources to repair plumbing system, clear major blockages and replacement of fixtures and valves.



Elevator Maintenance (Main Administration Building Only):

Includes inspection, repairs and regular maintenance as per code requirements.

Roof Maintenance:

Carry out quarterly roof inspections of the Administration and Transit buildings and report on condition and required repairs. Includes inspections of roofing drainage systems regularly, especially through the rainy season. Clear out plugged roof drains as deemed necessary.

Tree Management:

Carry out annual tree inspection at 6300 Hammond Bay Road. Arrange for pruning, cutting and removal of trees as necessary. Maintain inventory of trees on the property.

Emergency Generator Maintenance:

Includes regular monthly testing, repairs and regular annual inspection as required.

Other Fee Related Services:

Annual Maintenance/Asset Management Plan - Review the building assets annually and provide a list for budgeting and planning purposes, of special maintenance projects which will maintain the integrity of the building and improve its life cycle with particular emphasis on energy efficient performance, condition based assessment, e.g., lighting, building heating system, roof, windows, siding & beams and boiler (hot water) system, etc.

Special Projects - Includes assistance with more complex repairs such as roofing, ventilation and interior renovations. Provide minor repairs and installations within the Administration and Transit buildings. Includes providing assistance with project development, costing and supervision. These services would be negotiated separately from the property management services above.

APPENDIX 2

REGIONAL DISTRICT OF NANAIMO P O L I C Y

SUBJECT:	<i>Green Housekeeping Program</i>	POLICY NO:	B1.17
		CROSS REF.:	
EFFECTIVE DATE:	June 22, 2010	APPROVED BY:	CAO
REVISION DATE:	June 27, 2017	PAGE:	1 of 4

PURPOSE

To reduce exposure of building occupants and maintenance personnel to potentially hazardous chemical contaminants that adversely impact air quality, occupant well-being and the environment in RDN facilities designed and built in accordance with the *Green Building Policy for RDN Facilities*.

POLICY

This Green Housekeeping Policy outlines the standards of practice required of service providers hired by the Regional District of Nanaimo to clean those facilities owned by the organization that achieve LEED certification, or that have goals for green housekeeping established through the Green Building Policy for RDN facilities. To ensure compliance, this Green Housekeeping Policy will form part of the operational and janitorial services contract agreements with the RDN, and at a minimum, must be implemented at LEED certified facilities owned by the RDN.

1. Requirements

I. Cleaning Products:

High quality, non-toxic Ecologo certified cleaning products (or products certified by **7. Approved Alternate Product Certifications**) shall be used in all spaces to ensure a healthy indoor environment for staff and visitors, and safe working environment for janitors.

II. Cleaning Equipment:

- a. Vacuum cleaners shall be certified by the Carpet and Rug Institute Green Label Testing Program and operate at a maximum sound level of 70dBA.
- b. Carpet extraction equipment used for restorative deep cleaning shall be certified by the Carpet and Rug Institute's Seal of Approval Testing Program for deep-cleaning extractors.
- c. Powered floor maintenance equipment, including electric and battery-powered floor buffers and burnishers, are equipped with vacuums, guards and/or other devices for capturing fine particulates and operates with a sound level of less than 70dBA.

- III. Paper Products: Only facial tissue, toilet paper, paper towel, and napkins approved by the Natural Resources Defense Council Shopper's Guide <http://www.nrdc.org/land/forests/gtissue.asp> (or products listed in 7. Approved Alternate Certifications) shall be used.
- IV. Training: All janitorial staff shall be given training to review this policy for purchase and appropriate use of approved products (see 4. Approved Products). The janitorial staff will have access to all necessary information including Material Safety Data Sheet (MSDS) and EcoLogo certification for all products.
- V. Administration: The personnel responsible for maintenance and operations of the building will be trained to follow the Green Housekeeping program. The most current version of certification standards shall be used.

2. Facility Management and Operations Responsibility

The Green Housekeeping program applies to the facility management and operations staff.

The contracted provider of facility management services is responsible for safe storage of products and proper use and disposal of all cleaning products.

The contracted provider of facility management services is responsible for collection of product information including MSDS, EcoLogo and Approve Alternate certification.

3. Building components, systems and materials

Areas to be serviced shall be identified and listed by the service provider.

Excluded areas shall be identified and listed by the service provider.

4. Approved Products

An extensive list of available approved cleaning and janitorial products including bathroom, carpet, general purpose, window, disinfectant cleaners etc. can be found on the EcoLogo website: <http://www.ecologo.org>

Choose facial tissue, toilet paper, paper towel, and napkins with recycled content and approved by the Natural Resources Defense Council Shopper's Guide <http://www.nrdc.org/land/forests/gtissue.asp>

See also 7. Approved Alternate Product Certifications below.

5. Responsible Parties

Training for staff on green housekeeping and documentation requirements to be provided by the service provider.

Discussion and promotion of the Green Housekeeping program (maintain up-to-date posted informational material for residences and janitorial staff) is the responsibility of the contracted service provider.

6. More Resources

<http://householdproducts.nlm.nih.gov/>
<http://www.thegreenguide.com/home-garden/cleaning>
<http://www.informinc.org/cleanforhealth.php>

7. Approved Alternate Product Certifications

I. General-purpose, bathroom, glass and carpet cleaners used for industrial and institutional purposes:

- Green Seal GS-37 standard.

II. Disinfectants, metal polish, floor finishes, strippers or other products:

- Green Seal GS-40, for industrial and institutional floor care products.
- California Code of Regulations maximum allowable VOC levels for the specific product category.

III. Floor cleaners:

- California Code of Regulations maximum VOC content.

IV. Disposable janitorial paper products and trash bags:

- US EPA's Comprehensive Procurement Guidelines.
- U.S. EPA Comprehensive Procurement Guidelines for Janitorial Paper and Plastic Trash Can Liners.
- Green Seal GS-09, for paper towels and napkins.
- Green Seal GS-01, for tissue paper.
- Janitorial paper products derived from rapidly renewable resources or made from tree-free fibers.

V. Operations Plans:

- LEED for Existing Buildings: Operations & Maintenance Reference Guide.
- APPA Leadership in Educational Facilities' (APPA) "Custodial Staffing Guidelines", conduct audit to determine the appearance level of the facility.

VI. Hand soaps standards:

- No antimicrobial agents (other than as a preservative) except where required by health codes and other regulations (i.e., food service and health care requirements).
- Green Seal GS-41, for industrial and institutional hand cleaners.

