



REGIONAL DISTRICT OF NORTH OKANAGAN

INVITATION TO TENDER # 2018-CS11

COMMUNITY SERVICES

Vernon and District Performing Arts Centre – Boiler Replacement

Sealed bids clearly marked “Vernon and District Performing Arts Centre – Boiler Replacement 2018-CS11” will be received at the office of the Regional District of North Okanagan at 9848 Aberdeen Road, Coldstream, British Columbia V1B 2K9 up to **2:00 p.m., local time, Friday, May 4, 2018.**

For further information on this Project, please review the following documents:

- Tender Document A: Key Terms
- Tender Document B: Tender Terms
- Tender Document C: Form of Agreement
- Tender Document D: Tender Form
- Specifications

Further information, specifications and tender documents are available on the BC Bid website. Technical inquiries from Bidders should be directed as prescribed in Tender Document A.

The Regional District of North Okanagan reserves the right to reject any or all Tenders, to waive defects in any bid or Tender Documents and to accept any Tender or offer which it may consider to be in the best interest of the Regional District of North Okanagan.

The lowest or any Tender will not necessarily be accepted.

REGIONAL DISTRICT OF NORTH OKANAGAN

TENDER DOCUMENT A

KEY TERMS

1. Tender Name: Vernon & District Performing Arts Centre – Boiler Replacement
2. Tender Number: 2018-CS11
3. Bid Close Time: 2:00 p.m., Friday, May 4, 2018
4. Bid Address: Regional District of North Okanagan
9848 Aberdeen Road
Coldstream, BC V1B 2K9
5. Technical Inquiries: Eric Schredl, Project Engineer, Delta-T – eric@delta-t.ca
6. Bonding: Performance bond and bid bond required
7. Site Meeting A mandatory site meeting will be held on Tuesday,
April 17, 2018 at 10:00 am, local time at 3800 33rd Street,
Vernon.
8. The primary objective of this project is to replace two existing boilers at the Vernon and District Performing Arts Centre. The works consist of:
 - Demolition of existing boilers, some related piping and venting.
 - Installation of 2 new boilers, and associated piping and venting.
 - Installation of a larger housekeeping pad to cover the footprint of the new boilers.

Tasks to be undertaken shall include, but may not be limited to:

- Demolition of existing boilers, venting, and related piping (hydronic, gas, condensate).
- Piping changes to adapt new to existing (hydronic, gas and condensate).
- Venting changes through the existing roof penetration.
- Concrete work to enlarge the existing housekeeping pad for new boilers.
- New controls to interface with existing DDC system.
- Installation of two new boilers.
- Development of as-built drawings to document the final product.
- Securing required approvals (permits, etc.).
- Working with Vernon Performing Arts Centre facilitators to minimize impacts of work on staff and events.
- Any other terms and conditions included in the Tender or Specifications.

(Collectively, the “**Project**”)

REGIONAL DISTRICT OF NORTH OKANAGAN

TENDER DOCUMENT B

TENDER TERMS

PART I. INTERPRETATION

Article 1. Definitions

- (a) The Key Terms set out at in Tender Document A shall have the meanings as so set out in that document.
- (b) The following terms shall have the meanings ascribed as follows:
 - (i) **“Bidder”** shall mean the party which submits a Tender, and which from time to time may also be referred to as the Contractor.
 - (ii) **“Bid Price”** shall mean the cost of performing and completing the Project, as indicated and set forth by the Bidder in their tender, not including taxes, and listed as Net Total Cost on the Bid Form.
 - (iii) **“Contract Administrator”** means a staff member representative authorized to act on behalf of the RDNO.
 - (iv) **“Event of Force Majeure”** means any clause not reasonably within the control of any party to this Agreement including, without limitations, acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, storms, subsidence, floods, high waters, washouts, orders or acts of civil or military authorities, civil disturbances, or any other causes, whether of the kind herein enumerated or otherwise; PROVIDED ALWAYS THAT the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the particular party involved therein and such party may make settlement thereof in such time and on such terms and conditions as it may deem to be advisable and no delay in making such settlement shall deprive such party of the benefits of this Agreement;
 - (v) **“Gross Total Cost”** means that cost of performing and completing the Project, as indicated and set forth by the Bidder in its Tender, which includes all costs including taxes;
 - (vi) **“RDNO”** means the Regional District of North Okanagan, and which from time to time may also be referred to as the Regional District or the Owner;

