



Making a difference...together

SALT SPRING ISLAND ELECTORAL AREA ADMINISTRATION

CONTRACT

**Drake Road Trail
SSI 2021-005**

August 2021

Capital Regional District
108 – 121 McPhillips Avenue
Salt Spring Island, BC V8K 2T6

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

TABLE OF CONTENTS

	<u>PAGE</u>
INVITATION TO TENDER	1
INSTRUCTIONS TO TENDERERS	2
1.0 CONDITIONS OF TENDERING	2
2.0 BID SECURITY, BONDING, INSURANCE AND LETTER OF CREDIT	4
3.0 SUBMITTING THE TENDER	6
4.0 ACCEPTANCE OF TENDER	8
5.0 QUALIFICATIONS AND EVALUATION CRITERIA	8
6.0 NO CLAIM FOR COMPENSATION	10
7.0 NON-MANDATORY PRE-TENDER SITE MEETING	10
TENDER FORM	12
SCHEDULE OF PRICES AND ESTIMATED QUANTITIES	16
TENDER SUMMARY	17
TENDER ANNEXURES	18
BID BOND	19
LETTER OF CREDIT	22
UNDERTAKING OF SURETY - PERFORMANCE BOND	24
UNDERTAKING OF SURETY - LABOUR AND MATERIALS PAYMENT BOND	25
SCHEDULE OF FORCE ACCOUNT RATES	26
LIST OF PREVIOUS CONTRACTS	27
WORKSAFEBC NON-COMPLIANCE VIOLATIONS HISTORY	29
LIST OF PROPOSED SUBCONTRACTORS	30
LIST OF SUPERVISORY PERSONNEL	31
LIST OF EQUIPMENT	32
LIST OF PROPOSED EQUIPMENT SUPPLIERS	33
LIST OF PROPOSED MAJOR MATERIALS SUPPLIERS	34
AGREEMENT BETWEEN THE OWNER AND CONTRACTOR	36
PERFORMANCE BOND	40
LABOUR AND MATERIALS PAYMENT BOND	44
GENERAL CONDITIONS	48
SUPPLEMENTAL GENERAL CONDITIONS	82

SPECIFICATIONS

APPENDIX A – OWNER'S NOTIFICATION OF HAZARD

APPENDIX B – DRAWINGS

**INVITATION TO TENDER
AND
INSTRUCTIONS TO TENDERERS**

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

INVITATION TO TENDER

Sealed Tenders, plainly marked on the envelope "Tender for SSI 2021-005 – Drake Road Trail" will be received by the Manager, Salt Spring Island Parks and Recreation of the Capital Regional District at their offices at 108-122 McPhillips Avenue, Salt Spring Island, British Columbia up to 2:00 pm local time on Friday, September 3, 2021 at which time they will be opened in public.

The works to be constructed under this Contract generally include, but is not limited to trail improvements, drainage works and trail installation between Drake Road and Cypress View Road on Salt Spring Island, British Columbia.

Proponents may be awarded follow-on work without a competition.

The lowest or any tender will not necessarily be accepted.

A non-mandatory pre-tender site meeting will be held at 10:00AM on Tuesday, August 10, 2021 at the trail end directly across from 138 Drake Road, Salt Spring Island, British Columbia. Tenderers are recommended to visit the site to ensure that they have satisfied themselves of everything and of every condition that could affect the execution of the work. Tenderers are encouraged to make enquiries to satisfy themselves of the work requirements.

For information and/or enquiries on this project please contact Dan Ovington, Manager, Salt Spring Island Parks and Recreation.

Dan Ovington, Manager Salt Spring Island
Parks and Recreation
Salt Spring Island Electoral Area
108 - 121 McPhillips Avenue
Salt Spring Island, BC V8K 2T6

Tel: 250.537.4448
Email: dovington@crd.bc.ca

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL**

INSTRUCTIONS TO TENDERERS

The "Instructions to Tenderers" include the following:

- 1.0 Conditions of Tendering
- 2.0 Bid Security, Bonding, Insurance and Letter of Credit
- 3.0 Submitting the Tender
- 4.0 Acceptance of Tender
- 5.0 Qualifications and Evaluation Criteria
- 6.0 No Claim for Compensation
- 7.0 Non-mandatory Pre-tender Site Meeting

1.0 CONDITIONS OF TENDERING

- 1.1 A Tenderer not complying with all the requirements of these "Instructions to Tenderers" RISKS having its Tender rejected.
- 1.2 For the purposes of tendering on this project, the following definitions shall apply.
 - 1.2.1 Whenever the word "Owner" appears in these documents, it shall be taken to mean the Capital Regional District.
 - 1.2.2 Contract Documents mean:
 - a. Instructions to Tenderers;
 - b. Tender Form;
 - c. Agreement Between the Owner and Contractor;
 - d. General Conditions;
 - e. Supplemental General Conditions;
 - f. Specifications;
 - g. Drawings;
 - h. Addenda which may be issued during Tendering period.
- 1.3 The Tenderer shall be subject to each and every condition, requirement and qualification contained in the Contract Documents and the submission of its tender shall be considered by both the Owner and the Tenderer as conclusive evidence that the Tenderer has carefully read all the Contract Documents, that Tenderer has ascertained the provisions and requirements of all the pertinent laws and regulations (local, provincial and federal) relating to labour; the purchase of materials; the payment of taxes and duties; the payment of freight and ferry charges; the carrying out of the

work and the necessity for licenses and permits, and that Tenderer has thoroughly examined the site and has satisfied himself as to the physical state of the site and all available public services including access to and from the site and the off-loading and storage of materials.

- 1.4 In their tendered price (lawful money of Canada), the Tenderer shall include payment of all applicable sales taxes, licences, building permits, and all or any municipal, provincial or federal charges in connection with the contract, including GST. A GST registration number and amount must be included in the tender form. The Owner will obtain the necessary permissions from the provincial government ministries and from the municipalities to construct the works. All other licences and permits shall be obtained and paid for by the Tenderer.
- 1.5 Tenders are to be subject to all relevant provincial and other legislation.
- 1.6 The Tenderer is deemed to have satisfied himself before submitting its tender as to the correctness and sufficiency of its tender and the failure or neglect of a Tenderer to receive or examine any form, instrument, or other document or to acquaint himself with existing conditions shall in no way relieve Tenderer of its obligations with respect to the tender and to the Contract.
- 1.7 A tender may only be withdrawn prior to the scheduled time for the opening of tenders.
- 1.8 Any alteration or interpretation of the Contract will be made in the form of a written Addendum which may be issued by the Owner at any time up to FIVE (5) WORKING DAYS prior to the tenders being opened.
- 1.9 Any Addendum issued by the Owner shall be maintained in the Salt Spring Island Administration of the Capital Regional District and a copy shall be made available to any Tenderer upon request.
- 1.10 Tenderers are responsible for ascertaining the existence and contents of any Addendum issued by the Owner.
- 1.11 All Tenderers shall acknowledge receipt and acceptance of each Addendum issued by signing and dating in the spaces provided and submitting the signed Addendum with the Tender. Any Tender submitted without the signed Addenda may be rejected by the Owner as an incomplete Tender.
- 1.12 Tenderers who have obtained tender documents from sources other than the Capital Regional District Public Website or BCBid, shall register as a vendor on the CRD Public website in order to receive any Addendum issued by the Owner. It is the responsibility of each Tenderer to check the CRD Public Website or BCBid regularly for any issued Addendum.

- 1.13 Every item in the Schedule of Prices and Estimated Quantities is to be included and if the Tenderer considers that items have been included in any other rates in the Schedule of Prices and Estimated Quantities, "NIL" is to be entered in the cost column.
- 1.14 Prior to the award of the Contract, the Owner may require the successful Tenderer to break down a lump sum price into separate items as specified by the Owner to facilitate the making of progress payments.
- 1.15 Within FOURTEEN (14) CALENDAR DAYS after the award of the Contract, the Tenderer shall provide a detailed work plan and schedule incorporating all material, equipment, and plans of the work. The work plan and schedule shall be continually updated and submitted to the Owner at the Progress Meetings. Progress Meetings will be held at regular intervals at the time and place stipulated by the Owner.
- 1.16 The Capital Regional District will not assess the suitability of equipment to meet the Specifications prior to tender opening.
- 1.17 Local bylaws pertaining to noise, particularly from vehicles travelling to and from the job site will be strictly enforced.
- 1.18 This Contract, as well as any resultant studies and documents received, are under the control of the Capital Regional District, and as such are subject to the *Freedom of Information and Protection of Privacy Act*. This means that they are subject to requests for access, although items may qualify for non-disclosure under Section 21 of the Act - "...Release harmful to the business interests of a third party", or one or more of the other sections limiting access rights of requesters.
- 1.19 The terms used in these documents are non-gender specific and refer to both the feminine and the masculine.
- 1.20 Any discharge of waste into storm sewers or watercourses shall meet all CRD and local bylaws as it relates to storm sewers and watercourses.

2.0 BID SECURITY, BONDING, INSURANCE AND LETTER OF CREDIT

2.1 BID SECURITY

- 2.1.1 Tenders shall be accompanied by a Bid Security in the form of Bid Bond, Letter of Credit, or Tender Deposit issued in the name of the Owner in the amount of not less than TEN PERCENT (10%) of the TOTAL TENDERED AMOUNT. The Bid Bond shall be in the form provided in this document in the Tender Form, or on an acceptable similar form, and be issued by a Surety Company licensed to conduct business in the Province of British Columbia. The Letter of Credit shall be an irrevocable Commercial Letter of Credit in the form provided in this document in the Tender Form, or an acceptable similar form, and be issued by a Victoria branch of a bank licensed to conduct business in

the Province of British Columbia. The Tender Deposit shall be in the form of a certified cheque issued by a Victoria branch of a bank licensed to conduct business in the Province of British Columbia. Alternative forms approved by the Canadian Construction Association may be used provided that the alternative forms do not deviate significantly from the forms included herein.

2.1.2 Tenders are irrevocable and no Tenderer shall withdraw a tender for any reason, including error after the opening of tenders. If a Tenderer withdraws a tender prior to the award of the Contract, or in the event of failure on the part of any Tenderer whose tender has been accepted to perform the obligations set out in the Tender Form, including entering into a contract with the Owner, the Bid Security shall be forfeited and may be retained by the Owner as liquidated damages. If the difference between the amount of the defaulting Tenderer's bid and the price for which the Owner contracts with another Contractor to perform the work is lower than the amount of the Bid Security, then the amount of liquidated damages shall be limited to the amount of the difference. If the difference between the amount of the defaulting Tenderer's bid and the price for which the Owner contracts with another Contractor to perform the work is greater than the amount of the Bid Security, then the Owner may retain or draw down on the full amount of the Bid Security without in any way limiting or waiving any other or further remedy it may have in law or equity against the defaulting Tenderer for damages in excess of the amount of the Bid Security.

2.1.3 The Bid Securities submitted by the unsuccessful Tenderers shall lapse TEN (10) CALENDAR DAYS after the Contract Agreement is signed by the Capital Regional District and the successful Tenderer and will be returned to them.

2.1.4 The Bid Security of the successful Tenderer will be returned upon the execution of the Contract Documents and the deposit with the Owner of the Performance Bond, Labour and Materials Payment Bond, WCB Certificate and copies of the Insurance Policies.

2.2 PERFORMANCE BOND

Tenders shall be accompanied by the form letter "Undertaking of Surety - Performance Bond" indicating the willingness of the Guarantee Company in question to give such a bond in accordance with Article 34 of the General Conditions.

2.3 LABOUR AND MATERIALS PAYMENT BOND

Tenders shall be accompanied by the form letter "Undertaking of Surety - Labour and Materials Payment Bond" indicating the willingness of the Guarantee Company in question to give such a bond in accordance with Article 34 of the General Conditions.

2.4 INSURANCE

The Tenderer's attention is drawn to the provisions of General Conditions Article 55 in which the details of the insurance required to be carried by the Contractor are specified.

2.5 LETTER OF CREDIT FOR GUARANTEE PERIOD

The Tenderer's attention is drawn to the requirement, outlined in General Conditions Article 30, to provide a standby irrevocable commercial letter of credit to be used if necessary by the Owner to rectify deficiencies during the Guarantee Period.

3.0 SUBMITTING THE TENDER

3.1 The signature of the Tenderer shall be in handwriting or, if the Tenderer is a corporation, the Tenderer shall be executed by an individual with authority to bind the corporation or under corporate seal. Any tender not so executed may be rejected.

3.2 Each Tenderer shall submit, as part of its tender, completed lists provided in the Tender Form Annexures regarding information relating to previous contracts, subcontractors, equipment and material suppliers and supervisory personnel.

Tenders shall be signed, sealed and enclosed in a sealed envelope (unless submitted by e-mail in accordance with 3.3) addressed to:

Manager, Salt Spring Island Parks and Recreation
Capital Regional District
108 – 121 McPhillips Avenue
Salt Spring Island, BC V8K 2T6

and shall be marked:

Drake Road Trail SSI 2021-005

and show the name of the Tenderer.

If forwarded by mail or courier, the sealed envelope containing the tender must be enclosed within a mailing envelope.