VII. Indoor Integrated Pest Management (IPM) Plan:

Manage indoor pests in a way that protects human health and the surrounding environment and that improves economic returns through the most effective, least-risk option. IPM calls for using least-toxic chemical pesticides, minimum use of chemicals, use only in targeted locations and use only for targeted species. IPM requires routine inspection and monitoring. The plan must include the following elements, integrated with any outdoor IPM plan used for the site as appropriate:

- Integrated methods, site or pest inspections, pest population monitoring, evaluation of the need for pest control and one or more pest control methods, including sanitation, structural repairs, mechanical and living biological controls, other nonchemical methods, and if nontoxic options are unreasonable and have been exhausted, a least-toxic pesticide.
- Specification of the circumstances under which an emergency application of pesticides in a building or on surrounding grounds being maintained by building management can be conducted without complying with the earlier provisions.
- A communications strategy directed to building occupants that addresses universal notification, which requires advance notice of not less than 72 hours before a pesticide under normal conditions and 24 hours after application of a pesticide in emergencies, other than a least-toxic pesticide, is applied in a building or on surrounding grounds that the building management maintains.



Appendix 3

REGIONAL DISTRICT OF NANAIMO

**ADMINISTRATION & OUT BUILDINGS
PROPERTY MANAGEMENT SERVICES CONTRACT**

REGIONAL DISTRICT OF NANAIMO

and

[CONTRACTOR]

Reference Number: RFP 19-050

[Note to Proponents: The final form Contract will be modified to reflect the content from the successful proponent's proposal, negotiated items, including pricing.]



ADMINISTRATION BUILDINGS PROPERTY MANAGEMENT SERVICES

THIS CONTRACT made as of the _____ day of _____, 2019 (the "**Effective Date**").

BETWEEN:

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

(the "**RDN**")

AND:

[Name of Contractor]

(the "**Contractor**")

WHEREAS:

- A. Pursuant to the RDN's request for proposals #19-050 (the "**RFP**") the RDN invited proposals from proponents for the provision of Property Management Services.
- B. The RDN received proposals in response to its RFP and after evaluating the proposals the RDN selected the Contractor to provide the Services (as defined below) and the Contractor has agreed to the same.
- C. The RDN and the Contractor now wish to enter into this Contract to set out the rights and obligations of each of them with regard to the Services.

NOW THEREFORE, in consideration of the agreements and covenants set out in this Contract, the RDN and the Contractor agree as follows:

1. INTERPRETATION

1.1 General

In this Contract, including the recitals and the Schedules to this Contract, except where expressly stated to the contrary or the context otherwise requires:

- a) the recitals and headings to Sections and Schedules are for convenience only and will not affect the interpretation of this Contract;
- b) each reference in this Contract to "Section" and "Schedule" is to a Section of, and a Schedule to, this Contract;
- c) the Schedules referenced in, and attached to, this Contract form part of this Contract;
- d) each reference to a statute is deemed to be a reference to that statute and any successor statute, and to any regulations, rules, policies and criteria made under that statute and any successor statute, each as amended or re-enacted from time to time;



- e) the word “written” includes printed, typewritten, faxed, e-mailed or otherwise capable of being visibly reproduced at the point of reception and “in writing” has a corresponding meaning;
- f) the words “include” and “including” are to be construed as meaning “including, without limitation”;
- g) "authorized", "directed", "required", “requested”, "approved", "ordered", "sanctioned", and "satisfactory" will, unless some other meaning is obvious from the context, respectively mean authorized, directed, required, requested, approved, ordered or sanctioned by, or satisfactory to, the RDN;
- h) all references to amounts of money mean lawful currency of Canada;
- i) words and abbreviations which have well known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings;
- j) all references to day and time means a calendar day and Pacific Time;
- k) an accounting term has the meaning assigned to it, and all accounting matters will be determined, in accordance with Canadian generally accepted accounting principles consistently applied;
- l) words importing the singular include the plural and vice versa and words importing gender include all genders; and
- m) where a party has “discretion”, it means that party has the sole, absolute and unfettered discretion, with no requirement to act reasonably or provide reasons unless specifically required under the provisions of the Contract.

1.2 Contract Documents

In this Contract, "Contract Documents" means and includes:

- a) the body of this Contract;
- b) Schedule 1 Scope of Services;
- c) Schedule 2 Schedule of Prices;
- d) Schedule 3 Key Individuals

1.3 Priority of Documents

If there is any inconsistency or conflict between the provisions of the Contract Documents, then the Contract Documents will have the following priority, in descending order as follows:

- a) the main body of the Contract ;
- b) Schedule 1 [Scope of Services], Schedule 2 [Schedule of Prices and Estimated Quantities] and Schedule 3 [Key Individuals], which will have equal priority;

1.4 Governing Law

This Contract will be governed by and construed in accordance with the laws of the British Columbia and the laws of Canada applicable therein. For the purposes of any legal actions or proceedings permitted under this Contract and brought by any party against the other party, the parties irrevocably submit to the exclusive jurisdiction of the courts of the Province of British Columbia and acknowledge their



competence and the convenience and propriety of the venue and agree to be bound by any judgment thereof and not to seek, and hereby waive, review of its merits by the courts of any other jurisdiction.

2. REPRESENTATIVES

2.1 Appointment of Representatives

Each party will maintain communication with the other party in accordance with their respective obligations under this Contract. In particular:

- a) the Contractor will provide the senior representative named in Schedule 3 [Key Individuals] as the Contractor's representative (the "Contractor Representative"), who will have the duty of instituting and maintaining communication with the RDN as to the requirements of this Contract, plus an alternative representative to so act in the absence or inability to act of the Contractor Representative;
- b) the RDN will appoint a representative (the "RDN Representative") who will have the duty of instituting and maintaining communication with the Contractor as to the requirements of this Contract, plus an alternative representative to so act in the absence or inability to act of the RDN Representative;
- c) the Contractor will ensure that the Contractor Representative can be reached by phone by the RDN;
- d) within 10 Business Days of the Effective Date, each party will give Notice to the other party as to the name and contact information of their respective representatives and alternatives;
- e) the RDN may change, at any time during the Term, the RDN Representative or alternative by Notice to the Contractor;
- f) the RDN Representative may, from time to time, give reasonable instructions to the Contractor as the RDN Representative considers necessary in connection with provision of the Services, which instructions the Contractor will comply with; and
- g) the Contractor may change the Contractor Representative or alternative at any time during the Term.