- (vii) **“Specifications”** means those specifications and additional details, schedules and terms attached thereto;
- (viii) **“Tender”** shall mean that package of documents submitted in response to this Invitation to Tender for the Project;
- (ix) **“Tender Form”** shall mean that form on which the Bidder is required to submit their bid, which is supplied by RDNO, and attached hereto as Tender Document D.

PART II. TENDER PROCESS AND CONTRACT TERMS

Article 1. Submission of Tender

- (a) Tenders may be delivered to the Bid Address in person or by mail, however, they must be posted in sufficient time to be received at the Bid Address by the Bid Close Time.
- (b) Bids submitted by fax, email, or other delivery method other than in person or mail shall not be accepted.
- (c) Tenders shall be received up to but no later than the Bid Close Time.

Article 2. Form of Tender

- (a) Tenders shall be sealed.
- (b) Tenders shall be submitted on the Tender Form attached as **Tender Document D**. It is the Bidder’s sole responsibility to ensure that the Tender Form is the most recent copy and to check online on BC Bid or the RDNO website for any addendums which may be posted.
- (c) Bidder shall acknowledge the receipt of any and all addenda as outlined in **Tender Document D**.
- (d) The Tender envelope shall be clearly marked with the Tender Name and Tender Number.
- (e) Tenders shall contain the Bidder’s business or home address and shall be signed by the Bidder. If the Bidder is a limited company, a partnership, or a joint venture, the Tender shall be signed by an authorized signatory of the Bidder.
- (f) Unit prices shall be filled in where indicated on the Tender form.
- (g) All dollar amounts shall be submitted in Canadian currency only.

- (h) The price shown on the tender form as Gross Total Cost shall include all taxes, freight, basic warranty costs, labour, materials, installation, foundation costs, disposal costs, and other charges, and be the final cost to RDNO for completion of the Project. The Bidder shall save harmless and indemnify RDNO for any costs related to the Project's completion by the Bidder, which are not disclosed in the Tender.
- (i) Tenders that are unsigned, incomplete, conditional, unbalanced, obscure, or that contain irregularities may be rejected.
- (j) Amendments to a submitted Tender shall be permitted only if received in writing prior to the Bid Close Time, and only if endorsed by the same Bidder who signed the original Tender.
- (k) If a mandatory site meeting is set as per Key Term 7, only those Bidders who have attended such meeting and signed in qualify to submit Tenders.
- (l) For any subcontractors to be approved, the Bidder shall submit for RDNO approval, with the Tender, a list of proposed sub-contractors for the Project.

Article 3. Bid and Performance Bonds

- (a) Tender submissions shall be accompanied by:
 - A bid bond in an amount not less than 10% of the Bid Price.
 - An Agreement to Bond, stating that the surety providing the Bid Bond is willing to supply the Performance and Labour and Materials Payment Bond required.
- (b) The accepted bidder shall provide a Performance Bond and a Labour and Materials Payment Bond, each in the amount of 50% of the Bid Price and covering the Project including all of the Contractor's obligations during the warranty period, within 10 days of the award of contract.
- (c) If no contract is awarded, security deposits shall be returned.

Article 4. Tender Opening

- (a) Tenders shall be opened publicly at the RDNO office, listed as the Bid Address, immediately after the Bid Close Time, at which time interested parties may be present if so desired.
- (b) Upon submission, the Tender shall be open for acceptance by RDNO without charge for a period of fifty-five (55) days from the Bid Close Time.