3.3 Tenders submitted electronically shall be complete and saved in one PDF file marked with the Tender number and name of Tenderer (other than any electronic bid bond or consent of surety, which must be provided in separate files). Tenders submitted electronically can submit the bid security required under section 4.1 separately by mail or courier, provided that all required documents are received prior to the time set for closing of tenders. Alternatively, tenders submitted electronically can be accompanied by an electronic bid bond and electronic undertakings of surety. The electronic bid bond must meet all the requirements specified in section 4.1, and the Surety

Association of Canada's criteria for electronic bonds. Without limiting the foregoing, the electronic bond must meet the following criteria:

- a) The bond must contain digital signatures and digital seals. A scanned copy of a paper bond is not an acceptable electronic bond.
- b) The version submitted by the Tenderer must be verifiable by the Owner with respect to the totality and wholeness of the bond form (including the content, digital signatures and digital seals) with the Surety Company or an approved verification service provider of the Surety Company;
- c) The version submitted must be viewable, printable and storable in standard electronic file formats acceptable to the Owner, and in a single file. Allowable formats include pdf.
- d) Verification may be conducted by the Owner immediately or at any time during the life of the bond and at the discretion of the Owner with no requirement for passwords or fees. The resulting verification must provide a clear, immediate, and printable indication of pass or fail regarding item (b).

3.4 Instructions for verification must be included by the Tenderer. Bonds failing the verification process will not be considered valid. The owner reserves the right to contact the Tenderer's Surety Company or Surety Company's service provider directly in order to verify the electronic bond. The Tenderer and Surety Company should refer to the e-bonding information on the Surety Association of Canada's website, which includes a Checklist of Industry Requirements for E-Bonding Solutions.

3.5 Tenders delivered by mail, courier or email to the above mailing or email address (ccharron@crd.bc.ca), must be received prior to the time and date stipulated in the "Invitation to Tender". Delays caused by COVID-19 or any issue, including computer related issues, will not be grounds for an extension of the Closing Time. Tenders received after the Closing Time will be returned unopened to the Tenderer. The clock on Chantalle Charron's computer shall be used to time stamp emails that are received. It is recommended that the Tenderer contact Chantalle Charron to verify that their Tender has been received, but the CRD shall not be liable for any reason should CRD not able to respond prior to the Closing Time. Email is inherently unreliable and Tenderers are encouraged to submit well in advance of the Closing Time to ensure receipt by CRD.

If the Capital Regional District offices are closed for any reason or access is blocked by a labour union picket line, the tender opening will be rescheduled. An Addendum will be issued by the Owner confirming the new time and location for the tenders to be received.

3.6 Tenders submitted by facsimile communication equipment (FAX) will not be considered nor will modifications submitted by FAX.

4.0 ACCEPTANCE OF TENDER

- 4.1 Tenders not in the office of the Capital Regional District by the time and date stipulated will be returned to the Tenderer unopened.
- 4.2 Any tender which is incomplete, conditional, obscure or contains erasures, alterations, escalator clauses or irregularities of any kind may be rejected by the Owner as an irregular tender.
- 4.3 Any tender which does not include a completed schedule of force account rates and lists of previous contracts, subcontractors, supervisory personnel, equipment, equipment suppliers and major materials suppliers, and WorkSafeBC Occupational Health and Safety Violations History form, as provided in the Tender Form Annexures, may be rejected by the Owner as an incomplete tender.
- 4.4 Any tender which lists more than one major subcontractor or supplier to provide the same service, equipment or material may be rejected by the Owner as an irregular tender.
- 4.5 Tenders, in consideration of the Owner considering this tender, shall be open for acceptance by the Owner for SIXTY (60) CALENDAR DAYS after the opening of tenders and may not be withdrawn by the Tenderer during that time. The successful Tenderer will be notified in writing by the Owner of the acceptance of Tenderer's tender as expeditiously as possible and no other act shall constitute acceptance of a tender.
- 4.6 The successful Tenderer shall execute a Contract with the Owner within THIRTY (30) CALENDAR DAYS after the date of the written notification of the acceptance of the tender. The form of Contract Agreement shall be as contained herein, with such modifications as are necessary. The Contract Documents shall include any Addenda which may be issued.
- 4.7 Following the opening of tenders, the Owner may in its discretion require any Tenderer to provide evidence that the Tenderer is a business in good standing in the Province of British Columbia and is capable of performing the Contract.

5.0 QUALIFICATIONS AND EVALUATION CRITERIA

- 5.1 The Tenderer is required to submit details of previous experience with the type of work proposed and demonstrate proven ability to complete the intended works within the scheduled period of time as specified in the Tender Documents. No award will be made to any Contractor who cannot give satisfactory assurance as to its ability to carry out the works both from Contractor's financial rating, and by reason of previous experience as a Contractor on work of a similar nature to that contemplated in the Contract.

- 5.2 The lowest or any tender will not necessarily be accepted. The Owner reserves the right in its absolute discretion to accept the tender which it deems most advantageous to itself and favourable in its interests and the right to waive informalities in and reject any or all tenders, in each case without giving any notice. In no event will the Owner be responsible for the costs of preparation or submission of a tender.
- 5.3 Tenders which contain qualifying conditions or otherwise fail to conform to these Instructions to Tenderers may be disqualified or rejected. The Owner, however, may at its sole discretion reject or retain for consideration tenders which are non-conforming because they do not contain the content or form required by these Instructions to Tenderers or because they have not complied with the process for submission set out in these Instructions to Tenderers.
- 5.4 Tenderers will be evaluated based on the following criteria:
 - 5.4.1 Qualifications and related experience of the Tenderer and senior personnel and subcontractors to be assigned to this project.
 - 5.4.2 Performance of the Tenderer and subcontractors on similar projects including, without limitation, the Tenderer's history with respect to quality of work, scheduling, changes in the work and force account work.
 - 5.4.3 The Tenderer's compliance with all statutes, regulations, and bylaws affecting the Tenderer's work. The Owner will give particular attention to non-compliance violations of WorkSafeBC Occupational Health and Safety Regulations issued to the Tenderer in the past five (5) years.
 - 5.4.4 Lowest price to the Owner of having the work completed in accordance with the Contract Documents.
 - 5.4.5 The conformity of the tender to the requirements set forth in these Instructions to Tenderers.
 - 5.4.6 Conformance with the timing provided for in the Specifications.
 - 5.4.7 Greatest value based on quality, service and price.
- 5.5 The evaluation process will be conducted at the sole discretion of the Owner and, in particular, the price to carry out the work is not the only or primary criterion which will be utilized by the Owner. The Owner reserves the right to make inquiries regarding any or all Tenderers.
- 5.6 The Owner reserves the right, at its discretion, to negotiate with any Tenderer that the Owner believes has the most advantageous tender. In no event will the Owner be required to offer any modified terms to any other Tenderer prior to entering into a contract with the successful Tenderer and the Owner shall incur no liability to any other Tenderer as a result of such negotiations or modifications.
- 5.7 Tenderers are advised that after receipt of tenders and prior to award of Contract, Tenderers may be required to provide the Owner with additional information concerning the Tenderer or its tender including, but not limited to, a further breakdown of relevant components of the Total Tendered Amount.

- 5.8 The Total Tendered Amount used in the evaluation of tenders will be corrected for any arithmetic errors. The unit rates quoted will govern and the extensions will be adjusted if there are any inconsistencies between the two amounts.
 - 5.9 The Owner reserves the right to reject any tenders of a Tenderer that is, or whose principals – including affiliates, subsidiaries, officers or directors – are, at the time of tendering, or have been within a period of five years prior to the tender closing date, engaged either directly or indirectly through another corporation or legal entity in a lawsuit or legal proceeding initiated in any court or tribunal against the Owner in relation to any contract with, or works or services provided to Owner.
 - 5.10 The Owner reserves the right to reject any tenders of a company that owes, or whose principals owe, monies to the Owner at the time of tendering.
 - 5.11 The Owner reserves the right, in its sole discretion, to reject any tenders of a company or individual in relation to which the CRD has received, from a municipal council represented on the CRD Board, correspondence indicating that the company or individual is not suitable to perform the work of the tender contract because of a poor performance or unprofessional conduct in relation to work similar to that being tendered.
- 6.0 NO CLAIM FOR COMPENSATION
- 6.1 Except as expressly and specifically permitted in these Instructions to Tenderers, no Tenderer shall have any claim for any compensation of any kind whatsoever, as a result of participating in the Tender, and by submitting a bid each Tenderer shall be deemed to have agreed that it has no claim.
- 7.0 NON-MANDATORY PRE-TENDER SITE MEETING
- 7.1 A non-mandatory pre-tender site meeting will be held at 10:00AM on Tuesday, August 10, 2021 at the trail end directly across from 138 Drake Road, Salt Spring Island, British Columbia.
 - 7.2 The purpose of the site meeting is for a general review of the existing site and proposed work and to respond to questions from Tenderers.
 - 7.3 The site meeting is provided by the Owner for the general convenience of Tenderers and is not intended to be a thorough examination of all existing site and soil conditions. Attendance to the site meeting in no way limits the responsibility of the Tenderers to make their own independent determination of site conditions and any and all other pertinent factors in preparation of this Tender.

TENDER FORM

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

TENDER FORM

NAME AND ADDRESS OF FIRM TENDERING

Sealed Tenders, plainly marked on the envelope

TENDER FOR: Drake Road Tail SSI 2021-005

NAME OF FIRM: _____

ADDRESS OF FIRM: _____

will be received by: Dan Ovington, Manager, Salt Spring Island Parks and Recreation
Capital Regional District
108 – 121 McPhillips Avenue
Salt Spring Island, BC V8K 2T6

at the time and date stated in the "Invitation to Tender" at which time they will be opened in public.

Complete the following information in PRINTED OR TYPEWRITTEN form. Any future correspondence from the Capital Regional District concerning this Contract will be directed to the address shown below.

NAME OF FIRM TENDERING: _____

CONTACT NAME: _____

MAILING ADDRESS: _____

_____ Postal Code: _____

TELEPHONE NUMBER: _____

FAX NUMBER: _____

E-MAIL ADDRESS: _____

DATE: _____

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

The Chairman and Members of the Board
Capital Regional District
625 Fisgard Street, PO Box 1000
Victoria, British Columbia V8W 2S6

Ladies and Gentlemen:

The undersigned Tenderer, having carefully read and examined the Instructions to Tenderers, Tender Form and Annexures, Contract Agreement, General Conditions, Specifications, Drawings and Addenda hereby agrees to the same, and having carefully examined the locality and the site of the work and having full knowledge of the work required and of the materials to be furnished and used does hereby tender and offer to enter into a Contract to perform and complete the whole of the said works and provide all necessary labour, plant, tools and materials as set forth and in strict accordance with the Specifications, Drawings and other Contract Documents, and to do all therein called for on the terms and conditions and under the provisions therein at the prices which Tenderer has entered in the Schedule of Prices and Estimated Quantities at which prices the cost of the works set out therein would amount to a

TOTAL TENDERED AMOUNT of \$ _____ (including GST) (lawful money of Canada)

The undersigned Tenderer agrees to complete the whole of the works within a time, measured in CALENDAR DAYS, after the Notice to Proceed of:

_____ (CALENDAR DAYS)
(To be filled in by the Tenderer)

The starting date for the commencement of work shall be FOURTEEN (14) CALENDAR DAYS after the date stated in the "Notice to Proceed" letter signed by the General Manager.

The undersigned Tenderer hereby agrees to pay the sum of Five Hundred Dollars (\$500) as liquidated damages to the Capital Regional District for each and every CALENDAR DAY that the Contractor exceeds the number of CALENDAR DAYS stipulated upon the Tender Form to reach substantial completion for this Contract.

The undersigned Tenderer hereby agrees that the said Schedule of Prices and Estimated Quantities and Total Tendered Amount include and cover all applicable duties, taxes and handling charges incidental to and forming part of this Contract.

The undersigned Tenderer hereby agrees to submit to the Owner certified copies of all LIABILITY INSURANCE and PROPERTY INSURANCE policies and certificates required and specified in the

General Conditions of the Contract forming part of the Contract, all within a period of FOURTEEN (14) CALENDAR DAYS after the date of the written notification of the acceptance of the tender and prior to the commencement of work or supply of materials.

The undersigned Tenderer acknowledges that the Owner shall have the right to reject any or all tenders for any reason or to accept any tender which the Owner in its sole unrestricted discretion deems most advantageous to itself. By submitting a tender, the Tenderer acknowledges the Owner's rights under this clause and absolutely waives any right of action against the Owner and its consultants for the Owner's failure to accept the Tenderer's tender.

The undersigned Tenderer hereby agrees that Tenderer has made this tender without any connection, knowledge, comparison of figures, or arrangement with any other person or persons submitting tenders for this Contract, and that this tender is without collusion or fraud.

The undersigned Tenderer hereby agrees that once the tenders for this Contract have been opened, this tender and offer constituted hereby shall not be revoked before EITHER acceptance thereof by the owner OR the expiration of SIXTY (60) CALENDAR DAYS after the opening of tenders for this Contract whichever shall first occur.

Dated this _ day of _____ 20_____.

In the case of incorporated company:

SIGNED, SEALED AND DELIVERED)	
The Corporate Seal of (Name of Company))	
)	
)	
_____)	
is hereunto affixed in the presence of)	
its duly authorized signing officers:)	
)	(Seal)
)	
_____)	
(specify position with Company))	
)	
)	
_____)	
(specify position with Company))	

OR, in the case of an individual or individuals:

SIGNED, SEALED AND DELIVERED by:

(Seal)

in the presence of:

(Name of Witness)

(Address)

(Occupation)

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(Seal)

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

SCHEDULE OF PRICES AND ESTIMATED QUANTITIES

For the purpose of comparison of tenders and for subsequent payment, the Tenderer shall break down the Total Tendered Amount into the following items of work. The cost of work not specifically mentioned in this Schedule but included in the Drawings and/or Specifications, either directly or by implication, are to be included in the item to which it is most applicable. The Tenderer shall refer to the Specifications and Drawings for a description of the work to be involved in each item.