2.2 Authority of Representatives

Each party's representative:

- a) has the power and authority to act on behalf of and to bind such party with respect to all matters under or relating to this Contract, except that no representative will have the authority to amend this Contract; and
- b) may be relied upon by the other party as the official representative of such party.

3. TERM

3.1 Term

The term of this Contract will start on the Effective Date and will continue for three (3) years, unless terminated earlier in accordance with Section 15 (the "Term") or extended in accordance with Section 4.2. The Contractor will perform the Services during the Term.



3.2 Term Extension

The RDN may, at its discretion, give Notice to the Contractor at any time during the initial Term that the RDN wishes to extend the Term beyond the three (3) year period. Upon receipt of such Notice, the Contractor will enter into good faith negotiations with the RDN to extend the Term for a period of time up to an additional two (2) years on substantially the same terms and conditions.

4. THE SERVICES

4.1 The Services

During the Term the Contractor will provide the Services as described in Schedule 1 [Scope of Services]. The Contractor will supply, at its cost, all necessary labour, Personnel, equipment, machinery, Carts, Collection Vehicles, transportation, software, hardware, supervision, materials, tools and any other goods or services necessary to perform the Services.

4.2 Standard of Performance

The Contractor will perform the Services having regard for the environment and the concerns, needs and interests of the RDN and its residents, and otherwise in accordance with:

- a) the terms of this Contract;
- b) the standards, practices, methods and procedures to a good commercial standard, and exercising that degree of skill, care and diligence which would reasonably and ordinarily be expected from a qualified, skilled and experienced contractor undertaking services similar to the Services in Canada (the "Standard of Care");
- c) all Applicable Laws, including any applicable bylaws, permits, licences and approvals required for the Services; and
- d) any of the RDN's policies or procedures that have been provided by the RDN to the Contractor on or before the Effective Date.

If more than one of the above standards is applicable, then the most stringent standard will govern.

4.3 Permits, Certificates, Approvals and Licences

The Contractor will at its cost obtain and maintain in good standing throughout the Term all permits, approvals, certificates and licences necessary to perform the Service or which are required by the Contract or Applicable Laws.

4.4 Property Management Services

The Contractor will perform the Property Management Services as described in Schedule 2 [Scope of Services]. As part of the Property Management Services, the Contractor will provide own forces and/or provide subcontractors to perform the work.



4.5 Personnel

The Contractor will provide a sufficient number of Personnel who have the qualifications, training, experience and capabilities to successfully perform the Services, as determined with reference to the requirements of the Services to be performed by each Personnel. The Contractor will:

- a) effectively and efficiently supervise all Personnel to ensure that the quality of the Services and the conduct of the Personnel meets the requirements of the Contract;
- b) ensure that Personnel act in a proper and professional manner having regard to the Standard of Care;
- c) provide appropriate training from time to time for all Personnel having regard to their role, experience, duties and responsibilities, and promptly provide to the RDN evidence of such training upon request;
- d) promptly investigate any complaint about Personnel from the RDN and take appropriate corrective action;
- e) promptly discipline, suspend or remove, without any additional cost to RDN, any Personnel that were or are carrying out the Services under the influence of alcohol, drugs or a prescription drug that impairs the Personnel's ability to safely and properly carry out the Services; and
- f) promptly replace, without any additional cost to RDN, any Personnel if RDN reasonably objects to the performance, experience, qualifications or suitability of any of the Personnel.

4.6 Key Individuals

Attached as Schedule 3 [Key Individuals is a list of Key Individuals that the Contractor will utilize in undertaking the Services. The following will apply with respect to Key Individuals:

- a) unless agreed by the RDN, no individual will hold more than one position set out in as Schedule 3 [Key Individuals];
- b) the Contractor will:
 - (1) ensure that Key Individuals are regularly in communication with the RDN regarding the Contractor's performance;
 - (2) ensure that Key Individuals are available to meet in person at the RDN's offices or by video-conference from time to time with the RDN, with no less than two Business Days' written request by the RDN; and
 - (3) use all reasonable efforts to retain the Key Individuals to perform the roles described in as Schedule 4 [Key Individuals and Subcontractors];
- c) if for any reason a Key Individual resigns or is otherwise unavailable to perform the Services, then the Contractor will use all reasonable efforts to retain a replacement with similar expertise and experience to the unavailable Key Individual satisfactory to the RDN acting reasonably, provide to the RDN a copy of the curriculum vitae of the proposed replacement Key Individual and any other information that the RDN may reasonably require to assess the proposed replacement Key Individual, and the Contractor will not replace such Key Individual without the RDN's consent, acting reasonably;
- d) it will be reasonable for RDN to withhold its consent if the Contractor's proposed replacement does not have similar levels of experience and expertise as the Key Individual being replaced;



- e) within 10 days of the Contractor becoming aware that a Key Individual is or will be unavailable, the Contractor will:
 - (1) notify the RDN of the individual's unavailability and their last day of availability; and
 - (2) immediately commence the process to retain a replacement prior to the Key Individual becoming unavailable or promptly thereafter, and will propose to the RDN a suitable replacement for such Key Individual no later than 20 Business Days after the last working day of the Key Individual; and

The Contractor acknowledges that the successful performance of the Services is dependent on the retention at all times of the Key Individuals, and that if any of the Key Individuals are not available and are not replaced as required by this Contract, the RDN will not be obtaining the Services at the quality and level assumed to be included in the payments to be made to the Contractor hereunder.

4.7 Subcontractors

The Contractor will:

- a) not subcontract the Contract without the RDN's prior written consent, not to be unreasonably withheld;
- b) be as fully responsible to RDN for acts and omissions of the Subcontractors and of persons directly and indirectly employed by them as for acts and omissions of persons employed directly by the Contractor, whether or not RDN has consented;
- c) preserve and protect the rights of the RDN under this Contractor with respect to any Services to be performed by a Subcontractor, so that the subcontracting does not prejudice the RDN's rights under this Contract;
- d) require the Subcontractors to perform their permitted scope of the Services in accordance with the terms and conditions of this Contract;
- e) require every Subcontractor to observe the terms of this Contract so far as they apply to that portion of the Services to be performed directly or indirectly by that Subcontractor and require that the terms of this Contract that are applicable to the portion of the Services to be performed by a Subcontractor will form part of the Contractor's subcontract with the Subcontractor; and
- f) require that every subcontract for Subcontractors require such Subcontractors, where requested by either the RDN or the Contractor, to attend any Dispute resolution process including discussions, negotiations, mediation or arbitration between the Contractor and the RDN and to provide frank, candid and timely disclosure of relevant information and documentation; and, bona fide negotiations to resolve such Disputes.