Article 5. Criteria for Consideration

- (a) Criteria which may be used by RDNO in evaluating Tenders and awarding the contract shall consist of those factors RDNO considers, in its sole and absolute discretion, to be relevant, and, without limiting the generality of the foregoing, may include one or more of:
- (i) price;
 - (ii) total costs to RDNO;
 - (iii) reputation of the Bidder;
 - (iv) claims history of the Bidder;
 - (v) qualifications and experience of the Bidder and its personnel;
 - (vi) quality of services and personnel proposed by the Bidder;
 - (vii) ability of the Bidder to ensure continuous availability of qualified and experienced personnel;
 - (viii) the Project schedule;
 - (ix) the proposed labour and equipment;
 - (x) the proposed supervisory staff; and
 - (xi) such other criteria as RDNO may consider to be relevant to ensure the completion of the Project at the greatest value to RDNO.

Article 6. Acceptance/Rejection of Tenders

- (a) RDNO is entitled to reject any or all Tenders submitted, in whole or in part, including without limitation the lowest tender submitted, and to award the contract to the contractor whom RDNO in its sole and absolute discretion deems most appropriate.
- (b) Tenders which contain qualifying conditions or otherwise fail to conform to the Tender Terms may be disqualified or rejected, at the sole discretion of RDNO. RDNO reserves the right, in its sole and absolute discretion, to accept or reject any tender which in the view of RDNO is incomplete, obscure, or irregular, which has erasures or corrections in the documents, which contains exceptions and variations, which omits one or more prices, or which contains prices RDNO considers unbalanced.
- (c) RDNO may elect to retain for consideration Tenders which may be non-conforming due to the omissions of content or form required by the Tender Terms, or because such Tenders have not complied with the process for submission set out herein.
- (d) In the event that RDNO does not receive any Tender satisfactory to RDNO in its sole and absolute discretion, RDNO reserves the right to re-tender the Project or negotiate a contract for the whole or any part of the Project with any one or more persons whatsoever, including one or more of the Bidders. In no event will RDNO be required to offer any modified terms to any other Bidder prior to entering into a contract with the successful

Bidder and RDNO shall incur no liability to any Bidder as a result of such negotiations and modifications.

- (e) On an “all things being equal” basis where two or more tenders are substantially the same so that it is difficult to determine the lowest evaluated bid, awards shall be made first to firms that manufacture in Vernon, and second to firms furnishing goods of British Columbia origin.
- (f) RDNO reserves the right not to open a Tender if only one Tender is received.
- (g) Upon the acceptance of a Tender by RDNO, a binding contract for the performance of the Project will arise between RDNO and the Bidder, subject to the terms of this Agreement and the terms of the Tender submitted by the successful Bidder. The Bidder shall execute and deliver to RDNO the agreement confirming the terms of this binding contract in the form attached as **Tender Document C**.

Article 7. Bidder’s Qualifications

- (a) Each Bidder who submits a Tender represents and warrants that it is competent to carry out the completion of the Project with reasonable workmanship. Bidders shall be required to submit evidence and referrals as to its ability to carry out the work and complete the Project, and should be prepared to satisfy RDNO as to its competency for performing the Project satisfactorily and within the time stated either in the Specifications or in the Tender.

Article 8. Work Location & Conditions

- (a) The Bidder shall examine the work locations as outlined in the Specifications, either personally or through an authorized representative, and satisfy itself as to the local conditions. The Bidder is fully responsible for obtaining all information for the preparation of this Tender and for the completion of the Project. Without limiting the generality of the foregoing, the Bidder shall satisfy itself of any special risks, contingencies, regulations, safety requirements and other circumstances which may be encountered, including the requirement to complying with local bylaws with the hours and days of work, and scheduling to allow for uninterrupted operations of the building.

Article 9. Further Information

- (a) Any additional information, specifications and tender documents may be obtained from the BC Bid or RDNO website. Technical enquiries from Bidders are to be directed to the attention of that person indicated in Key Term 5.

REGIONAL DISTRICT OF NORTH OKANAGAN

TENDER DOCUMENT C

FORM OF AGREEMENT

THIS AGREEMENT dated for reference purposes the _____ day of May, 2018.