Item	Description	Units	Qty(1)	Rate	Amount
1.	Bonding and Insurance <i>(not to exceed 1% of total tender amount)</i>	Lump Sum	n/a	n/a	\$
2.	Mobilization and Demobilization <i>(not to exceed 5% of total tender amount)</i>	Lump Sum	n/a	n/a	\$
3.		Lump Sum	n/a	n/a	\$
4.		Lump Sum	n/a	n/a	\$
5.		Lump Sum	n/a	n/a	\$
SUB TOTAL FOR GENERAL				\$	
6.		Lump Sum	n/a	n/a	\$
7.		Lump Sum	n/a	n/a	\$
8.		Lump Sum	n/a	n/a	\$
9.		Lump Sum	n/a	n/a	\$
SUB TOTAL FOR SPECIFIC FACILITY				\$	
10.	Provisional Item –	Each	1	\$	\$
SUB TOTAL FOR PROVISIONAL ITEM				\$	
Total for this page carried forward to Tender Summary				\$	

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

TENDER SUMMARY

Total from Schedule of Prices and Estimated Quantities ⁽¹⁾	\$
Contingency Allowance ⁽²⁾	\$10,000.00
Sub-Total	\$
Provincial Sales Tax (PST)	\$
Goods and Services Tax (GST)	\$
Registration No:	
Total Tendered Amount Carried to Tender Form	\$

SIGNATURE OF TENDERER

NOTE: (1) The quantities listed in the Schedule of Prices and Estimated Quantities are approximate only and shall be used for the purpose of obtaining comparable Total Tendered Amounts only.

(2) No payment of the contingency allowance shall be made unless authorized in writing by the Engineer prior to the commencement of such work. The contingency allowance shall be used for such work that is not included in the Contract Documents or Drawings and is deemed as an extra to the Contract. The Contractor shall have no claim for loss of profit or loss of anticipated revenue from this item. The contingency allowance stated in these documents must be included in the Total Tendered Amount.

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

TENDER ANNEXURES

The Tender Form Annexures form part of the tender and comprise:

1. Bid Bond
2. Letter of Credit for Bid Security
3. Undertaking of Surety – Performance Bond
4. Undertaking of Surety – Labour and Materials Payment Bond
5. Schedule of Force Account Rates
6. List of Previous Contracts
7. WorkSafeBC Non-compliance Violations History
8. List of Proposed Subcontractors
9. List of Supervisory Personnel
10. List of Equipment
11. List of Proposed Equipment Suppliers
12. List of Proposed Major Materials Suppliers

The form of Bid Bond (if the Tenderer submits a Surety Bond in lieu of a Letter of Credit or Tender Deposit), Performance Bond, and Labour and Materials Payment Bond, shall be completed in accordance with the requirements specified in the Contract Documents on the forms provided herein, or on acceptable similar forms, and shall be attached to the tender.

Completion of the above annexures is mandatory.

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

BID BOND

KNOW ALL PERSONS BY THESE PRESENTS THAT

_____ as Contractor,
(hereinafter called the Contractor), and

_____ as Surety,
(hereinafter called the Surety),

are jointly and severally held and firmly bound unto

The Capital Regional District as Owner, (hereinafter called the Owner), in the penal sum of TEN PER CENT (10%) of the TOTAL TENDERED AMOUNT of lawful money of Canada, for the payment whereof unto the Owner, the Contractor and Surety jointly and severally bind themselves forever firmly by these presents.

WHEREAS, the Contractor is herewith submitting its offer for the fulfilment of:

DRAKE ROAD TRAIL SSI 2021-005

NOW THEREFORE, the condition of this obligation is such that if, before the expiration of SIXTY (60) CALENDAR DAYS from the opening of tenders for the said Contract, the Contractor is awarded the said Contract and if the Contractor within the time specified in the tender for such Contract enters into, executes and delivers to the Owner an agreement in the relative form annexed and if the Contractor and Surety within the time specified in the said tender give a good and sufficient Performance Bond in the relative form annexed for FIFTY PERCENT (50%) of the TOTAL TENDERED AMOUNT to secure the performance of the terms and conditions of the said Contract, and a Labour and Materials Payment Bond in the relative form annexed for FIFTY PERCENT (50%) of the TOTAL TENDERED AMOUNT, then this obligation shall be void; otherwise the Contractor and Surety will pay unto the Owner the difference in money between the amount of tender of the Contractor and the amount for which the Owner legally contracts with another party to perform the work if the latter amount be in excess of the former, but in no event shall the Surety's liability exceed the penal sum hereof.

AND IT IS HEREBY DECLARED AND AGREED that the Surety shall be liable under this obligation as fully as if it were the Contractor, and that nothing of any kind or nature whatsoever that will not discharge the Contractor shall operate as a discharge or a release of liability to the Surety, any law, rule of equity or usage relating to the liability of sureties to the contrary notwithstanding.

AND IT IS HEREBY DECLARED AND AGREED that this obligation shall be binding upon and inure to the benefit of the Contractor, the Surety and the Owner and upon and to their respective heirs, executors, administrators, successors and assigns, and every of them as if the words "heirs, executors, administrators, successors and assigns" had been inscribed in all necessary places.

Dated this _day of _____, 20__.

In the case of incorporated company:

SIGNED, SEALED AND DELIVERED)
The Corporate Seal of (Name of Company))

_____)
is hereunto affixed in the presence of)
its duly authorized signing officers:)

(Seal)

_____)
(Specify position with Company))

_____)
(Specify position with Company))

OR, in the case of an individual or individuals:

SIGNED, SEALED AND DELIVERED by:)

(Seal)

_____)
in the presence of:)

_____)
(Name of Witness))

_____)
(Address))

(Seal)

_____)
(Occupation))

SURETY

_____)
was hereunto affixed in the presence of)

_____)
(Name and Title))

_____)
(Name and Title))

(Seal)

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

LETTER OF CREDIT
[for Bid Security]

Letter of Credit No: _____

Amount: _____

[minimum sum of ten percent (10%) of the Total Tendered Amount]

TO Capital Regional District
108 – 121 McPhillips Avenue
Salt Spring Island, BC V8K 2T6

WE HEREBY AUTHORIZE you to draw on the: _____
(Name and Address of Bank)

For the account of _____
(Name of Contractor)

Up to an aggregate amount of _____ available on demand.
(Dollars in writing and in numbers)

PURSUANT TO THE REQUEST OF our customer: _____
(Name of Contractor)

we the _____
(Name of Bank)

hereby establish our Irrevocable Commercial Letter of Credit in your favour in the above amount which may be drawn on by you at any time and from time to time, upon written demand for payment made upon us by you, which demand we shall honour without enquiring whether you have the right as between yourself and the said customer to make such demand, and without recognizing any claim of our said customer, or objection by it to payment by us.

THE LETTER OF CREDIT we understand relates to those services and financial obligations set out in an Agreement between the customer and the Capital Regional District and referred to as SSI 2021-005 – Drake Road Trail.

THE AMOUNT of this Letter of Credit may be reduced from time to time as advised by notice in writing to the undersigned from time to time by the Capital Regional District.

THIS LETTER OF CREDIT will continue in force for a period of SIXTY (60) CALENDAR DAYS from the opening of tenders for the said Contract.

Dated at _____ British Columbia, this _____ Day of _____ 2021.

Countersigned by: _____
Name of Bank

Per: _____

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

UNDERTAKING OF SURETY - PERFORMANCE BOND

[Undertaking to accompany Tender]

Capital Regional District
108 – 121 McPhillips Avenue
Salt Spring Island, BC V8K 2T6

We, the undersigned

(Bonding Company's Name)

do hereby undertake and agree to become bound to the Capital Regional District for a PERFORMANCE BOND for

_____ Dollars (\$) _____)
(Insert a Sum Equal to 50 Percent of the Total Tendered Amount)

for the fulfilment of the Contract to perform the works and services, all as specified in the attached Tender Form if the Contract is awarded to:

(Tenderer's Name)

Dated at _____ British Columbia, this _____ Day of _____ 2021.

Yours very truly,

Signature and Corporate Seal of Surety Company Licensed to
Conduct Business in the Province of British Columbia

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

UNDERTAKING OF SURETY - LABOUR AND MATERIALS PAYMENT BOND

[Undertaking to accompany Tender]

Capital Regional District
108 – 121 McPhillips Avenue
Salt Spring Island, BC V8K 2T6

We, the undersigned

(Insert Bonding Company's Name)

do hereby undertake and agree to become bound to the Capital Regional District for a LABOUR AND MATERIALS PAYMENT BOND for

_____ Dollars (\$) _____)
(Insert a Sum Equal to 50 Percent of the Total Tendered Amount)

for the fulfilment of the Contract to perform the works and services, all as specified in the attached Tender Form if the Contract is awarded to:

(Insert Tenderer's Name)

Dated at _____ British Columbia, this _____ Day of _____ 2021.

Your very truly,

Signature and Corporate Seal of Surety Company Licensed to
Conduct Business in the Province of British Columbia

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

LIST OF PREVIOUS CONTRACTS

The Tenderer shall fill in details below of the most recent contracts undertaken with work of a nature similar to this proposed Contract. It is the intention of the Capital Regional District to use the information given below to assess the experience of the Tenderer in the appropriate fields of work. The Owner may contact the references given below before awarding the Contract.

Location	
Engineer	
Contract value	
Description of work	
Client	
Phone number	
Fax number	

Location	
Engineer	
Contract value	
Description of work	
Client	
Phone number	
Fax number	

Location	
Engineer	
Contract value	
Description of work	
Client	
Phone number	

Fax number	
------------	--

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

LIST OF SUPERVISORY PERSONNEL

The Tenderer proposes to carry out the work covered by this Contract under the direction of the following supervisory personnel employed by the Tenderer. The Tenderer should indicate whether the supervisory personnel listed are to be employed full time or part time and specify what recent experience they have had supervising work of a nature similar to this proposed Contract.

Provide maximum 10 line summary of the relevant experience of each of the key personnel in separate pages.

Team Personnel Name	Project Role/Title	Years with the Firm	Years Relevant Experience	Relevant Experience A	Relevant Experience B

(If additional space is required use reverse side of this page.)

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

LIST OF EQUIPMENT

The Tenderer proposes to use the equipment listed below in carrying out the work covered by this Contract
(list only the major pieces of equipment to be used):

Number of units	Brief description of equipment (state its use, make, age and general condition)	Check whether	
		Owned by Tenderer	Rented or Leased

(If additional space is required use reverse side of this page.)

AGREEMENT BETWEEN THE OWNER AND CONTRACTOR

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

AGREEMENT BETWEEN THE OWNER AND CONTRACTOR

THIS AGREEMENT made this ___ day of _____ in the year 20__ by _____ and _____ between the Capital Regional District, herein called the "Owner", and _____, herein called the "Contractor".

WITNESSETH: That the Contractor and the Owner undertake and agree as follows:

ARTICLE 1.

The Contractor shall:

- i) Be and assume the responsibilities of the Prime Contractor as defined in Part 3 of the Workers' Compensation Act of the Province of British Columbia, and note this fact on the Notice of Project submitted to WorkSafeBC, and comply with the provisions and amendments thereto of the Workers' Compensation Act of the Province of British Columbia, the WorkSafeBC Occupational Health and Safety Regulation and all other applicable federal, provincial, regional, and municipal laws, regulations, ordinances, codes, policies and procedures.
- ii) Provide all necessary materials, labour, supervision and equipment and perform all work, and fulfil everything as set forth and in strict accordance with the Contract Documents and # Addenda for the project entitled "**Drake Road Trail SSI 2021-005**".
- iii) Commence to proceed actively with the work of the Contract within a period of FOURTEEN (14) CALENDAR DAYS of receipt of the Notice to Proceed and complete all work under this Contract within a period of NINETY (90) CALENDAR DAYS from the date of the Notice to Proceed subject to the provisions herein for the extension of Contract time, and shall guarantee all materials furnished and work performed, for a period of ONE (1) YEAR from the date of substantial completion contained in the Certificate of Completion.

ARTICLE 2.

The Owner will pay to the Contractor as full compensation for the performance and fulfilment of this Contract, the sum or sums of money specified herein in the manner and at the times specified in the Contract Documents.

ARTICLE 3.

The Invitation to Tender, Instructions to Tenderers, executed Tender Form, General Conditions, Supplemental General Conditions, Specifications, Appendices, Drawings and all Addenda incorporated herein, are annexed hereto and form a part of this Agreement as fully to all intents and purposes as though recited in full herein, and the whole shall constitute the Contract between the parties, and it shall inure to the benefit of and be binding upon them and their successors, executors, administrators, and assigns.

ARTICLE 4.

No implied contract of any kind whatsoever, by or on behalf of the Owner, shall arise or be implied from anything contained in this Contract or from any position or situation of the parties at any time, it being understood and agreed that the express contracts, covenants and agreements contained herein and made by the parties hereto are and shall be the only contracts, covenants and agreements on which any rights against the Owner may be founded.