Nothing contained in this Contract will create any contractual relationship between the RDN and any Subcontractors or their officers, agents, employees or workers.

5. OWNERSHIP OF PROPERTY AND INFORMATION

5.1 Ownership of Property

The Contractor will acquire no ownership rights to any RDN property.



5.2 Ownership and Use of Information, Outputs, Data, Records, Reports and Documentation

The RDN will own and have the right to use all information, outputs, data, records, reports and documentation generated by the RDN and the Contractor in relation to the Services. The Contractor will acquire no right to store and use such information, records, reports and documentation, except for as required by the Contractor to fulfill its obligations under this Contract.

6. CONTRACT PRICE

6.1 Contract Price

The price for the Services (the "Contract Price") is the sum of the following:

- a) the product of:
 - (1) the Management Administrative Fee; and
 - (2) the reimbursable payments made to subcontractors

6.2 Entire Compensation

The Contract Price will be the entire compensation due to the Contractor for the Services and this compensation will cover and include all profit and all other costs and expenses whatsoever incurred in performing the Services. The Contract Price includes all duties, taxes and charges, but excludes GST.

7. PAYMENT AND INVOICING

7.1 Monthly Payment Application

As of the Effective Date, within seven (7) Business Days after the end of each month, the Contractor will, in a format acceptable to the RDN, prepare and submit the following information for the monthly period ending the last day of the preceding month:

- a) an invoice listing;
- b) the Contractor's name, address, telephone number, GST number;
- c) amount owing calculated based on the Administration Fee and reimbursable payments made to subcontractors;
- d) the invoice number;
- e) the Purchase Order number;
- f) the amount GST; and
- g) the total amount owing by the RDN to the Contractor,
- h) the Monthly Report;
- i) a declaration from the Contractor that all amounts relating to the Services and payable to third parties, including all Subcontractors, as of the end of the month covered by the invoice, has been paid or is in the process of payment shortly thereafter;
- j) any other supporting documents that the RDN may require, acting reasonably.



7.2 Submission of Invoices and Supporting Information

All invoices and supporting documentation should be electronically submitted to:



Attention: ▼

7.3 Determination of Invoice

The RDN Representative will review the Contractor's invoice and supporting documents and approve it for payment as follows:

- a) if the Contractor has submitted a complete invoice with all required supporting information and if the RDN Representative:
- b) agrees that the invoice and supporting information is correct, the RDN Representative will approve the invoice in the full amount; or
- c) does not agree with the Contractor regarding any aspect of the invoice, then the RDN Representative will advise the Contractor of the reason for disagreement and approve the invoice with a copy to the Contractor in the amounts the RDN Representative determines are correct; and
- d) if the Contractor has not submitted a complete invoice or provided all required supporting information as set out in Section 8, then the RDN Representative will advise the Contractor of the missing information and will not approve the invoice in accordance with Section 8.3(a) until the complete invoice and all required supporting information is submitted.

The RDN Representative's approval of an invoice does not prevent the RDN from later disputing an invoice if the RDN becomes aware that an invoice was incorrect.

7.4 Due Date for Payment

The amount approved for payment by the RDN Representative as shown on the invoice in accordance with Section 8.3 will be due and payable to the Contractor 30 days following the receipt of the complete invoice and supporting information in accordance with Section 8.3(a).

7.5 Set Off

The RDN may set off and deduct from any payment owing to the Contractor sums in respect of, but not limited to, the following:

- a) any claim that the RDN has against the Contractor under this Contract or otherwise;

7.6 Interest

If any money due to either party remains unpaid after the date on which the money should have been paid, then the party responsible for the payment will, following a written request by the other party for payment of interest, pay to the other party simple interest on the unpaid amount from, but not



including the date on which the money was due, at the prime rate plus 2%. The prime rate will be based on the Royal Bank of Canada's prime commercial lending rate of interest on Canadian funds, as designated from time to time by the bank's head office in Canada.

8. No Liability for Review, Inspection, Approval or Attendance

The Contractor remains liable and responsible for its actions, errors or omissions, and its obligations to carry out the Services in accordance with this Contract regardless of RDN undertaking any of the following:

- a) review of any reports or document from the Contractor;
- b) inspection of the performance of the Services;
- c) inspection and audit or any of the Contractor's books of accounts or records;
- d) any other review, approval, inspection or attendance undertaken by RDN pursuant to a right under this Contract.

9. COVENANTS, REPRESENTATIONS AND WARRANTIES

9.1 Representations and Warranties of the Contractor

The Contractor covenants, represents and warrants to the RDN that: [Note to Proponents: Wording may need to be modified depending on legal structure of the Contractor.]

- a) the Contractor is a corporation, duly organized, validly existing and legally entitled to carry on business in British Columbia and is in good standing with respect to filings of annual reports according to the records of the Registrar of Companies of British Columbia;
- b) the Contractor has the power and capacity to enter into this Contract and to comply with every term and condition of this Contract;
- c) all necessary proceedings have been taken to authorize the Contractor to enter into this Contract and to execute and deliver this Contract;
- d) this Contract has been properly executed by the Contractor and is enforceable against the Contractor in accordance with its terms;
- e) any statement, representation or information, whether oral or written, made furnished or given by the Contractor, its directors, officers or anyone acting on behalf of the Contractor, including those contained in the Contractor's proposal to the RDN in response to the RFP, to the RDN in connection with this Contract is materially correct and accurate;
- f) the Contractor has no knowledge of any fact that materially adversely affects or, so far as is it can be foreseen, might materially adversely affect either its financial condition or its ability to fulfill its obligations under this Contract;
- g) the observance and performance of the terms and conditions of this Contract will not constitute a breach by it or a default by it under any statute, regulation or by law of Canada, or of the Province of British Columbia applicable to or binding on it, its constating documents, or any contract or agreement to which it is a party;