BETWEEN:

REGIONAL DISTRICT OF NORTH OKANAGAN
9848 Aberdeen Road
Coldstream, British Columbia, V1B 2K9

(“RDNO”)

AND:

Insert Name
Address
City, BC Postal Code

(the “Contractor”)

Terms of Agreement

In consideration of the covenants and agreements contained in this Agreement, the parties agree as follows:

Article 1. Terms Incorporated

- (a) It is understood and agreed by and between the parties that the following documents are incorporated into and form part of the Agreement between RDNO and the Contractor:
- (i) Tender Document A: Key Terms;
 - (ii) Tender Document B: Tender Terms;
 - (iii) Tender Document D: Tender Form;
 - (iv) The Contractor submitted and accepted Tender;
 - (v) The Specifications and any schedules of quantities and prices and drawings thereto; and
 - (vi) any further details and instructions in explanation and in writing signed between the parties.

Article 2. Scope of Project

- (a) The Contractor hereby agrees with RDNO to complete the Project on the terms and conditions of this Agreement, and within the time specified by the Schedule of Work; and
- (b) The Contractor shall commence the work on the Project within 14 days from the date of receiving notice from RDNO of the acceptance of the Contractor's Tender.

Article 3. Payment

- (a) Subject to applicable legislation and, where such legislation does not exist or apply, in accordance with such prescribed regulations or industry practice respecting holdback percentages and in accordance with the provisions of the General Conditions of the Contract, the Owner shall:
 - 1. once a month, upon invoice of a portion of work completed, make payments to the Contractor as certified by the Contract Administrator; and,
 - 2. upon Total Performance of the Work pay to the Contractor any unpaid balance of the Contract Price then due, as certified by the Contract Administrator.
- (b) Invoices shall be submitted electronically to **financeap@rdno.ca** and shall have the following in the email body or subject line, as well as listed on or as part of the invoice:

Attn: Tannis Nelson, Manager, Community Services
Vernon and District Performing Arts Centre – Boiler Replacement
RDNO 2018-CS11

The invoice should also include the date of invoice and period the invoice covers, as well as a table containing the information outlined below:

| TASK | Current Invoice | Prior Invoiced | Original Budget | Revised Budget | Total Invoiced |
|---------------|------------------------|-----------------------|------------------------|-----------------------|-----------------------|
| | \$ | \$ | \$ | \$ | \$ |
| | \$ | \$ | \$ | \$ | \$ |
| Totals | \$ | \$ | \$ | \$ | \$ |

- (c) Notwithstanding anything else in this Agreement, the holdback or any part thereof may be offset against any amounts owing to RDNO by the Contractor including any breaches of this Agreement or deficiencies.

Article 4. Final Acceptance and Payment of Holdback

- (a) RDNO will pay to the Contractor the Holdback on the expiration of fifty-five (55) days after the presentation to it by the Contractor of a certificate from a duly authorized

representative of RDNO that the work has been fulfilled to its satisfaction within the time or times limited by this contract and upon delivery to it by the Contractor of such release, discharges and waivers of and from any and all claims, demands and lien claims for and in respect of all matters and things growing out or connected with this Agreement or the subject matter hereof and of or from all claims, demands and lien claims whatsoever by the Contractor, or by anyone else as may be deemed expedient by RDNO. The presentation of such a certificate and the delivery of such releases, discharges and waivers shall, unless RDNO determines otherwise, be a condition precedent to the payment to the Contractor of the said balance of the Gross Total Cost.

Article 5. Full Compensation

- (a) The Gross Total Cost shall be accepted by the Contractor as full compensation for everything furnished and done by the Contractor under this Agreement and the terms of the accepted Tender, including all work that was required but was not included in the items herein mentioned, and also for all loss or damage arising out of the nature of the Project or the action of the weather, elements, or any unforeseen obstructions or difficulty encountered in the prosecution of the Project, and for all expenses incurred by or in the consequence of any delay or suspension or discontinuance of the Project as herein specified, and for well and faithfully completing the Project as provided in this Agreement.