ARTICLE 5.

Subject to Article 3, this Agreement shall supersede all communications, negotiations and agreements, either written or verbal, made between the parties hereto in respect of matters pertaining to this Agreement prior to the execution and delivery hereof.

ARTICLE 6.

All communication in writing between the parties or between them and the Engineer shall be deemed to have been received by the addressee, or to a member of the firm, or any officer of the corporation for whom they are intended as per the following delivery schedule conditions:

- i) By hand – on the date of delivery of the communication
- ii) By facsimile – ONE (1) CALENDAR DAY following date of the communication
- iii) By registered mail – THREE (3) CALENDAR DAYS following date of the communication
- iv) By regular mail – SEVEN (7) CALENDAR DAYS following date of the communication

If, between the time of mailing and the actual receipt of the communication, there occurs a mail strike, slowdown of postal service, or other labour dispute which affects the delivery of such communication, then such communication shall be deemed to be received when actually delivered.

The Contractor at _____
(Address)

(Fax No.)

Capital Regional District
108 – 121 McPhillips Avenue
Salt Spring Island, BC V8K 2T6

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year above first written.

For Individual or Partnership:

SIGNED, SEALED AND DELIVERED BY

In the presence of: _____
(Contractor - please print)

(Signature of Contractor)

(Position)

Name: _____
Address: _____
Occupation: _____

For Limited Company:

The Corporate Seal of

(Contractor - please print full name of Company)

(Seal)

Was hereunto affixed in the presence of:

Authorized Signing Officer and Position (please print)

Signature of Authorized Signing Officer

NOTE: If the Tender is by a joint venture, add additional forms of execution for each member of the joint venture in the appropriate form or forms as above.

For Owner (the Capital Regional District):

Authorized Signing Officer

Position

Authorized Signing Officer

Position

PERFORMANCE BOND

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS THAT

_____ as Contractor,
(hereinafter called the Contractor), and

_____ as Surety,
(hereinafter called the Surety) are held and firmly bound unto

THE CAPITAL REGIONAL DISTRICT, as Owner, hereinafter called the Owner, in the amount of FIFTY PERCENT (50%) of the TOTAL TENDERED AMOUNT, namely

_____ DOLLARS (\$_____)

lawful money of Canada, for the payment of which sum, well and truly to be made, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Contractor has entered into a written Contract with the Owner, dated the ___ day of , 20 _____.

for: **Drake Road Trail SSI 2021-005**

in accordance with the Drawings and Specifications submitted therefor which Contract, Drawings, Specifications, and all other Contract Documents, and amendments thereto, to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall promptly and faithfully perform said Contract then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Whenever the Contractor shall be, and declared by the Owner to be, in default under the Contract, the Owner having performed the Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) Complete the Contract in accordance with its terms and conditions, or,
- (2) Obtain a bid or bids for submission to the Owner for completing the Contract in accordance with its terms and conditions, and upon determination by the Owner and Surety of the lowest responsible bidder, arrange for a Contract between such bidder and the Owner and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price, but not

exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract Price" as used in this paragraph, shall mean the total amount payable by the Owner to the Contractor under the Contract less the amount paid by the Owner to the Contractor.

Any suit under this Bond must be instituted before the expiration of TWO (2) YEARS from the date on which the Notice of Acceptance is issued.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

IN TESTIMONY WHEREOF, the Contractor has hereto set its hand and affixed its seal, and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its Attorney-in-fact, this _____ day of _____ 20____.

In the case of incorporated company:

SIGNED, SEALED AND DELIVERED)
 The Corporate Seal of (Name of Company))
)
 _____)
 is hereunto affixed in the presence of)
 its duly authorized signing officers:)
) (Seal)
)
 _____)
 (Specify position with Company))
)
)
 _____)
 (Specify position with Company))

OR, in the case of an individual or individuals:

SIGNED, SEALED AND DELIVERED by:) (Seal)
)
)
 _____)
 in the presence of:)
)
)

(Name of Witness))
)
)
)
)

(Address))
)
)
)

(Occupation))

(Seal)

SURETY

was hereunto affixed in the presence of)
)
)
)
)
)

(Name and title))
)
)
)

(Name and title))

(Seal)

LABOUR AND MATERIALS PAYMENT BOND

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

LABOUR AND MATERIALS PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS THAT:

_____ as Contractor,
(hereinafter called the Contractor), and

_____ as Surety,
(hereinafter called the Surety), are held and firmly bound unto

THE CAPITAL REGIONAL DISTRICT, _____ as
Owner, its successors or assigns, as obligee, hereinafter called the Owner, for the use and benefit of
claimants as herein below defined, in the amount of FIFTY PERCENT (50%) of the TOTAL TENDERED
AMOUNT, namely

_____ DOLLARS, (\$ _____)
lawful money of Canada for payment of which sum, well and truly to be made, the Contractor and the
Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and
severally, firmly by these presents.

WHEREAS, the Contractor has entered into a written Contract with the Owner, dated the ____ day of
_____, 20 __.

for: **Drake Road Trail SSI 2021-005**

in accordance with the Drawings and Specifications submitted therefor which Contract, Drawings,
Specifications and all other Contract Documents, and amendments thereto, to the extent herein
provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall
promptly make payment to all claimants as hereinafter defined, for all labour and material used or
reasonably required for use in the performance of the Contract then this obligation shall be void,
otherwise it will remain in full force and effect, subject, however, to the following conditions:

- (1) A claimant is defined as one having a direct Contract with the Contractor for labour, material,
or both, used or reasonably required for use in the performance of the Contract, labour and
material being construed to include that part of water, gas, power, light, heat, oil, gasoline,
telephone service or rental of equipment (but excluding rent of equipment where the rent
pursuant to an agreement is to be applied towards the purchase price thereof) directly
applicable to the Contract.

- (2) The above-named Contractor and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of NINETY (90) CALENDAR DAYS after the date on which the last of such claimant's work or labour was done or performed, or materials were furnished by such claimant, may sue on this bond, prosecute the suit to final judgement for such sum or sums as may be justly due the claimant, and have execution thereon.
- (3) No suit or action shall be commenced hereunder by any claimant,
 - (a) Unless the claimant shall have given written notice to the Contractor at:

_____ and the Surety at _____

within ONE HUNDRED AND TWENTY (120) CALENDAR DAYS after such claimant did or performed the last of the work or labour, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished or for whom the materials were furnished, or for whom the work or labour was done or performed. Such notice shall be served by mailing the same by REGISTERED MAIL to the Contractor and to the Surety at their address as given herein;
 - (b) After the expiration of ONE (1) YEAR following the date of which the Contractor ceased work on said Contract including work performed under the guarantees provided in the Contract;
 - (c) Other than in a court of competent jurisdiction in the Province or District in which the project, or any part thereof, is situated and not elsewhere;
- (4) The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Sureties of builders liens which may be filed on record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond;
- (5) The Surety shall not be liable for a greater sum than the specified penalty of this bond.

PROVIDED, HOWEVER, that no variation or alteration of the terms of the said Contract made by agreement between the Owner and Contractor, or in the extent, nature or method of performance of the work to be constructed, maintained, and completed thereunder, and no allowances of time by the Owner or Engineer under the said Contract nor in any waiver, forbearance, or forgiveness in or in respect of any matter or thing concerning the said Contract or the conduct or performance thereof by the Contractor on the part of the Owner or the said Engineer, shall in any way release the Surety from any liability under the above-written bond. Notice to the Surety of any such variation, alteration, allowance of time, waiver, forbearance or forgiveness is hereby waived by the Surety.

IN TESTIMONY WHEREOF, the Contractor has hereto set its hand and affixed its seal, and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its Attorney-in-fact, this _____ day of _____, 20 ____.

In the case of incorporated company:

SIGNED, SEALED AND DELIVERED)
The Corporate Seal of (Name of Company))

_____)
is hereunto affixed in the presence of)
its duly authorized signing officers:)

(Seal)

_____)
(Specify position with Company))

_____)
(Specify position with Company))

OR, in the case of an individual or
individuals:

SIGNED, SEALED AND DELIVERED by:)

(Seal)

_____)
in the presence of:)

_____)
(Name of Witness))

(Seal)

_____)
(Address))

_____)
(Occupation))

SURETY

_____)
was hereunto affixed in the presence of:)

(Seal)

_____)
(Name and title))

_____)
(Name and title))

GENERAL CONDITIONS

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

GENERAL CONDITIONS

<u>LIST OF GENERAL CONDITIONS</u>	<u>Article #</u>
DEFINITIONS	1
INTENT OF CONTRACT	2
DRAWINGS AND SPECIFICATIONS FURNISHED	3
DOCUMENT CONFLICTS AND OMISSIONS	4
DISCREPANCIES	5
CONTRACT INTERPRETATION AND DECISIONS	6
SHOP DRAWINGS	7
LOCATION OF THE WORKS	8
INVESTIGATION BY CONTRACTOR OF CONDITIONS AFFECTING WORK	9
ENGINEER'S STATUS	10
INSPECTION OF WORK	11
SUPERVISION AND LABOUR	12
LANDS BY OWNER	13
LANDS REQUIRED BY CONTRACTOR	14
PRIVATE LAND	15
ASSIGNMENT OF CONTRACT	16
SUSPENSION OF WORK BY OWNER	17
OWNER'S TERMINATION OF THE CONTRACTOR'S RIGHTS	18
CONTRACTOR'S TERMINATION OF THE CONTRACT	19
SEPARATE CONTRACTS	20
SUBCONTRACTS	21
ORAL AGREEMENTS	22
NON-WAIVER	23
MATERIALS BY CONTRACTOR	24
MATERIALS BY OWNER	25
MATERIALS STORAGE	26
TESTING, REJECTED WORK AND MATERIALS	27
OWNER'S RIGHT TO CORRECT DEFICIENCIES	28
PERSONNEL	29
GUARANTEE PERIOD	30
WORKERS' COMPENSATION INSURANCE	31
DAMAGE TO WORK	32
INDEMNITY	33
BONDS	34
PATENTS AND ROYALTIES	35
PERMITS AND REGULATIONS	36
SAFETY REQUIREMENTS	37

LIST OF GENERAL CONDITIONS

Article #

EMERGENCIES	38
NOTICE TO PROCEED	39
FAILURE TO COMPLETE ON TIME	40
SCHEDULE OF COMPLETION	41
CHANGES IN THE WORK	42
FORCE ACCOUNT WORK	43
EXTENSION OF CONTRACT TIME	44
USE OF COMPLETED PORTIONS	45
PROGRESS PAYMENTS	46
STATUTORY DECLARATIONS	47
PAYMENT WITHHELD	48
BUILDER'S LIENS	49
COMPLETION & NOTICE OF ACCEPTANCE	50
PARTIAL COMPLETION AND NOTICE OF PARTIAL ACCEPTANCE	51
FINAL PROGRESS PAYMENT	52
PROGRESS PAYMENT AFTER PARTIAL COMPLETION	53
RELEASE OF HOLDBACK	54
INSURANCE	55
GOODS AND SERVICES TAX	56
NORMAL HOURS OF WORK	57
DISPUTE RESOLUTION	58

**CAPITAL REGIONAL DISTRICT
DRAKE ROAD TRAIL SSI 2021-005**

GENERAL CONDITIONS

1. DEFINITIONS

- 1.1. "Calendar Day" shall be defined as 24 hours/day, 365 days of the year, inclusive of all statutory holidays.
- 1.2. "Certificate of Completion" shall have the meaning assigned to it by the *Builders' Lien Act*.
- 1.3. "Contract Documents" or "Contract" shall mean the entire agreement between the Owner and Contractor and shall include all of those documents set out in the Table of Contents including the agreement between the Owner and Contractor, the general conditions, specifications and drawings, and tender documents as well as any addenda incorporated therein.
- 1.4. "Contract Price" shall mean the negotiated value of the work which the Owner requires done as stipulated in the Contract.
- 1.5. "Contractor" shall mean the successful Tenderer and the person who enters into the Contract with the Owner.
- 1.6. "Disease" means COVID-19 or other pandemic, epidemic, outbreak, or contagion.
- 1.7. "Disease-Related Reason" means as a shortage of labour, interruption in supply chain, or health and safety of workers and the public resulting directly from a Disease.
- 1.8. "Engineer" shall mean the General Manager of the Parks & Environmental Services department of the Capital Regional District or an authorized representative as designated to the Contractor at the pre-construction meeting.
- 1.9. "Equipment" or "Plant" shall mean anything and everything used by the Contractor in performance of the work, except people, and except material as defined herein.
- 1.10. "Herein" and "Hereof" and similar expressions wherever used in the Contract Document, shall relate to the whole of the Contract Documents, and not to any one paragraph alone, unless the context specifically requires it.
- 1.11. "Material" or "Materials" shall, unless otherwise specified, mean anything and everything other than persons or the Contractor's equipment which is manufactured, processed or transported to the site, or existing on the site, and incorporated into the completed works.
- 1.12. "Mechanics" or "Builders' Lien Act" shall mean 1998 Builders' Lien Act.