- h) the Contractor is neither a party to nor threatened with any litigation and has no knowledge of any claims against it that in either case would materially adversely affect its financial condition or its ability to fulfill its obligations under this Contract;
- i) the Contractor has filed all tax, corporate information and other returns required to be filed by the laws of British Columbia and Canada, and has complied with all Workers' Compensation legislation and other similar legislation to which it is subject and has paid all GST, taxes, fees and assessments due by the Contractor under those Applicable Laws;
- j) the Contractor holds all permits, licenses, consents and authorities issued by any level of government, or any agency of any level of government that are required by Applicable Laws to conduct its business;
- k) the Contractor's investigation has been based on its own examination, knowledge, information and judgment and not upon any statement, representation or information made or given by or on behalf of the RDN except where the RDN has expressly permitted reliance;
- l) the Contractor has sufficient trained Personnel, facilities, materials, appropriate equipment and approved agreements with Subcontractors in place and available to enable it to fully perform the Services;
- m) the Contractor will pay punctually as they become due, all accounts, expenses, wages, salaries, GST, taxes, rates, fees and assessments required to be paid by it on any of its undertakings;
- n) the Contractor accepts all risks within this Contract identified as being borne by the Contractor;
- o) the Contractor will comply with all the requirements of this Contract and will perform all Services and supply all labour, equipment and materials necessary to do so;
- p) no partnership, joint venture, or agency involving the RDN is created by this Contract;
- q) all Personnel used by the Contractor to provide the Services are not the employees of the RDN and the Contractor is solely responsible for arranging all matters arising out of the relationship of employer and employee (if any);
- r) the Contractor has independently reviewed all labour relations issues related to the performance of the Contractor's obligations under this Contract; and
- s) the Contractor will supply at its own cost and expense everything necessary for the proper completion of the Services and the proper performance of its obligations under this Contract.

10. TERMINATION AND DEFAULT

10.1 Contractor Bankruptcy or Insolvency

If the Contractor should be adjudged bankrupt, or make a general assignment for the benefit of creditors because of the Contractor's insolvency or if a receiver is appointed because of the Contractor's insolvency, the RDN may, without prejudice to any other of the RDN's rights or remedies, terminate this Contract by giving the Contractor or receiver or trustee in bankruptcy written Notice effective immediately upon receipt by the Contractor.

10.2 Failure to Perform

If the Contractor should:

- a) to a material extent fail, refuse or neglect to perform the Services as required by this Contract;



- b) fail to comply with a material requirement of this Contract including putting the safety of the public or the environment at risk; or
- c) commit a breach, or series of breaches, of any term, covenant, representation or undertaking to the RDN which demonstrates either a persistent inability, or a persistent unwillingness, to comply with its obligations under this Contract,

then the RDN may notify the Contractor in writing that the Contractor is in default of the Contractor's contractual obligations and instruct the Contractor to correct the default in the five (5) calendar days immediately following the receipt of such Notice.

10.3 Correction of Default

If the correction of the default cannot be completed in the five (5) calendar days specified, the Contractor will be in compliance with the RDN's instructions if the Contractor:

- a) immediately takes all reasonable steps to begin to correct the default; and
- b) provides the RDN Representative with a schedule reasonably acceptable to the RDN Representative for such correction; and
- c) completes the correction strictly in accordance with such schedule.

10.4 Remedies

If the Contractor fails to correct the default in the time specified or subsequently agreed upon, the RDN may, without prejudice to any other right or remedy:

- a) correct such default and deduct:
 - (1) from any payment then or thereafter due to the Contractor;
- the RDN's reasonable costs of such correction (including the RDN's reasonable staff and administration costs) as certified by the RDN Representative;
- b) delete any portion of the Services from this Contract for the balance of the Term, in which event the Contractor will remain responsible for the performance of the remaining Services; and/or
 - c) terminate the whole or any part of this Contract.

10.5 Rights upon Termination

If the RDN terminates the whole or any part of this Contract, the RDN will, while taking all reasonable measures to minimize costs and delays:

- a) be entitled to procure, upon such terms and in such manner as the RDN may deem appropriate, services similar to those Services terminated and the Contractor will be liable to the RDN for any extra cost of such similar services;
- b) be entitled to withhold any payments owing to the Contractor; and/or
- c) be entitled to:



(1) deduct and retain from any amounts withheld from the Contractor; and/or

the total of any additional costs (the "Default Costs") in excess of the estimated Contract Price which the RDN incurs because of the Contractor's default, including the costs of other contractors, any administrative costs, the costs of the RDN's own forces and all the costs to the RDN of the RDN Representative, all as certified by the RDN Representative and pay the balance, if any, to the Contractor. If the total of the Default Costs exceed the total of the payments the RDN has withheld then such excess will be immediately due and owing by the Contractor to the RDN.

10.6 Termination for Convenience by RDN

In addition to its right to terminate in Section 11.4, the RDN, at its discretion, may also terminate this Contract for convenience at any time during the Term by providing written Notice to the Contractor to that effect.

10.7 Contractor Remedies for Termination for Convenience

If RDN terminates this Contract pursuant to Section 11.6, then the RDN will pay to the Contractor:

- a) all amounts owing for Services properly performed up to the date of termination;
- b) on a "make whole without profit basis", an amount based on the Contractor's demonstrated actual costs to cover:
- c) all direct, reasonable wind-down costs incurred by the Contractor as a result of the termination, including cancellation fees, demobilization expenses and employee termination costs; and

The Contractor will use reasonable commercial efforts to obtain the best terms available to cancel, terminate or wind-down existing contracts, orders or subcontracts.

10.8 Remedies

The rights, powers and remedies conferred on RDN under this Contract are not intended to be exclusive but are cumulative, are in addition to, do not limit and are not in substitution for any other right, power and remedy existing under this Contract, any other agreement, at law or in equity. The exercise by the RDN of any right, power or remedy does not preclude the simultaneous or later exercise by the RDN of any other right, power or remedy.

The Contractor acknowledges that, notwithstanding any other provision in the Contract to the contrary, in no circumstance, including if all or part of the Contract is terminated in accordance with Section 11, is the Contractor entitled to any payment on account of its anticipated profit or for overhead and risk premiums in respect of any unperformed Services, or to payment for loss of opportunity, loss of profit, or of any indirect or consequential costs of any kind whatsoever.