Article 6. Schedule of Work

- (a) The Contractor shall establish and submit a detailed work schedule, in which the hours and days of work will comply with local bylaws and allow for uninterrupted operation of the building, to the office of RDNO or delegate for approval prior to the commencement of the Project. The Contractor shall not deviate reasonably from the proposed schedule indicated in the accepted Tender (the "**Schedule of Work**").
- (b) The progress of the Project shall be carried out according to the Schedule of Work without delays within the control of the Contractor. The Contractor shall take whatever measures are necessary in order to complete the work in compliance with the Schedule of Work at no additional cost to RDNO.

Article 7. Manner of Performance

- (a) The whole of the Project and the manner of performing same shall be done in a workmanlike manner, and all personnel shall have an adequate background in the Project required, and to the entire satisfaction and approval of RDNO.
- (b) The Contractor shall carry out all work in such a manner as to allow the full day-to-day operation of any existing building, with minimal obstruction to traffic, and no materials stockpiling or similar obstruction or disturbance shall be permitted at existing walks, exits, or common areas.

- (c) The Contractor shall keep all Project premises reasonably free of waste and building debris at all times. At end of each day, areas in which work has been carried out shall be left broom clean.
- (d) The Contractor shall notify RDNO and receive approval, in writing, before any disruption of services or limitation of use or access to the existing premises.
- (e) The Contractor shall prevent damage to existing construction, equipment, services and finished site surfaces.
- (f) The Contractor shall repair any damage attributable to work under this Agreement immediately with a minimum of inconvenience and at no extra cost and to the satisfaction of RDNO.

Article 8. Permits, Notices, Laws & Rules

- (a) The Contractor shall apply and pay for all necessary permits or licences required for the execution of the Project, including a valid Business Licence. The Contractor shall give all necessary notices and pay for all fees required by law and comply with all laws, ordinances, rules and regulations relating to the Project and to the preservation of public health. The Contractor shall be responsible for the safety of all workmen and equipment on the project in accordance with all applicable safety legislation passed by Federal, Provincial and local authorities governing safety.

Article 9. Inspection and Non-Compliance

- (a) Periodic inspection of the work areas may be made by RDNO, to verify that the service supplied by the Contractor is adequate in all respects, in the discretion of RDNO. If, in the discretion of RDNO, the Contractor's services, quality of workmanship, or quality of materials, or those of its subcontractors are not adequate for the Project, the Contractor will be notified either verbally or in writing of the corrective measures to be taken.
- (b) Upon such notification as indicated above, the Contractor shall proceed without delay to institute corrective measures. Such periodic inspections shall not relieve the Contractor in any way from making its own inspections to ensure that the work is being satisfactorily performed.
- (c) RDNO may, without limitation and in its sole discretion determine:
 - (i) whether any part of the Project has been completed adequately by the Contractor.
 - (ii) the adequateness and acceptability of the quality or quantity of any labour or material used in the execution of the Project and the timing or scheduling of the Project.

- (d) The Contractor shall be responsible for replacement of any work incorrectly carried out due to failure to obtain supervision by RDNO, where such is required.

Article 10. Materials, Appliances, and Employees

- (a) Unless stipulated otherwise, the Contractor shall provide and pay for all material, labour, tools, equipment, power, transportation and other facilities for the execution of the Project.
- (b) The Contractor shall not employ on the Project any unfit person nor anyone not skilled in the work assigned to him/her. For greater clarity, being under the influence of, or in the possession or use of intoxicating beverages or drugs on the work site shall be sufficient reason to declare an employee as unfit.
- (c) The Contractor and/or its employees shall not enter into any dispute with, and shall maintain a courteous relationship with, the public while in the process of executing the Project.
- (d) The Contractor is responsible to erect constructions as necessary for proper storage and protection of materials and supplies.
- (e) No advertising signs or notices will be permitted on site.
- (f) The Contractor shall provide exterior scaffolding, stairs, hoists, shoring, bracing, sheeting and ladders necessary for completion of the Project.
- (g) All materials shall be delivered, stored, handled and applied in strict accordance with manufacturer's instructions and shall be delivered with type, grade and brand name clearly identifiable and seals intact.