- 1.13. "Multi-Employer Site" shall mean location of work which meets the criteria for a multi-employer site as defined by the *Worker's Compensation Act* of the Province of British Columbia.
- 1.14. "Overhead" means the percentage which the Contractor may add to the cost of personnel, equipment and materials supplied on a force account basis and shall include head office overhead, project management, bonding, insurance, site office accommodations, site supervision, clerical and all other expenses incurred by the Contractor in relation to the Work.
- 1.15. "Owner" shall mean the Capital Regional District.
- 1.16. "Payment Certifier" shall mean the person responsible for a payment certification as provided for under the *Builders' Lien Act* and for the purposes of this Contract shall mean the Engineer.
- 1.17. "Place of Work" shall mean the location of work as defined by the Contract and can include any or all of the following: Capital Regional District property, non-Capital Regional District property, private property, public property, public or private road.
- 1.18. "Subcontractor" shall mean any person engaged by the Contractor or another subcontractor to perform or provide part or parts of the work or to supply material intended to be incorporated into the completed works, but does not include a worker or a person engaged by an architect, engineer or a material supplier.
- 1.19. "Supply" or "Provide" shall mean supply and pay for or provide and pay for.
- 1.20. "Tenderer" shall mean the person or persons who submit a tender for the work to be done and materials to be supplied.
- 1.21. "Total Tendered Amount" shall mean the Contractor's offer to do all the work called for under the Contract at the total tendered amount (including GST) shown in the Tender Form.
- 1.22. "Work" or "Works" shall, unless the context otherwise requires, mean the whole of the work, equipment, materials, labour, matters and things required to be done, furnished, and performed by the Contractor under this Contract.
- 1.23. "Working Days" shall be defined as the normal working hours of the Capital Regional District which is five (5) days/week (7:00 a.m. to 6:00 p.m.) and excludes all legal holidays.

2. INTENT OF CONTRACT

The intent of the Contract is that the Contractor shall provide all materials, supervision, labour, equipment, and all else necessary for the complete performance of the Work. It is not intended, however, that the Contractor shall supply materials, equipment or labour not consistent with, covered by or properly inferable from the Contract Documents.

3. DRAWINGS AND SPECIFICATIONS FURNISHED

Except as provided for otherwise, a maximum of THREE (3) copies of drawings and specifications for the execution of the work shall be furnished to the Contractor without charge. Additional instructions may be issued by the Engineer during the progress of the work by means of drawings or otherwise for clarification of the drawings and specifications, or as may be necessary to explain or illustrate changes in the work to be done. One (1) complete set of all drawings and specifications shall be maintained at the jobsite by the Contractor and shall be available to the Engineer at all times. Additional copies of drawings and specifications may be obtained by the Contractor, on payment of the charge per document set out in the Invitation to Tender.

4. DOCUMENT CONFLICTS AND OMISSIONS

4.1. In case of any inconsistency or conflict between the provisions of the Contract Documents, the provisions of such documents and addenda thereto will take precedence and govern in the following order:

- (a) Agreement Between the Owner and Contractor
- (b) Addenda
- (c) Supplemental General Conditions
- (d) General Conditions
- (e) Specifications
- (f) Drawings
- (g) Tender Form
- (h) Instructions to Tenderers
- (i) Invitation to Tender
- (j) All other documents

4.2. Figured dimensions on a drawing take precedence over measurements scaled from the drawing, and large scale drawings take precedence over those of smaller scale. Supplementary drawings and specifications supersede their antecedents. In case of conflict between figured dimensions on a drawing and the dimensions of a specified product, the dimensions of the specified product will govern. The drawings and specifications complement each other and anything called for by one will be as binding as if called for by both.

4.3. Neither party to the Contract shall take advantage of any apparent error or omission in the drawings or specifications, but the Engineer shall be permitted to make such corrections and interpretations as may be necessary for fulfilment of the intent of the drawings and specifications.

5. DISCREPANCIES

Any discrepancies found between the drawings and specifications or any errors or omissions in the drawings or specifications shall immediately be reported to the Engineer, who shall promptly correct such error or omission in writing. Any work done after discovery of such discrepancies, errors or omissions shall be done at the Contractor's risk.

6. CONTRACT INTERPRETATION AND DECISIONS

- 6.1. The Engineer will be, in the first instance, the interpreter of the Contract Documents and the judge of the performance of both parties to the Contract. Interpretations and decisions of the Engineer shall be consistent with the Contract Documents and made in consultation with both parties. In making a decision the Engineer will not show partiality to either the Owner or the Contractor.
- 6.2. Either the Owner or the Contractor may at any time, by written request in sufficient detail and accompanied by sufficient supporting documentation to reasonably describe the matter, refer any question, including claims relating to the performance of the work or the interpretation of the Contract Documents, to the Engineer for an initial decision and the Engineer shall render a written decision within a reasonable time, with copies to both the Owner and the Contractor.
- 6.3. If a party does not agree with an interpretation or decision of the Engineer then resolution of the matter shall be dealt with in accordance with the provisions of Article 58.

7. SHOP DRAWINGS

- 7.1. The Contractor shall furnish to the Engineer, at proper times, all shop drawings including diagrams, illustrations, schedules, performance charts, brochures and other data necessary to clarify the work intended or to show its relation to adjacent work of other trades. The Contractor shall provide such additional drawings and shall make any changes or additions to such drawings or diagrams which the Engineer may require consistent with the Contract and will submit sufficient copies of the revised prints for review, all but three (3) of which shall be returned to the Contractor following review.
- 7.2. Prior to submission to the Engineer the Contractor shall review all shop drawings. By this submission, the Contractor represents that it has determined and verified all field measurements, field construction criteria, materials, catalogue numbers and similar data and that it has checked and coordinated each shop drawing with the requirements of the work and of the Contract Documents.
- 7.3. The Contractor shall submit shop drawings to the Engineer for review with reasonable promptness and in orderly sequence so as to cause no delay in the work of other contractors. If either the Contractor or the Engineer so requests, they shall jointly prepare a schedule fixing the dates for submission and return of shop drawings. Shop drawings shall be submitted in the form of a reproducible transparency or prints as the Engineer may direct. At the time of submission, the Contractor shall notify the Engineer in writing of any deviations in the shop drawings from the requirements of the Contract Documents.
- 7.4. The Engineer will review and return shop drawings in accordance with any schedule agreed upon, or otherwise with reasonable promptness so as to cause no delay. The Engineer's review shall be for conformity to the design concept and for general arrangement only and such review shall not relieve the Contractor of responsibility for errors or omissions in the shop

drawings or of responsibility for meeting all requirements of the Contract Documents unless a deviation on the shop drawings has been specifically approved in writing by the Engineer.

7.5. The Contractor shall make any changes in shop drawings which the Engineer may require consistent with the Contract Documents and resubmit unless otherwise directed by the Engineer. When resubmitting, the Contractor shall notify the Engineer in writing of any revisions other than those requested by the Engineer.

8. LOCATION OF THE WORKS

8.1. Where location dimensions for the works are not shown on the drawings, the locations are intended as being approximate.

8.2. Unless otherwise specified, the Engineer will show the locations of legal survey markers and survey monuments on the drawings and will provide an elevation bench mark. The Contractor shall perform all detailed layout and shall be responsible for all necessary detailed layout dimensions and elevations.

8.3. The Contractor shall carefully preserve bench marks, reference points, and stakes. In case of wilful or careless destruction or disturbance of such markers, Contractor shall be charged with the expense of replacing them and shall be responsible for any mistakes that may be caused by their destruction, loss, or disturbance.

8.4. Legal survey markers, disturbed or removed by the construction operation, that existed at a horizontal distance of 1.5 metres or more from the work being installed shall be replaced at the Contractor's expense. If it is necessary to remove or disturb existing legal survey markers that are within 1.5 metres of the work, the Engineer shall be so notified before such removal or disturbance, and replacement will be at the Owner's expense.

9. INVESTIGATION BY CONTRACTOR OF CONDITIONS AFFECTING WORK

The Contract between Owner and Contractor is made and entered into by the Contractor and the Owner on the distinct understanding that the Contractor has, before execution, investigated and satisfied himself of everything and of every condition affecting the work to be executed and the labour and material to be provided, that the execution of this Contract by the Contractor is founded and based upon Contractor's examination, knowledge, information and judgement, and not upon any statement, representation or information made or given or upon any information derived from any representative of the Owner; and furthermore, the Contractor shall make no claim against the Owner for any loss or damage sustained in consequence of or by reason of any such statement, representation or information being incorrect or inaccurate.

10. ENGINEER'S STATUS

10.1. The Engineer will be the Owner's representative during the construction period and will observe work in progress on behalf of the Owner. The Engineer will have the authority to stop the work whenever such stoppage may be necessary, in Engineer's opinion, to ensure the

proper execution of the work in accordance with the provisions of the Contract. The Contractor shall obey such order immediately. Neither the giving or carrying out of such orders shall thereby entitle the Contractor to any extra payment.

10.2. The Contractor shall obey, perform and comply with the Engineer's orders or instructions with respect to the work or concerning the conduct thereof promptly, efficiently and to the satisfaction of the Engineer. However, if the Contractor is of the opinion that such orders or instructions are not authorized under the provisions of the Contract or involve a change for which a change order should be issued as described in Article 42, Contractor shall so notify the Engineer in writing before proceeding to carry them out and, in any event, within TEN (10) CALENDAR DAYS of the receipt of such orders or instructions. If the Contractor does not so notify the Engineer within the time so limited, Contractor shall not claim at any time thereafter that the orders or instructions were not authorized or should have been subject to a change order. Nevertheless, the giving of such notice to the Engineer shall not relieve the Contractor of its obligations to carry out and obey such orders and instructions.

10.3. The Engineer may delegate to other persons such of the powers of the Engineer as the Engineer deems appropriate.

10.4. The Engineer or the Owner may appoint any person or company or the employee of any such person or company or of the Engineer to be an Inspector. Such Inspector shall have the authority of the Engineer to reject materials, procedures or workmanship as not complying with provisions of the Contract and to order the Contractor to stop work until the materials, procedures or workmanship comply with such provisions.

11. INSPECTION OF WORK

11.1. The Contractor shall allow the Engineer and/or Owner or their duly appointed Inspector access and provide adequate facilities for access to any part of the works at all times. If the specifications, Engineer's instructions, laws, ordinances or any public authority requires any work to be specially tested or approved, the Contractor shall give the Engineer 24 hours minimum notice of Contractor's preparedness for such inspection, and if the inspection is by an authority other than the Engineer, of the date fixed for such inspection. The Engineer will inspect the work promptly and without causing unreasonable delay to the Contractor. Extra payment will not be made to the Contractor for delay occasioned by an inspection, and extension of completion time will not be allowed for delay resulting therefrom.

11.2. On request by the Engineer, the Contractor shall open for inspection any part of the work that has been covered up. If the Contractor refuses to comply with such request, the Owner may employ other persons to uncover the work. If the work is found to be in accordance with the Contract requirements then the cost of uncovering and recovering the work shall be borne by the Owner. If any of the work was covered by the Contractor in contravention of the Engineer's instructions, or if the uncovered work is found not to be in accordance with the Contract requirements, then the cost of uncovering and recovering the work shall be charged to the Contractor.

11.3. The lack of comment on the part of the Engineer on methods of construction employed by the Contractor shall not relieve the Contractor of responsibility for any errors therein, and shall not be regarded as an acceptance for work done by the Contractor.

12. SUPERVISION AND LABOUR

The Contractor shall keep on the work at all times during its progress a competent superintendent who is approved by the Engineer, which approval may be withdrawn at any time. The superintendent shall represent the Contractor in their absence and directions given to superintendent shall be held as being given to the Contractor. The superintendent shall give efficient and effective supervision to the work until its completion.

13. LANDS BY OWNER

The Owner will provide the lands upon which the work is to be performed. Where work is to be performed on lands owned by others, the Owner will obtain the necessary easements or rights-of-way. The Owner will endeavour to obtain the necessary easements or rights-of-entry in time to permit construction to proceed as scheduled by the Contractor. When this is not possible, the Contractor shall withhold work on property owned by others until such time as easements or rights-of-entry have been obtained. Delay in providing these lands, or in obtaining easements or rights-of-way which, in the opinion of the Engineer, delays the work or results in extra cost to the Contractor, will be deemed proper cause for adjustment in the time of completion and adjustment of the Contract amount to cover the extra cost to the Contractor.

14. LANDS REQUIRED BY CONTRACTOR

Any lands other than those which are to be provided by the Owner and which may be required by the Contractor for temporary facilities, storage purposes, or access to the work site, shall be obtained by the Contractor at no cost to the Owner.

15. PRIVATE LAND

15.1. It shall be the Contractor's responsibility to ascertain the boundaries within which the work must be confined. The Contractor shall not enter lands other than those provided by the Owner for any purpose without obtaining prior written permission of the land owners and occupiers. The Contractor shall not enter upon lands owned by others on which the Owner has easements or rights-of-entry without having received the written authorization of the Owner for such entry. It shall be the Contractor's responsibility to ascertain from the Owner the conditions on which easements or rights-of-entry have been granted on private lands and to abide by these conditions throughout the course of construction. Any supplementary construction agreements made between the Contractor and the owner of private property in lieu of or in addition to the condition sheets provided by the Owner and forming part of this document shall be signed by the Owner and an authorized representative of the Contractor and a copy forwarded to the Engineer.

15.2. The Owner will not be responsible for any supplementary construction agreements other than those to which the Owner is a signed party.

16. ASSIGNMENT OF CONTRACT

Neither party shall sublet, sell, transfer, assign, or otherwise dispose of the Contract or any portions thereof, or its right, title, or interest herein, or its obligations thereunder without written consent of the other party, except for an assignment to a bank of the payments to be received hereunder.