11. WCB, INSURANCE AND CONTRACT SECURITY

11.1 Workers Compensation Board and Safety

The Contractor:

- a) will at its own expense, procure and carry full Workers Compensation Board coverage for itself and all workers, employees, servants and others engaged in the supply of the Services, and promptly provide to the RDN evidence of such coverage upon request;
- b) upon request by the RDN, will provide the RDN with the Contractor's Workers Compensation Board registration number and a letter from the Workers Compensation Board confirming that the Contractor is registered in good standing with the Workers Compensation Board;
- c) will ensure compliance with and conform to all health and safety laws, by laws or regulations of the Province of British Columbia, including without limitation the Workers Compensation Act (British Columbia) and Regulations pursuant thereto, and the RDN's health and safety policies and procedures, and promptly provide to the RDN evidence of such compliance upon request;
- d) agrees that it is the "prime contractor" for the Services as defined in the Worker's Compensation Act;
- e) agrees that it has in place the appropriate health and safety training for Personnel, and to provide evidence of such training upon request by the RDN;
- f) will comply with all the Workers Compensation Board Occupational Health and Safety Regulations for hazardous materials and substances, and in particular with the "Workplace Hazardous Materials Information System (WHMIS)" Regulations;
- g) agrees and acknowledges that the RDN has the unfettered right to set off the amount of the unpaid premiums and assessments for the Workers Compensation Board coverage against any monies owing by the RDN to the Contractor;
- h) will be responsible for ensuring the safety of all persons and property during performance of the Services, and will promptly rectify any condition creating an immediate hazard to property or person; and
- i) agrees and acknowledges that the RDN may, on 24 hours' prior written Notice to the Contractor, rectify at the Contractor's cost any conditions creating an immediate hazard that would be likely to result in injury to any person or property. Nothing in the foregoing will cause the RDN to become responsible for ascertaining or discovering, through inspections or review of the operations of the Contractor or otherwise, any deficiency or immediate hazard.

11.2 Insurance

The Contractor will, without limiting its obligations or liabilities and at its own expense, provide and maintain throughout this Contract the following insurance in forms and amounts acceptable to the RDN from insurers licensed to conduct business in Canada:

- a) commercial general liability insurance on an occurrence basis, in an amount not less than \$5,000,000 dollars inclusive per occurrence against death, bodily injury and property damage arising directly or indirectly out of the provision of the Services by the Contractor, its employees, agents, and sub-Contractors. The insurance policy will be endorsed to add the RDN as additional insured and will include cross liability and severability of interests such that the coverage will



apply in the same manner and to the same extent as though a separate policy had been issued to each insured. The policy will cover unnamed insured, Subcontractors and anyone employed directly or indirectly by the Contractor or the Subcontractors to perform part of the Contract. The insurance will include, but not be limited to:

- (1) Blanket contractual,
 - (2) Employees as additional insureds,
 - (3) Non-owned automobile,
 - (4) Owners and contractors protective liability,
 - (5) Contingent employers liability,
 - (6) Personal injury, and
 - (7) Where such further risk exists, advertising liability;
- b) automobile liability insurance on all vehicles owned, operated or licensed in the name of the Contractor in an amount not less than \$5,000,000 dollars per occurrence for bodily injury, death and damage to property;

11.3 Evidence of Insurance

The Contractor will provide the RDN with evidence of the required insurance prior to the commencement of this Contract. Such evidence will be in the form of a completed certificate of insurance acceptable to the RDN. The Contractor will, on request from the RDN, provide certified copies of all of the Contractor's insurance policies providing coverage relating to the Services. All required insurance will be endorsed to provide the RDN with 30 days' advance written Notice of cancellation or material change. The Contractor will require and ensure that each Subcontractor maintains insurance comparable to that required above. The Contractor will be responsible for deductible amounts under the insurance policies. All of the Contractor's insurance policies will be primary and not require the sharing of any loss by the RDN or any insurer of the RDN.

11.4 Waiver of Subrogation

The Contractor hereby waives all rights of recourse against the RDN for loss or damage to the Contractor's property.

11.5 Notice of Claims

If at any time during the performance of the Services the Contractor becomes aware of a claim or potential claim against any insurance policy that the Contractor has pursuant to this Contract, then the Contractor will immediately advise the RDN in writing of such claim, including particulars. The Contractor will diligently submit and pursue any relevant claims under the insurance policies.

12. INDEMNITY AND LIMITATION OF LIABILITY

12.1 Indemnification by the Contractor



The Contractor will indemnify and save harmless the RDN and all of its elected and appointed officials, officers, employees, servants, advisors, representatives and agents, from and against all third party claims, demands, causes of action, suits, losses, damages and costs, liabilities, liens, Encumbrances, expenses and judgments (including all actual legal costs) which RDN incurs, suffers or is put to arising out of or in connection with the following:

- a) any failure, breach, fault or non-performance by the Contractor or any employee, Subcontractor, agent or any person for whom the Contractor is responsible for at law, of any obligation of this Contract;
- b) any wrongful or negligent act of the Contractor or any employee, Subcontractor, agent or any person for whom the Contractor is responsible for at law;

12.2 Discharge of Liability

- a) The Contractor will discharge all liabilities incurred by it, including for labour, equipment, materials or services used or reasonably required for use, in the performance of this Contract, on or before the date each becomes due. In the case of bona fide disputed payments, the Contractor will discharge such liabilities when legally obliged to do so.
- b) The Contractor will include as a condition of every subcontract or agreement with a Subcontractor that the Subcontractor discharge all liabilities incurred by it, including for labour, equipment, materials, supplies or services used or reasonably required for use, in the performance of the subcontract, on or before the date upon which each becomes due. In the case of bona fide disputed payments, the Contractor will cause the Subcontractor to discharge such liabilities when legally obliged to do so.

12.3 Duty to Mitigate

In all cases where the Contractor is entitled to receive from the RDN any additional compensation or any costs, damages or extensions of time, the Contractor will use all reasonable efforts to mitigate such amount required to be paid by the RDN to the Contractor under this Contract, or the length of the extension of time. Upon request from the RDN, the Contractor will promptly submit a detailed description, supported by all such documentation as the RDN may reasonably require, of the measures and steps taken by the Contractor to mitigate and meet its obligations under this section.

12.4 No Duplicate Compensation

Every right for the Contractor to claim any additional remuneration or compensation whatsoever under this Contract will be construed so that recovery is without duplication to any amount recoverable under this Contract or under any policy of insurance required by this Contract.

12.5 Assumption of Risk

Except to the extent expressly allocated to the RDN or otherwise provided for under this Contract, all risks, costs and expenses in relation to the performance by the Contractor of its obligations under this Contract are allocated to, and accepted by, the Contractor as its entire and exclusive responsibility.