Article 11. Force Majeure

- (a) The RDNO shall not be liable for any failure of or delay in performance of its obligations hereunder nor be deemed to be in breach of this Agreement if such failure or delay arises from abnormal circumstances, including any Event of Force Majeure, nor shall the RDNO be liable for costs and expenses arising by reason of abnormal circumstances, including any Event of Force Majeure.

Unless otherwise provided in this Agreement, a Force Majeure event will merely suspend the contractual obligations impaired or affected by such cause and suspend payment thereof and shall not bring this Agreement or any portion thereof to an end.

Article 12. Independent Contractor

- (a) The Contractor is an independent contractor and all persons employed by the Contractor to perform its obligations hereunder shall be deemed to be employees or servants of the Contractor and not of the RDNO.

Article 13. Sub-Contractors

- (a) All sub-contractors are required to be approved by RDNO prior to working on the Project. The Contractor is responsible for the work of all sub-contractors, both as to materials and workmanship. The Contractor is also responsible for organizing the progress of sub-contractors' work so that the Project proceeds in accordance with the Schedule of Work. No further work will be sub-let, nor will a sub-contractor be changed without the consent of RDNO.
- (b) The Contractor and sub-contractors shall do any and all work in their own branch required by the Contractor or other sub-contractors for completion of the work of all trades. The Contractor and sub-contractors are responsible for being entirely familiar with the specifications as they affect their respective work.

Article 14. Emergencies

- (a) RDNO may stop the progress of the Project whenever in its discretion such stoppage may be necessary to ensure the safety of life, the structure, or of adjoining property.

Article 15. Changes in the Work

- (a) RDNO, without invalidating the Tender, may make changes by altering, adding to, or deducting terms or items from the Project, and the consideration paid by RDNO to the Contractor, and the Schedule of Work, shall be adjusted accordingly by agreement between the parties.
- (b) The value of any change or extra work to the Project shall be determined through a contemplated change order in one or more of the following ways prior to initiation of the change or commencement of the extra work:
 - (i) by unit prices agreed to;
 - (ii) by estimate and acceptance in a lump sum; and
 - (iii) by cost and percentage or by cost and a fixed fee.
- (c) In case of additional work to be paid for under method (b)(iii) above, the Contractor shall keep and present, in such form as RDNO may require, a correct accounting of the net cost of labour and materials, together with vouchers.

- (d) No payment on account of changes or extra work shall be made until the value thereof shall have been determined as herein provided.

Article 16. Workplace Safety

- (a) The Contractor shall, within 10 days following the award of contract and prior to the start of work, submit to RDNO:
- one copy of a “clearance letter” indicating that the Contractor is in *WorkSafe BC* compliance, and shall also provide to RDNO, from time to time as may be required, satisfactory proof that such compliance is still in full force and effect; and,
 - a site safety plan for the Project.
- (b) The Contractor shall observe and comply with Worker’s Compensation Act (British Columbia) and the OHS Regulation, including: conducting worker safety orientations; conducting daily safety meetings and keeping meeting minutes on-site; holding health and safety meetings to coordinate activities; and, conducting safety inspections to ensure compliance with *WorkSafeBC* and OHS Regulations by all workers.
- (c) In any case where pursuant to the provisions of the *Workers Compensation Act*, the Worker's Compensation Board orders the Contractor in respect of its operations under this Agreement to cease operations because of failure to install or adopt safety devices or appliances directed by the order of the said Board, or required under said Act or regulations thereunder or because said Board is of the opinion the conditions of immediate danger exist that would be likely to result in injury to any person, or because of lack of payment of an account due to the Board, RDNO may cancel this Agreement on 24 hours written notice to the Contractor.

Article 17. Protection of the Work Property and Public

- (a) The Contractor shall comply with all applicable laws, ordinances, rules regulations and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss.
- (b) The Contractor shall protect any property adjacent to the work area from damage as the result of its operations under this Agreement. The Contractor shall protect the Project and property of RDNO from damage which may arise as the result of its operations under this Agreement.