17. SUSPENSION OF WORK BY OWNER

The Owner may at any time suspend the work, or any portion thereof, provided it gives the Contractor FIVE (5) CALENDAR DAYS written notice of suspension. The Contractor shall resume work upon written notice of the Owner within TEN (10) CALENDAR DAYS after the date set forth in such notice, or in a subsequent notice to resume work. The Owner will reimburse the Contractor for costs and expenses incurred by the Contractor necessitated by such suspension of work or portion thereof, but the Contractor shall not recover from the Owner payment for any loss of anticipated profits or damages.

18. OWNER'S TERMINATION OF THE CONTRACTOR'S RIGHTS

18.1. The Owner will have the right to terminate the Contractor's right to continue with the work if the Contractor at any time becomes bankrupt, makes an assignment of Contractor's property for the benefit of the creditors, or if a receiver or liquidator should be appointed. Such termination shall be effective upon the Owner giving notice thereof.

18.2. If at any time the Engineer is of the opinion and so states in writing to the Owner that the Contractor:

- (a) Has failed to commence work or to recommence work after a suspension within the time specified in the Contract Documents;
- (b) Has failed or is failing to furnish or to maintain a detailed work schedule and plan of operation as required by Article 41 herein;
- (c) Has failed or is failing to use diligence or has failed to comply with the instructions of the Engineer to expedite Contractor's work or is otherwise failing to make such progress with the work as is necessary to ensure the completion of the work or any part thereof in the time specified in the Contract Documents;
- (d) Has failed or is failing to supply enough competent workmen, management, materials or suitable equipment; or
- (e) Has become in any way unable to carry on the work or any part thereof;

the Owner may give notice in writing to the Contractor of such opinion and requiring that such default or defaults be remedied forthwith. If, within FIVE (5) CALENDAR DAYS of such notice, such default or defaults are not remedied to the satisfaction of the Engineer, the Owner may terminate the Contractor's right to perform further the work under the Contract. Such termination shall be effective immediately.

18.3. Upon such termination, the Owner may employ such means as it sees fit to complete the works. In such cases:

- (a) The Contractor shall have no claim for any further payment in respect of work performed, but shall be liable for all damages and expenses which may be suffered by the Owner by reason of such default or delay, or the non-completion by the Contractor of the works;
- (b) No objection or claim shall be raised or made by the Contractor by reason of or on account of the ultimate cost of the works so taken over for any reason proving greater than, in the opinion of the Contractor, it should have been;
- (c) All materials and all rights, proprietary or otherwise, licences, powers, and privileges, whether relating to or affecting real or personal property, acquired, possessed, or provided by the Contractor for the purposes of the work under the provisions of this Contract will become or remain and be the property of the Owner for all purposes incidental to the completion of the work and may be used, exercised, and enjoyed by the Owner as fully to all intents and purposes connected with the works as they might therefore have been used, exercised and enjoyed by the Contractor; and
- (d) The Owner may forthwith enter into possession of all the Contractor's equipment on the site of the work and may use the same in any way it sees fit in order to complete the works without the Owner being in any way liable for damage or any other cost in connection with such use by the Owner. Upon completion of the work, such equipment may be returned to the Contractor or may be sold by the Owner and the net proceeds of such sale credited to the Contractor's account.

18.4. If the Contractor's right to perform the work is terminated in accordance with the provisions of this clause, the Contractor shall not be entitled to receive any further payment until the work is completed.

18.5. Upon completion of the work the Engineer shall determine:

- (a) The amount which would have been due to the Contractor under the Contract if all of the work had been performed by Contractor; and
- (b) The costs and expense borne by the Owner in completing the work and damages for delay in completion, if any.

18.6. The Contractor shall be entitled to receive the balance of the Contract Price less such costs and expense, or if such costs and expense exceed such price, the Contractor shall pay the amount of such excess to the Owner on demand.

18.7. The Owner shall have the option, under the provisions of this Article, to be exercised in its absolute discretion, to terminate the right of the Contractor to perform any part or parts of the work and to permit the Contractor to continue to perform the rest of the work. All the provisions of this Article shall apply to such part or parts with such modifications as the circumstances may require.

19. CONTRACTOR'S TERMINATION OF THE CONTRACT

19.1. The Contractor shall have the right to terminate the Contract for any of the following reasons:

(a) In the event of any order of any court or other public authority, other than the Owner, causing the work to be stopped or suspended, and when the period of such stoppage or suspension exceeds NINETY (90) CALENDAR DAYS, and when such stoppage or suspension occurs through no act or fault of the Contractor, Contractor's agents, or Contractor's servants; or

(b) In the event that the Owner fails to pay, except as provided in the Contract Documents, any sum certified by the Engineer within TWENTY (20) CALENDAR DAYS from the due date of payment, and fails to remedy such default within TEN (10) CALENDAR DAYS of the Contractor's written notice to do so.

19.2. In either event, the Contractor will receive from the Owner payment for all work performed and losses sustained in respect of any materials. For termination under (a) above, the Owner will not be liable for any such loss of anticipated profits, damages, or expenses incurred by the Contractor as a result of such stoppage or suspension, but under (b) above, the Contractor will be paid for loss of profits, damages and expenses. Such termination shall be effective upon the Contractor giving notice thereof.

19.3. The amount due to the Contractor for work performed and losses sustained shall be determined by the Engineer and certified by Engineer to the Contractor and to the Owner.

20. SEPARATE CONTRACTS

20.1. The Owner reserves the right to let other contracts in connection with the work. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate Contractor's work with theirs.

20.2. If any of the Contractor's work, as specified herein and shown on the drawings, depends upon the work of any other contractor, the Contractor shall inspect and measure the work in place and determine whether anything in such work renders it unsuitable for proper execution

of Contractor's work. Contractor shall promptly report the results of such inspection and measurement to the Engineer if anything in such work renders it unsuitable for proper execution of Contractor's work. Contractor's failure to inspect and report promptly shall constitute an acceptance of the other contractor's work and Contractor shall have no claim against the Owner by reason of anything in such work rendering the same unsuitable for proper execution of Contractor's work.

21. SUBCONTRACTS

21.1. The subcontractors named in the Tender Form, and others as may be approved by the Engineer following execution of the Contract, shall not be changed nor shall additional subcontractors be employed except with the written approval of the Engineer. The Contractor is responsible to the Owner for the acts and omissions of Contractor's subcontractors and of their employees, to the same extent that Contractor is responsible for the acts or omissions of persons employed by Contractor. Nothing in the Contract Documents shall create any contractual relation between any subcontractor and the Owner. The Contractor shall bind every subcontractor to the terms of the Contract Documents.

21.2. The subcontracts shall contain a provision that the Certificate of Completion of the work by the subcontractor shall be binding on the Contractor and the subcontractor.

22. ORAL AGREEMENTS

No oral instruction, objection, claim, or notice by any party to the other shall affect or modify any of the terms or obligations contained in any of the Contract Documents, and none of the provisions of the Contract Documents shall be held to be waived or modified by reason of any act whatsoever, other than by a waiver or modification thereof in writing and agreed to by the parties to the Contract.

23. NON-WAIVER

23.1. Any failure by the Owner or the Engineer at any time, or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of the Contract will not constitute a waiver of such terms or conditions and will not affect or impair such terms or conditions in any way or the right of the Owner or the Engineer at any time to avail itself or themselves of such remedies as it or they may have for any breach of such terms or conditions.

23.2. No provision in the Contract which imposes or may be deemed to impose extra or specific responsibilities or liabilities on the Contractor shall restrict the general or other responsibilities or liabilities of the Contractor in any way.

24. MATERIALS BY CONTRACTOR

24.1. The Contractor shall supply all materials unless it is expressly specified to the contrary. Materials used in the work shall meet the requirements of the specifications, or where not detailed in the specifications, shall be to the Engineer's satisfaction. Unless otherwise specified, all materials shall be new.

24.2. Unless otherwise specified, the Contractor shall provide all water, light, power, heating and equipment necessary for the execution of the work.

24.3. All materials provided by the Contractor in order to complete the work shall vest in and become the property of the Owner as soon as the same are delivered to the site of the works, but shall remain in the custody and at the risk of the Contractor.

25. MATERIALS BY OWNER

25.1. The Owner will provide only such materials as are specifically listed as being supplied by the Owner.

25.2. The Contractor shall be responsible for materials from the point of delivery to the jobsite. The Contractor shall verify the delivery dates of materials provided by the Owner and shall arrange work schedules to comply thereto.

25.3. The Owner shall not be liable in any way for a delay in such delivery arising out of any cause beyond the Owner's reasonable control.

25.4. There are no materials supplied by the Owner.

26. MATERIALS STORAGE

The Contractor, at Contractor's own cost, shall store all materials provided for the work either by itself or the Owner until they have been incorporated into the completed works. Materials shall be stored so as to ensure the preservation of their quality and fitness for the work, and shall be protected from vandalism and theft. Stored materials shall be located so as to facilitate prompt inspection. Faulty materials shall not be stored on the site, and any material in storage found to be faulty shall promptly be removed from the site by the Contractor.

27. TESTING, REJECTED WORK AND MATERIALS

27.1. If, in the opinion of the Engineer, testing is required, the Engineer will arrange for a testing firm to carry out tests to determine whether the applicable standards and specifications have been met. Where initial testing indicates inadequacies additional testing may be required by the Engineer.

27.2. The Contractor as directed by the Engineer shall supply specimens or samples for testing.

27.3. All materials which do not conform to the requirements of the Contract Documents, are not approved by the Engineer, or are in any way unsatisfactory or unsuited to the purpose for which they are intended, will be rejected. Any defective work, whatever the cause thereof, and without limiting the generality of the foregoing, whether the result of poor workmanship or use of defective materials, shall be removed within FIVE (5) CALENDAR DAYS after written

notice is given by the Engineer, and the work shall be re-executed by the Contractor. The fact that the Engineer may have previously overlooked such defective work shall not constitute an acceptance. The removal of work and the re-execution thereof shall be at the expense of the Contractor, and Contractor shall pay the cost of replacing the work which shall include materials of other contractors destroyed or damaged by the removal of the rejected work or materials and the subsequent replacement with acceptable work. The Contractor shall also reimburse the Owner for initial testing and any additional engineering, inspection, testing or other contractor's costs incurred in respect of rejected work or materials, whether such work or materials are replaced or not or are accepted at a lower price.

27.4. If, in the opinion of the Engineer, it is not expedient to re-execute defective work the Owner may deduct from the Contract Price, the difference in value between the work as done and that called for by the Contract, the amount of which shall be determined by the Engineer.

28. OWNER'S RIGHT TO CORRECT DEFICIENCIES

Upon failure of the Contractor to perform the work in accordance with the Contract, the Owner may, without notice and without prejudice to any other remedy Owner may have, correct such deficiencies. The cost of work performed by the Owner in correcting deficiencies shall be paid by the Contractor or may be deducted from monies payable to the Contractor.

29. PERSONNEL

All workers must have sufficient knowledge, skill, and experience to perform properly the work assigned to them. Any foreman or worker employed by the Contractor or subcontractor who, in the opinion of the Engineer, does not perform work in a skilful manner, or appears to be incompetent or to act in a disorderly or intemperate manner shall, at the written request of the Engineer, be removed from the site of the work immediately and shall not be employed again in any portion of the work without the approval of the Engineer.

30. GUARANTEE PERIOD

30.1. Neither the Notice of Acceptance nor a Notice of Partial Acceptance, as described in Articles 50 and 51, nor any payment by the Owner shall relieve the Contractor of responsibility for faulty materials or defective workmanship. The Contractor guarantees to maintain the work against any defects arising from faulty installation, faulty materials supplied under the Contract or faulty workmanship which may appear within ONE (1) YEAR of the date of Notice of Acceptance. If a Notice of Partial Acceptance has been issued, the guarantee period shall begin from the date of such certificate except for the work still to be performed and the defects and deficiencies still to be corrected which are listed on such certificate. Faulty materials shall be replaced and defects discovered and failures which occur during the guarantee period shall be rectified to the satisfaction of the Engineer and in accordance with the Contract Documents, including, if deemed necessary by the Engineer, replacement of all or a portion of the work. The same guarantee as is herein provided and for the same period shall attach to such replacement materials or rectified work and the period shall begin on the date the Engineer accepts such replacement material or rectified work.

30.2. If the Owner observes through use of the works, or if it is discovered by tests or inspection of the works prior to the end of the guarantee period, that a deficiency or defect exists in the materials or workmanship in respect to the works, the Owner shall immediately notify the Contractor, by whatever means are available, of the defect or deficiency and instruct Contractor to rectify the fault. Such notification shall be confirmed by the Owner in writing to the Contractor. In the event that this work, in the opinion of the Owner, must be done immediately to prevent serious damage, injury, or loss of life, the Owner may perform, or cause to be performed, the necessary work, and shall notify the Contractor accordingly. Work required under guarantee shall, except as otherwise provided herein for emergencies, be carried out by the Contractor or its representative within TEN (10) CALENDAR DAYS of the Owner's written instruction to perform the work. In the event that this work is not done by the Contractor within the TEN (10) CALENDAR DAY period, or such further period as may be approved by the Engineer, the Owner may take whatever action is necessary to have the work done.