13. DISPUTE RESOLUTION

13.1 Disputes

Any disputes between the RDN and the Contractor arising out of or relating to this Contract, including with respect to any claim, or the performance of the Services, or the interpretation of this Contract, or any failure by the RDN and the Contractor to agree where this Contract calls for agreement (each a "Dispute"), will be settled in accordance with the provisions of this section. In the event of a Dispute:

- (a) the disputing party will give the other party Notice of the Dispute in a timely manner briefly setting out the pertinent facts, the remedy or relief sought and the grounds on which such remedy or relief is sought;
- (b) the Contractor and the RDN will meet within 3 Business Days after the Notice of Dispute is given and will attempt in good faith, and using reasonable efforts, to resolve the matter equitably to the satisfaction of both parties;
- (c) if the parties cannot resolve the Dispute within 10 Business Days after they first meet, or if the parties fail to meet within 10 Business Days of the first request for a meeting, then either party may refer the Dispute to a mediator that is agreeable to both parties;
- (d) if the parties cannot resolve the Dispute within 10 Business Days of completing a mediation or if the parties cannot agree upon a mediator within a reasonable period of time, then, with consent of the other party, either party may refer the Dispute to a single arbitrator for final determination. The arbitrator will be chosen by mutual agreement between the parties. The cost of arbitration will be apportioned against the parties hereto or against any one of them as the arbitrator may decide; and
- (e) in the event that both parties cannot agree upon an arbitrator or do not consent to arbitration then either party may commence litigation to have the Dispute settled.

13.2 Performance to Continue

Unless expressly directed otherwise by the RDN, the Contractor will continue timely performance of the Services in accordance with this Contract and comply with any instructions or decisions from RDN during a Dispute with RDN. The parties acknowledge and agree that the Contractor's compliance with this section is not a waiver of any claim that the Contractor may have in relation to any Dispute.

14. CONFIDENTIALITY AND PRIVACY

14.1 Confidentiality

The Contractor will keep strictly confidential any information supplied to, obtained by, or which comes to the knowledge of the Contractor as a result of, relating to or arising out of the performance of the Services and this Contract (the "Confidential Information") and will not disclose such Confidential Information. Notwithstanding the preceding sentence, the Contractor may disclose the Confidential Information:

- (a) with the prior written consent of RDN;



- (b) in strict confidence to the Contractor's professional advisors;
- (c) to Subcontractors who, in each case, need to know the applicable Confidential Information for the purposes of performing the Services; and
- (d) as otherwise required by law or permitted by this Contract.

The Contractor will require all Personnel and Subcontractors to enter into an agreement with the Contractor containing provisions in the same form as those found in this section.

14.2 Exceptions to Confidentiality Obligations

The obligations of confidentiality described in Section 15.1 will not apply to:

- (a) information that is, or subsequently becomes, publicly available other than through a breach of this Contract or through a breach of a confidentiality agreement which another person has entered into concerning the Confidential Information;
- (b) information that the Contractor already possessed independently before commencing the Services;
- (c) information that is rightfully received from a third party without breach of any obligation of confidentiality by such third party; or
- (d) information which is independently developed without the use of the Confidential Information.

14.3 Collection or Use of Confidential Information

Except with the prior written consent of the RDN, the Contractor will not collect or use, and will ensure that its professional advisors and Subcontractors do not collect or use, the Confidential Information for any purpose other than complying with the terms of this Contract or performing the Services. Without limiting the generality of the foregoing, except with the prior written consent of RDN, the Contractor will not collect or use, and will ensure that its professional advisors and Subcontractors do not collect or use, the Confidential Information to advance the commercial or other interests of the Contractor or any Subcontractor or any entity affiliated with the Contractor or any Subcontractor.

14.4 Privacy

The Contractor acknowledges that the RDN is subject to the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165, as amended ("FOIPPA"), and accordingly, any documents, information and data submitted to RDN by the Contractor under this Contract, as well as any resultant studies, documents, information and data received by the RDN may be disclosed under FOIPPA. The Contractor will not do or omit to do anything that causes the RDN to be not in compliance with FOIPPA.

14.5 Publicity

The Contractor will not issue any press release or speak to the media about this Contract or the subject matter of this Contract without the prior written consent of the RDN, which consent may be



unreasonably withheld. The Contractor will refer all media inquiries relating to the Services or the Contract to the RDN.

15. CONFLICT OF INTEREST, DELIVERABLES, STRIKES AND LOCKOUTS

15.1 Conflict of Interest

The Contractor will not, during the term of this Contract perform a service or provide goods for any person, firm or corporation, which gives rise to a conflict of interest between the obligations of the Contractor under this Contract and the obligations of the Contractor to such other person, firm or corporation.

15.2 Deliverables

The Contractor hereby sells, assigns and transfer to the RDN the right, title and interest required for the RDN to use and receive the benefit of all the reports, plans, drawings, designs, models, products or processes or other such work product produced by or resulting from the Services rendered by the Contractor.

15.3 Strikes and Lockouts

If a strike or lockout of the Contractor's Personnel that interferes with the Contractor's performance of the Services continues for a period in excess of 30 continuous days, then such strike or lockout will be deemed to be a breach of a material requirement and not a Force Majeure Event. The RDN will not be liable to pay to the Contractor any compensation or damages as may be incurred by the Contractor on account of the termination.

16. FORCE MAJEURE

16.1 Force Majeure Event

Neither party will be considered to be in breach of its obligations hereunder to the extent that performance is prevented or delayed by an event beyond a party's reasonable control (a "Force Majeure Event"). The parties agree that:

- (a) an event will not be considered beyond one's reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those in this Contract would have put into place contingency plans to either materially mitigate or negate the effects of such event; and
- (b) a Force Majeure Event may include acts of God, industry-wide strikes, industrial action, war or civil disturbance, terrorism, storm, flood, earthquake, lightning, fire, terrorism, epidemics or pandemics, but does not include:
 - (1) shortages or delays relating solely to the Contractor's or Subcontractor's supplies or services;



- (2) delays in the Contractor obtaining the necessary approvals, licences or permits from a governmental authority;
- (3) inability to perform because of the financial condition of the Contractor; or
- (4) strikes of the Contractor's Personnel unrelated to an industry-wide strike.

16.2 Process during Force Majeure Event

If a party seeks to excuse itself from its obligations due to a Force Majeure Event, the party will, with specific reference to this provision, promptly provide Notice to the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period thereof. Each party will take such action as may reasonably be available to it to endeavour to overcome the Force Majeure Event as soon as possible. If a Force Majeure Event continues for longer than 180 days, either party may terminate the Contract, in which case each party will be responsible for its own costs. For certainty, if the RDN terminates the Contract for a Force Majeure Event, then the RDN's sole obligation to compensate the Contractor will be for Services properly performed prior to the effective date of termination.