Article 18. Right To Cure Default

- (a) If the Contractor should neglect to prosecute the Project properly or fail to perform any

provision of this Tender, RDNO, after five days written notice to the Contractor, may without prejudice to any other right or remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor.

Article 19. Right to Terminate Contract

- (a) If the Contractor or its principal shareholder shall be adjudged a bankrupt, or if it or its principal shareholder should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of its insolvency or the insolvency of its principal shareholder, or if it should refuse or fail to supply enough properly skilled workmen or proper equipment after having received seven days notice in writing from RDNO, or if it should otherwise be guilty of a substantial violation of the provisions of this Agreement, in the discretion of RDNO, then RDNO may, without prejudice to any other right or remedy it may have, by giving the Contractor written notice, terminate this Agreement and finish the work by whatever means RDNO may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment.
- (b) If the Project should be stopped under an order of any court, or other public authority through no act or fault of the Contractor or of anyone employed by him, or if RDNO should fail to pay to the Contractor within 14 days of its maturing and presentation, any sum certified by RDNO or awarded by arbitrators, then the Contractor may upon five (5) days written notice to RDNO stop work and/or terminate this Agreement without prejudice to any other right or remedy it may have, and recover from RDNO payment for all work executed.

Article 20. Assignment

- (a) The Contractor shall not assign the Tender or this Agreement or any part thereof or any benefit or interest therein or thereunder (otherwise than by a change in favour of the Bidder's bankers of any monies due or to become due under this Agreement which assignment shall be notified to RDNO) without prior written consent of RDNO, which consent may be unreasonably withheld.

Article 21. Indemnity

- (a) The Contractor shall save and hold harmless RDNO, its officers, agents, servants and employees, from and against any and all suits or claims alleging damage or injury (including death) to any person or property that may occur or that may be alleged to have occurred, in the course of the performance of this Agreement, whether such claim shall be made by an employee of the Contractor, or by a third person and whether or not it shall be claimed that the alleged damage or injury (including death) was caused through a wilful or negligent act or omission of the Contractor, its officers, servants, agents or employees, and at its own expense, the Contractor shall defend any and all such actions and pay all

legal charges on a client-solicitor basis, costs and other expenses arising therefrom.

- (b) The Contractor shall ensure that RDNO, its officers and employees, are saved harmless from any liability whatsoever arising out of the performance or non-performance of the Project by the Contractor or its subcontractors.

Article 22. Liens

- (a) The Contractor shall take all necessary and proper steps to ensure that no claims for lien will be filed against the property of RDNO. The Contractor agrees that it will at its own expense cause any such lien or claim relating to the Project and the involvement of the Contractor to be discharged and released.

Article 23. Insurance

- (a) The Contractor shall maintain and keep in force during the term of this Agreement and until the date of the completion certificate of the Project, in a form satisfactory to RDNO, in its sole discretion:
 - (i) Public Liability and Property Damage insurance against liabilities or damages in respect of damage to property arising out of the performance of the Project, in an amount no less than \$2,000,000.00;
 - (ii) a minimum of \$2,000,000 of Public Liability and Property Damage insurance shall be carried on all automotive equipment; and
 - (iii) owner and non-owned automobile insurance with respect to all motor vehicles owned and/or operated by the Bidder in its work on the Project.
- (b) The Contractor shall, within 10 days of award of contract, submit to RDNO one copy of the insurance policies required under this section and shall also provide to RDNO from time to time, as may be required satisfactory proof that such policies are still in full force and effect.

Article 24. Equipment

- (a) Notwithstanding anything contained elsewhere herein, it is understood and agreed that RDNO shall not be liable for any loss or damage to the Contractor's equipment including loss of use thereof.

Article 25. Entire Agreement

- (a) This Agreement, including all schedules, appendices, and amendments hereto sets forth all of the covenants, promises, agreements, conditions, and understandings between

RDNO and the Contractor, and there are no covenants, promises, agreements, conditions, or understandings either oral or written, between RDNO and the Contractor other than as are herein set forth. No alteration, amendment, change or addition to this Agreement shall be binding upon RDNO or the Contractor unless made in writing and signed by each of them.