30.3. All costs relating from the necessity to do work under the guarantee requirement, whether it be done by the Contractor, its representative, or the Owner, as provided herein, shall be borne by the Contractor. The Contractor shall, in addition, be liable to the Owner for all expenses, losses, or damages incurred by the Owner as a result of faulty materials and defective workmanship as are referred to in the first paragraph of Article 30, or as a result of the Contractor's failure to meet the guarantee requirements as specified herein, including, but without limiting the generality hereof, all costs of engineering, inspection and testing. All costs may be deducted by the Owner from the guarantee amount as described herein.

LETTER OF CREDIT
[Applicable to Contract Guarantee Period]

Letter of Credit No: _____ Amount: _____

TO: The Capital Regional District
ADDRESS: 108 – 121 McPhillips Avenue
Salt Spring Island, BC V8K 2T6

WE HEREBY AUTHORIZE YOU TO DRAW ON THE (name and address of bank) for the account of (name of Contractor) UP TO AN AGGREGATE AMOUNT OF (dollars in writing and in numbers) available on demand.

PURSUANT TO THE REQUEST OF our customer: (name of Contractor) we the (name of bank) hereby establish our Irrevocable Commercial Letter of Credit in your favour in the above amount which may be drawn on by you at any time and from time to time, upon written demand for payment made upon us by you, which demand we shall honour without enquiring whether you have the right as between yourself and the said customer to make such demand, and without recognizing any claim of our said customer, or objection by it to payment by us.

THE LETTER OF CREDIT we understand relates to those services and financial obligations set out in an Agreement between the customer and the Capital Regional District and referred to as (name and number of Contract).

THE AMOUNT of this Letter of Credit may be reduced from time to time as advised by notice in writing to the undersigned from time to time by the Capital Regional District.

THIS LETTER OF CREDIT will continue in force for a period of 1 year.

DATED at _____, British Columbia, this _ day of _____, 20____.

COUNTERSIGNED BY: _____
(name of bank)
Per: _____

The issuance of a Certificate of Completion in relation to a subcontract shall not relieve the Contractor of Contractor's obligation under this Article 30 - Guarantee Period.

31. WORKERS' COMPENSATION INSURANCE

31.1. Prior to commencing the work and prior to receiving payment on completion of the work, the Contractor shall provide evidence of compliance with the requirements of the *Workers' Compensation Act*, including payments due thereunder.

31.2. At any time during the term of the Contract, when requested by the Owner, the Contractor shall provide such evidence of compliance by Contractor and its subcontractors.

32. DAMAGE TO WORK

The Contractor shall be responsible for all loss and damage whatsoever which may occur on or to the works, completed or otherwise, until such time as the entire works have been completed and the Notice of Acceptance has been issued by the Owner. In the event of any loss or damage occurring, the Contractor shall, on notice from the Engineer, immediately put the works into the condition it was immediately prior to such loss or damage all at the Contractor's expense, except where such loss or damage was caused solely by an act of the Owner.

33. INDEMNITY

The Contractor shall release, save harmless and indemnify the Owner and its directors, officers and employees, servants, agents, and the Engineer from and against all claims, actions, costs, expenses, judgements, damages, fines and fees of whatever kind, including solicitors' fees on a solicitor and own client basis, which the Owner or any other person, partnership or corporation may have or incur and which arises out of or in connection with any act or omission or alleged act or omission of the Contractor, Contractor's agents, employees or subcontractors in the execution of the Work and otherwise in the performance of or failure to perform the Contract.

34. BONDS

34.1. To ensure the faithful execution and proper fulfilment of this Contract, the Contractor shall provide the Owner with the following bonds at the time of Contractor's execution of the Contract:

(a) Performance Bond in the amount of fifty percent (50%) of the Total Tendered Amount covering the faithful performance of the Contract and maintenance of the Contract for TWO (2) YEARS after the Notice of Acceptance; and

(b) Labour and Materials Payment Bond in the amount of fifty percent (50%) of the Total Tendered Amount.

34.2. The above bonds must be issued by a surety company licensed to conduct business in the Province of British Columbia and shall be provided on the forms contained within the Contract Documents, or on accepted alternative forms.

34.3. Notwithstanding anything contained elsewhere in the Contract Documents, the Owner shall not be required to make any payment whatever to the Contractor until the above bonds, duly executed, have been delivered to the Owner.

35. PATENTS AND ROYALTIES

The Contractor shall pay all royalties and licence fees with respect to and shall assume the defence of and indemnify the Owner and the Engineer, their employees, officers and agents from all claims relating to inventions, copyrights, trademarks, or patents used in doing the work and in the subsequent use and operation of the work or any part thereof upon completion. The Contractor shall not be liable hereunder with respect to any claims arising from a construction method, process or equipment specified by the Owner in the documents submitted to the Contractor before Contractor submitted its tender.

36. PERMITS AND REGULATIONS

36.1. The Contractor shall, at Contractor's own expense, procure all permits, certificates and licences required for the construction of the work and shall comply with all federal, provincial, and local laws, regulations and by-laws affecting the execution of the work, save insofar as the Contract Documents specifically provide otherwise.

36.2. The Owner will obtain all necessary governmental approvals for the design of the completed work, and all permits and licences required by law for the completed works.

37. SAFETY REQUIREMENTS

By agreeing to be the designated Prime Contractor, the Contractor agrees to the following:

37.1. The Contractor is the Prime Contractor as defined in Part 3 of the *Workers' Compensation Act* of the Province of British Columbia and shall note this fact on the Notice of Project submitted to WorkSafeBC. A copy of the Notice of Project will be posted on site and another delivered to the Engineer.

37.2. Notwithstanding the above, the Owner may from time to time assign the responsibilities of Prime Contractor to another contractor in writing. When a contractor has been assigned the obligations of Prime Contractor, the contractor will become the Prime Contractor and will be required to comply with all of the regulatory requirements for Prime Contractor. Compensation for performing the requirements of Prime Contractor will only be considered when the Owner did not previously disclose these obligations.

37.3. The Contractor shall comply with the provisions and amendments thereto of the *Workers' Compensation Act* of the Province of British Columbia, the WorkSafeBC Occupational Health and Safety Regulation and all other applicable federal, provincial, regional and municipal laws, Owner's policies and procedures, ordinances, codes and regulations. Where any of these are in conflict the more stringent shall be followed.

- 37.4. The Contractor is responsible to assess the scope of work, project site and surrounding environment and determine if hazards exist.
- 37.5. Refer to Appendix A for Owner's declaration of known hazards associated with the property.
- 37.6. The Contractor is responsible for all functions related to the coordination of the health and safety activities at the job site in accordance with the *Workers' Compensation Act* and WorkSafeBC Occupational Health and Safety Regulation and the amendments thereto. This requirement shall apply during the Contract period and not be limited to normal working hours.
- 37.7. Throughout the duration of the project the Contractor will ensure that all workers on site are complying with *Workers' Compensation Act* and WorkSafeBC Occupational Health and Safety Regulation. This will include periodic inspections of the workplace and follow through with documentation of actions taken.
- 37.8. The Contractor will post at the site the name of the qualified Workplace Safety Coordinator, a site drawing showing the boundaries of the Prime Contractor's area of responsibility, with project layout, first aid location, emergency transportation provisions and the evacuation marshalling points.
- 37.9. The Contractor will ensure a copy of the site-specific safety program, written procedures designed to protect the health and safety of workers at the site and the *Workers' Compensation Act* and WorkSafeBC Occupational Health and Safety Regulation are available on site.
- 37.10. The Contractor will ensure that the person who is appointed as the Workplace Safety Coordinator is qualified, by reason of a combination of training, education and experience to perform the required duties effectively.
- 37.11. When conditions or activities on the site affect the workers of more than one employer, or where there are overlapping or adjoining work activities by two or more employers, the Contractor will ensure that the Workplace Safety Coordinator coordinates the occupational health and safety activities at the site.
- 37.12. The Contractor will alert all workers to all reasonably foreseeable hazards to which they are likely to be exposed.
- 37.13. The Contractor will hold meetings as often as necessary with the other contractors on the site to discuss hazards, overlapping work, scheduling, work sequencing and the controls that are in place to reduce the risk to workers.
- 37.14. The Contractor will also hold weekly "tailgate" meetings with all workers to alert them to the sequence of work and the hazards being created by the work. Accidents and near misses will be discussed as well as the procedures in place to reduce the risk to workers.

- 37.15. The Workplace Safety Coordinator will conduct weekly safety inspections to ensure all contractors are meeting their contractual obligations and not allowing unsafe conditions to develop.
- 37.16. In an emergency affecting the safety of life, or of the works, or of adjoining property, the Contractor, without the necessity of authorization from the Engineer, shall act in a responsible manner to prevent loss or injury.
- 37.17. The Contractor shall satisfy the Engineer that a jobsite specific construction safety program has been developed in accordance with the WorkSafeBC Occupational Health and Safety Regulation, and safe work practices and procedures of WorkSafeBC, and shall incorporate all of the Owner's site requirements and restrictions. The Contractor to complete and provide to the Engineer a project Risk Assessment using a Risk Matrix that is based on Safety Critical Tasks. Safety Critical Tasks are tasks performed on a safety-critical elements which, if performed incorrectly due to lack of technical skills or knowledge or due to behavior attributes, can lead to a major accident hazard.
- 37.18. The Contractor shall provide the Engineer, prior to commencement of the work, the Material Safety Data Sheets and site specific precautions for the application of all controlled chemical products including any products that require local or general ventilation control.
- 37.19. The Contractor shall, without further order, provide and maintain at all times during the progress or suspension of the work, suitable barricades, fences, signs, signal lights and traffic control persons as are necessary to ensure the safety of the public and those engaged in the work. All work shall be carried out in a manner that will cause the least interruption to vehicular and pedestrian traffic and access to commercial and other private property and the Contractor shall, without further order, provide and maintain at all times during the progress or suspension of work, signs as are necessary to advise the public of access to commercial property.
- 37.20. Where work requiring the use of cranes or large equipment is to be carried out and the limits of approach to power lines could be violated, the Contractor shall prepare and submit to the Engineer, prior to starting the work, a detailed written work procedure prepared in consultation with the site foreman and superintendent.
- 37.21. Work in confined spaces will be performed in accordance with the WorkSafeBC Occupational Health and Safety Regulation. Prior to commencement of work, the Contractor shall submit a copy of their confined space entry program including written confirmation of training and instruction of confined space personnel.
- 37.22. Any notice of violation issued to the Contractor, Sub-contractor, other worksite employer or worker by the Workers' Compensation Board for non-compliance of WorkSafeBC Occupational Health and Safety Regulations shall be considered a breach of Contract and may result in termination or suspension of the Contract and/or any other actions deemed appropriate, all at the discretion of the Owner.

Level 2 first aid services are provided by the Owner during the hours of 6:30 a.m. to 5:30 p.m., Monday to Friday and 7:00 a.m. to 3:30 p.m., Saturdays. In all cases, the Contractor shall provide the means of summoning first aid services to their respective places of work. If the Contractor is permitted to work outside the normal working hours, the provision of first aid services shall be the responsibility of the Contractor and must conform to the first aid section of the WorkSafeBC Occupational Health and Safety Regulation for high risk workplaces.

38. EMERGENCIES

The Engineer has authority in an emergency to stop the progress of the work whenever in Engineer's opinion such stoppage may be necessary to ensure the safety of life, or the work, or neighbouring property. This includes authority to make changes in the work, and to order, assess and award the cost of such work, extra to the Contract or otherwise, as may in Engineer's opinion be necessary. The Engineer shall within TWO (2) WORKING DAYS confirm in writing any such instructions. In such a case if work has been performed under direct order of the Engineer, the Contractor shall keep Contractor's right to claim the value of such work.

39. NOTICE TO PROCEED

39.1. Following the execution of the Contract by the Contractor and the provisions of the required bonds and insurance policies, a written Notice to Proceed with the work will be given to the Contractor by the Owner. The Contractor shall begin work within FOURTEEN (14) CALENDAR DAYS following receipt of the Notice to Proceed and shall prosecute the work regularly and without interruption thereafter, unless otherwise directed in writing by the Engineer or Owner, in such a manner as to secure completion of the work within the time stated in the Contract. Time shall be of the essence of the Contract.

39.2. If, however, when the Notice to Proceed is given, a strike or lockout affecting workers of a classification required to organize or begin performance of the work reasonably prevents the Contractor from beginning work promptly, the completion date stated in the Contract will be extended by the same number of WORKING DAYS as the strike or lockout. If the strike or lockout affects workers of several classifications and such strike or lockout ends on different dates, the end of the strike or lockout will be deemed to occur when all workers of a classification required to organize or begin performance of the work are permitted to work for the Contractor. No extension of time herein provided, shall be grounds for any claim whatsoever by the Contractor for extra payment.

39.3. If when the Notice to Proceed is given, the Contractor believes that a Disease or Disease-Related Reason prevents the Contractor from beginning work promptly, the Contractor shall provide any and all evidence that the Engineer in its sole discretion believes is necessary to determine that the that the delay is directly related to a Disease or Disease-Related Reason, including but not limited to evidence related to availability of staff, availability of materials, availability of work by others, and such other information and documents requested by the Engineer. If after reviewing the evidence the Engineer determines that a Disease or Disease-Related Reason prevents the Contractor from beginning the work promptly, the Engineer may recommend in writing to the Owner that the completion date stated in the Contract be extended

by the same number of WORKING DAYS as the delay. The Owner may then extend the completion date to reflect the Engineer's determination. No extension of time herein provided, shall be grounds for any claim whatsoever by the Contractor for extra payment. If after reviewing the evidence the Engineer determines that the Contractor is not prevented from beginning the work promptly, or if the Owner determines not to extend the completion date, the Contractor shall begin the work within FOURTEEN (14) CALENDAR DAYS following receipt of the Notice to Proceed, as per section 39.1.