17. GENERAL

17.1 Intellectual Property

The Contractor will obtain and pay for all intellectual property rights (including of any patent, copyright, industrial design, trademark or trade secret) all royalties and licence fees required for the performance of the Services. The Contractor will assign and hereby assigns to the RDN all rights, title, interest that the Contractor may have from time to time in any deliverables including any reports provided to the RDN, effective upon creation. During the Term, the Contractor will have a non-exclusive, non-transferable licence to use such deliverables and reports for the sole purpose of providing and completing the Services. The Contractor will obtain from all individuals involved in the development of the deliverables and reports an express and irrevocable waiver in favour of the RDN, its successor and assigns of any and all moral rights at law that the Contractor or such individuals, as authors, have with respect to the deliverables and reports.

The Contractor will indemnify and hold the RDN harmless from and against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Contractor's performance of the Services under this Contract that are attributable to infringement or an alleged infringement of any intellectual property right by the Contractor or its Subcontractors or anyone for whose acts the Contractor may be liable.

17.2 Severability

In the event that any of the provisions or portions of this Contract is held to be unenforceable or invalid by any court of competent jurisdiction, the parties hereto will use their reasonable efforts to negotiate an adjustment in such provisions of this Contract with a view toward affecting the purpose of this Contract and the validity and enforceability of the remaining portions and/or provisions will not be affected thereby.



17.3 Entire Contract

This Contract contains the entire Contract of the parties regarding the provision of the Services and no understandings or contracts, oral or otherwise, exist between the parties except as expressly set out in this Contract. This Contract supersedes and cancels all previous contracts between the parties relating to the provision of the Services.

17.4 Assignment

The Contractor will not Assign, in whole or in part, this Contract without the express written consent of the RDN, not to be unreasonably withheld. The RDN may, upon written Notice to the Contractor, Assign this Contract in whole or in part.

17.5 Independent Contractor

The Contractor is an independent contractor. The Contract does not create the relationship of employer and employee, a partnership, or a joint venture. The RDN will not control or direct the details, means or process by which the Contractor performs the Services. The Contractor will determine the number of days and hours of work required to properly and completely perform the Services. The Contractor is primarily responsible for performance of the Services and may not delegate or subcontract to any other person except as provided for in this Contract. The Contractor will be solely liable for the wages, fringe benefits, work schedules and work conditions of any partners, employees or sub-Contractors.

17.6 Waiving of Rights

No waiver of any term or condition is valid unless it is in writing and signed by a duly authorized representative of the waiving party. The failure or delay of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Contract or to exercise any right, power or privilege under this Contract, will not operate or be construed as a relinquishing of performance under this Contract or as a waiver of any of the same or similar rights, power or privileges in the future, and the obligation of the other party with respect to such rights or performance will continue in full force and effect as if such failure or delay never occurred. A valid waiver is limited to the specific situation for which it was given.

17.7 Amendments

No amendment to this Contract will be binding on either party hereto unless such amendment is in writing and executed by both parties with the same formality as this Contract is executed.

17.8 Survival

The following provisions will survive the termination or expiry of this Contract: Governing Law, Standard of Performance, Ownership of Materials and Information, Covenants, Representations and Warranties, WCB and Insurance, Indemnity and Limitation of, Dispute Resolution, Confidentiality and Privacy, this



section and any other provision herein required to give effect to the foregoing or which by its nature is intended to survive the termination or expiry of the Contract.

17.9 Joint and Several

If this Contract is executed by more than one person, firm or corporation, it is understood and agreed that all persons, firms or corporations executing this Contract are jointly and severally liable under and bound by this Contract.

17.10 Liens Relating to the Services

The Contractor will throughout the Term discharge any liens relating to the Services. In the event that a lien or claim is filed in connection with the Services or so claimed or alleged, the Contractor will discharge same within 15 Business Days after request made by the RDN of the Contractor.

17.11 Time of the Essence

Time will be of the essence for the performance of the Services. The acceptance of a late performance, with or without objections or reservations by the RDN, will not waive the right to claim damages for such breach nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed.

17.12 Notices

Any notice, approval, election, demand, direction, consent, designation, request, agreement, instrument, certificate, report or other communication required or permitted to be given or made under this Contract (each, a "Notice") to a party must be given in writing. A Notice may be given by hand delivery to an individual or electronically by electronic mail addressed to the following party:

To RDN:

6300 Hammond Bay Road

Nanaimo, BC V9T 6N2

Attention: ▼

Email: ▼

To the Contractor:

Attention: ▼

Email: ▼

or to any other address, e-mail address or individual that the party designates in writing in accordance with this Section. Any Notice:

- (a) if validly delivered, will be deemed to have been given when delivered;



- (b) if validly transmitted electronically before 3:00 p.m. (local time at the place of receipt) on a Business Day, will be deemed to have been given on that Business Day, and
- (c) if validly transmitted electronically after 3:00 p.m. (local time at the place of receipt) on a Business Day or at any time on a day that is not a Business Day, will be deemed to have been given on the Business Day after the date of transmission.

17.13 Benefit

This Contract will enure to the benefit of and be binding upon the parties and their successors and permitted assigns.

17.14 No Derogation

Nothing contained or implied herein will derogate from, prejudice or affect RDN's rights, powers, duties or obligations in the exercise of its functions pursuant to the Local Government Act, or any other Act of the Legislature of British Columbia, as amended from time to time.

17.15 Counterparts

This Contract may be executed in one or more counterparts and delivered by electronic transmission, each of which when so executed constitutes an original and all of which together constitute one and the same agreement.

17.16 Further Assurances

Each of the parties will execute and deliver such further and other documents and do and perform such further and other acts or things as may be necessary or desirable to give full effect to this Contract.



IN WITNESS WHEREOF the parties hereto, by their respective representatives duly authorized in that behalf, have caused this Contract to be executed:

REGIONAL DISTRICT OF NANAIMO

Per: _____
Authorized Signatory

Name:
Title:
Date:

Per: _____
Authorized Signatory

Name:
Title:
Date:

[NAME OF CONTRACTOR]

Per: _____
Authorized Signatory

Name:
Title:
Date:

Per: _____
Authorized Signatory

Name:
Title:
Date:



SCHEDULE 1

SCOPE OF SERVICES

Attach separately

SCHEDULE 2

SCHEDULE OF PRICES

[Note to Proponents: Pricing from successful Proponent's Proposal to be inserted here.]

SCHEDULE 3

KEY INDIVIDUALS

[Note to Proponents: Key Individuals from successful Proponent's Proposal to be inserted here.]