Article 26. Governing Law

- (a) This Agreement shall be construed and governed in accordance with the laws of British Columbia and the Contractor hereby submits to the jurisdiction of the courts of British Columbia with respect to any action or proceeding brought by RDNO to enforce its rights hereunder.

Article 27. Time

- (a) Time is of the Essence in this Agreement.

Article 28. Successors and Assigns

- (a) This Agreement shall be binding upon and enure to the benefit of RDNO and the Contractor and their respective heirs, executors, administrators, successors, and permitted assigns.

Article 29. Joint and Several

- (a) In the event that the Contractor comprises one or more persons or entities, all grants, covenants, provisions, claims, rights, powers, obligations, privileges, and liabilities shall be construed as being joint as well as several.

Article 30. Gender

- (a) Wherever the singular or masculine is used throughout this Agreement, the same shall be construed as meaning the plural or feminine or body corporate, as the context or case may be.

Article 31. Freedom of Information and Protection of Privacy Act

- (a) The parties agree and consent to the disclosure of this agreement as a matter of public record and acknowledge that applicable laws may require disclosure of information provided by one party to the other pursuant to, or in connection with, this agreement.

AS EVIDENCE OF THEIR AGREEMENT the parties have executed this Agreement as of the date first written above.

REGIONAL DISTRICT OF NORTH OKANAGAN

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

Insert Name of Contractor:

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

Sample

REGIONAL DISTRICT OF NORTH OKANAGAN

TENDER DOCUMENT D

TENDER FORM

**TO: Regional District of North Okanagan
9848 Aberdeen Road
Vernon, BC V1B 2K9**

The undersigned Bidder, having reviewed Tender Documents A through D, the Specifications, and the site of the Project, and having otherwise satisfied itself as to the conditions to be met during construction and conduct of the Project, hereby offers to enter into, execute and deliver to you an agreement in the relative form annexed, to find and supply all the plant, material, labour and workmanship, and to do everything further necessary to do the Project, at the prices and on the terms and conditions herein contained, and within the time herein limited.

It is hereby agreed that once the Tenders for this contract have been opened, this Tender and the offer constituted hereby shall not be revoked before either acceptance thereof by you OR the expiration of thirty (30) days after the opening of Tenders, whichever shall first occur.

The following pages contain the further details of this offer.

Firm Name: _____

Address: _____

City: _____ Postal Code: _____

Telephone #: _____ Fax #: _____

Email: _____

Authorized Signing Officer & Title: _____
(Please Print)

Signature of Signing Officer: _____

Date: _____

State the guaranteed maintenance/service staff 24 hr per day response time: _____

List below three references of organizations nearest the Regional District of North Okanagan that you have performed similar work for in the past twelve months:

1/ Organization Name: _____
Contact: _____
Telephone #: _____
Fax #: _____

2/ Organization Name: _____
Contact: _____
Telephone #: _____
Fax #: _____

3/ Organization Name: _____
Contact: _____
Telephone #: _____
Fax #: _____

List any sub-contractors to be used; and their trade:

| Contractor | Trade |
|-------------------|--------------|
| 1 _____ | _____ |
| 2 _____ | _____ |
| 3 _____ | _____ |
| 4 _____ | _____ |
| 5 _____ | _____ |
| 6 _____ | _____ |
| 7 _____ | _____ |

I/We hereby certify that I/We have read and fully understand the Tender Form, Tender Terms, Project Terms, Specifications, and all other documents, instructions, forms, and terms comprising the Tender Documents for this Project, and make the following offer:

Lump Sum \$ _____

NET TOTAL COST \$ _____

GST \$ _____

PST \$ _____

GROSS TOTAL COST \$ _____

State earliest installation starting date: _____

State number of actual calendar days to complete proposed work: _____

State warranty: _____

State regular hours of business: _____

State telephone number during regular business hours: _____

State telephone number outside regular business hours: _____

Name of contact: _____

Number of employees currently on staff: _____

State base location of maintenance/service staff: _____