40. FAILURE TO COMPLETE ON TIME

40.1. If the Contractor fails to complete the work within the time required by the Contract Documents, the Owner, in addition to any other rights and remedies Owner may have, shall be entitled to deduct from any payments due to the Contractor the daily amount stipulated in the Tender Form as liquidated damages.

40.2. No bonus will be allowed by the Owner for completion of the works in less time than specified in the Contract.

41. SCHEDULE OF COMPLETION

41.1. The Contractor shall prepare a detailed work schedule and plan of operation for approval by the Engineer. The work schedule and plan of operation, unless otherwise approved by the Engineer, shall be submitted to the Engineer not later than FOURTEEN (14) CALENDAR DAYS after the date of the Notice of Award and shall be approved by the Engineer prior to the issuance of the Notice to Proceed. Upon receipt and approval of such work schedule and plan of operation by the Engineer, the schedule shall become the approved construction schedule. Neither the plan of operation nor the approved construction schedule shall be changed without the prior written approval of the Engineer.

41.2. The work schedule and plan of operation shall describe the proposed labour force and equipment, sequence and methods of operation, restraints, delivery windows, shop drawing submittal and review times, activities on the critical path, project float time, milestones and projected weekly progress to show completion of all work within the Contract time beginning with the date of Notice to Proceed and concluding with the date of Substantial Completion. The schedule shall be based on a standard 5-day, 40-hour work week and shall be provided in bar-chart form, on maximum 11 inch by 17 inch size paper, and in digital form on a USB stick or CD using an approved project planner software package. The float time shown is a project resource available to both parties to meet milestones and the Contract time for completion. Pursuant to the float-sharing requirement, no time extensions will be granted nor delay damages paid until a delay occurs that (i) impacts the project's critical path, (ii) consumes available float or contingency time, and (iii) extends the work beyond the Contract completion date. The schedule requirement herein is the minimum required. The Contractor may prepare a more sophisticated schedule if such will aid in the execution and timely completion of the Work.

41.3. If the Engineer should be of the opinion, and so state in writing to the Contractor, that the rate of progress of the work is insufficient to enable the whole of the work or any part or parts thereof to be completed within the time specified for such completion in the approved construction schedule, the Contractor shall take whatever steps the Engineer may in Engineer's absolute discretion specify in writing to the Contractor to expedite the progress of the work. Such steps may include, but shall not be limited to adoption of shift work and/or the provision of additional workers or equipment. The Contractor shall not be entitled to any extra payment by reason of such order of the Engineer.

41.4. The contractor shall maintain the schedule of completion and prior to receiving payments on each progress certificate, except on the first one, and provide to the owner an update on schedule completion.

42. CHANGES IN THE WORK

42.1. The Owner, without invalidating the Contract, may make changes by altering, adding to, or deducting from the work. The Contractor shall proceed with the work as changed and the work shall be executed under the provisions of the Contract. No change shall be undertaken by the Contractor, without written order of the Engineer, except in an emergency endangering life or property, as described in Article 38, and no claims for additional compensation shall be valid unless the change was so ordered. No payment for extra work or changes in any contract will be entertained by the Owner unless a "Change Order" form is completed and signed by the Engineer and Contractor.

42.2. If, in the opinion of the Engineer, such changes affect the time of Contract completion or the Contract amount, these will be adjusted at the time of ordering the changes. The value of the addition or deduction from the Contract amount, and the method of determining such value, shall be decided by the Engineer. The Engineer will use one (1) or more of the following methods in deciding such value:

- (a) By unit prices or combinations of unit prices in the Tender Form;
- (b) By unit prices submitted by the Contractor and accepted by the Owner;
- (c) By lump sum submitted by the Contractor and accepted by the Owner; or
- (d) On a force account basis as specified in Article 43.

42.3. If the Contractor and the Owner cannot agree on the method of determining such value, the Engineer shall decide and certify the unit prices or lump sum to be used which are or is in Engineer's opinion fair and reasonable to both parties and Engineer's decision shall be final, subject only to Article 58.

43. FORCE ACCOUNT WORK

Compensation for work done on a force account basis shall be made as follows:

- (a) Force account rates for personnel and equipment as specified in the Tender Form will form the basis of payment to the Contractor. All tendered force account rates shall include a maximum of ten percent (10%) mark-up for all overhead costs incurred in relation to the work and a maximum of ten percent (10%) mark-up for profit.
- (b) Materials incorporated into the Work by the Contractor shall be at the Contractor's actual cost, as evidenced by invoice, including all transportation, freight and haulage costs plus a markup of ten percent (10%) on such actual cost to cover all overhead, handling and profit.
- (c) Force account work performed by a sub-contractor shall be paid at the force account rates specified in the Tender Form. All material incorporated into the work by the sub-contractor shall be at the sub-contractor's actual cost, as evidenced by invoice, including all transportation, freight and hauling costs plus a ten percent (10%) markup on such actual cost to cover all overhead, handling and profit. The Contractor, upon submission of the sub-contractor's costs, shall be permitted to add five percent (5%) to materials costs submitted by the sub-contractor to cover all overhead, handling and profit.
- (d) The cost of the work done each day shall be submitted to the Engineer by the Contractor in a satisfactory form on each succeeding day after force account work is carried out and shall be approved or adjusted by the Engineer. No claim for compensation for extra work or materials shall be considered or allowed unless such report shall have been made or the Engineer shall have extended the time for such reports or released the Contractor therefrom. The submission to, or acceptance or approval by, the Engineer of daily force account cost records shall not at any time be deemed to be an admission that the work is properly chargeable to force account.

44. EXTENSION OF CONTRACT TIME

44.1. The time for completion of the work under the Contract may be extended by the Owner in the event of one (1) or more of the following:

- (a) Where extra work as herein provided is added to the work under this Contract;
- (b) Where the work is suspended as provided for in Article 17;
- (c) Where the work is delayed on account of conditions which could not have been foreseen or which were beyond the control of the Contractor (other than a Disease or Disease-Related Reason) and which were not the result of the fault or negligence of the Contractor, its agents, or employees, provided, however, rain, wind, flood, or other natural phenomena

of normal intensity for the area shall not be construed as cause for an extension of time for completion of the work;

- (d) Where the work is delayed on account of a Disease or Disease-Related Reason;
- (e) Where delay occurs in the progress of the work as a result of the act or neglect of the Owner or its employees, or by other contractors employed by the Owner;
- (f) Where delay occurs as a result of an act of a public authority;
- (g) Where the Engineer causes delay in furnishing of drawings or necessary information;
- (h) Where strikes, lockouts, or labour disputes prevent or substantially interfere with the progress of the work; or
- (i) Where, in the opinion of the Engineer, the Contractor is entitled to an extension of time.

44.2. For any claim for extension of Contract time other than a claim under 44.1(d), the claim shall only be considered when submitted by the Contractor to the Engineer in writing within SEVEN (7) CALENDAR DAYS of the occurrence of the delay on which the claim is based, provided, however, that in the case of a continuing cause of delay, only one (1) claim shall be necessary. Within a reasonable period after the Contractor submits a request for an extension of time, the Engineer will present a written recommendation to the Owner stating Engineer's opinion on whether or not the delay justifies an extension of time; and, if so, the number of WORKING DAYS extension due to the Contractor. The Owner will make the final decision on all requests for extension of time.

44.3. Granting of additional time to complete the work pursuant to this Article shall not constitute grounds for any claims whatsoever for additional payment, save on the grounds set out in (b) and (e) above.

44.4. If a claim for extension of Contract time is made under section 44.1(d) such claim process is subject to the following:

44.4.1 If after the notice to proceed is given, but before the work commences, the Contractor believes that a Disease or Disease-Related Reason will affect the start date, the Contractor must declare whether Disease will affect the start date. The Contractor must make such declaration a minimum of SEVEN (7) CALENDAR DAYS prior to the commencement of the Work, unless the Contractor does not become aware of the anticipated delay during this time period, in which case the Contractor must make such declaration as soon as possible after becoming aware of the anticipated delay. If so declared, the Contractor shall provide all evidence that the Engineer in its sole discretion believes is necessary to determine that the delay is directly related to a Disease or Disease-Related Reason, including but not limited to evidence related to availability of staff, availability of materials, availability of work by others, and

such other information and documents requested by the Engineer ("Sufficient Evidence").

- 44.4.2 For any and each Disease or Disease-Related delay identified after Work has commenced, the Contractor shall within SEVEN (7) CALENDAR DAYS of becoming aware of the anticipated delay declare the additional delay and shall provide Sufficient Evidence as indicated in 44.4.1.
- 44.4.3 Failure to provide Sufficient Evidence in the opinion of the Engineer or timely notice as required by 44.4.1 and 44.4.2 will result in no additional time delays for Disease being considered by the Engineer or the Owner.
- 44.4.4 Within a reasonable period after the Contractor submits a request for an extension of time because of Disease or a Disease-Related Reason, the Engineer will present a written recommendation to the Owner stating Engineer's opinion on whether or not the evidence provided by the Contractor justifies an extension of time; and, if so, the number of WORKING DAYS extension due to the Contractor. The Owner will make the final decision on all requests for extension of time. For certainty, granting of additional time to complete the work under this 44.4 shall not constitute grounds for any claims whatsoever for additional payment. However, when considering lengthy Disease or Disease Related, if the Engineer believes that temporary works are required to maintain the Work in a safe manner until the Work recommences, the Owner may require that as a condition of granting an extension of time, the Contractor must install such temporary works. If the Owner requires the Contractor to install such temporary works, the Owner shall pay to the Contractor its additional expenses relating to temporary works needed to maintain the Work in a safe manner until Work recommences, as determined by the Engineer using the process specified in 42.2.

45. USE OF COMPLETED PORTIONS

The Owner will have the right to take possession of and use any completed or partially completed portions of the work, whether the time for completing the entire work or such portions has or has not expired, but such taking possession and use will not be deemed an acceptance of any work so taken possession of or used. If such prior use increases the cost of, or delays the completion of uncompleted work or causes refinishing of completed work, the Contractor shall be entitled to such extra compensation or extension of time, or both, as the Engineer may determine.

46. PROGRESS PAYMENTS

46.1. At the end of each calendar month the Engineer will calculate all progress payments for that month and will prepare certificates for payment by the Owner. Where unit prices apply, payment will be calculated on the basis of the tendered prices and the units of work completed as determined by the Engineer. Where a lump sum price applies, payment will be calculated on the basis of the Engineer's estimate of the percentage of work completed.

46.2. The payment certificate shall show as of the end of the last day of each calendar month the value of all labour and materials incorporated into the works, including extras, and all

adjustments previously made whether additions or deductions. The certificate shall also show the aggregate of previous payments, the amounts withheld to comply with the builder's lien legislation, and the amount, if any, of the holdback released in respect of completed subcontracts. Except in respect of the final progress payment, the gross amount shown on such certificate, less the aggregate of all previous payments, previous sums withheld, and the amount then required to be withheld to comply with the applicable builder's lien legislation as set out below, shall become due and be payable by the Owner to the Contractor on or before the last day of the next month. In those cases where the work is such that the builder's lien legislation does not apply or does not require the retention of a holdback, the Owner will nevertheless retain holdbacks to the same extent as if such legislation applied to the work.

46.3. Ten percent (10%) of each progress payment shall be retained by the Owner to comply with the *Builders' Lien Act* until payment is due in accordance with the provision of Article 54.

46.4. The monthly estimates shall not bind the Owner or Engineer in any manner in the preparation of the final estimate of the work done, but shall be construed and held to be approximate only, and shall in no case be taken as an acceptance of the work or as a release of the Contractor from Contractor's responsibility therefor.

47. STATUTORY DECLARATION

The Contractor shall, prior to receiving payment on each progress certificate except the first one, provide to the Owner a Statutory Declaration, stating that "all employees, sub-contractors and suppliers used in connection with the work have been fully paid and satisfied by the Contractor, and that all fees and assessments have been paid or are in good standing, and that there is no claim outstanding or pending in respect of the work carried out and that no lien has been filed against the Owner's lands or against any materials or equipment for work done or materials supplied under the Contract."

48. PAYMENT WITHHELD

48.1. Upon receipt of a certificate in writing from the Engineer stating that, in Engineer's opinion, justification exists and stating the basis and the amount of such deduction, the Owner may withhold or nullify, on written notice to the Contractor specifying the ground or grounds relied on, the whole or part of any progress payment to the extent necessary to protect himself from loss on account of one (1) or more of the following:

- (a) That the Contractor is not making satisfactory progress in the opinion of the Engineer;
- (b) That defective work is not being remedied at all or in a manner satisfactory to the Engineer;
- (c) That a claim or claims of lien has been filed against the lands and premises on which the work is done or is being done, or reasonable evidence of the probable filing of such claims or claims of lien;
- (d) That the Contractor is failing to make prompt payments as they become due to subcontractors or for material or labour; or

- (e) That there exist unsatisfied claims for damages caused by the Contractor to anyone employed on the site or in connection with the work.
- (f) That the Contractor owes a debt to the Owner under a separate contract, agreement or offer between the Owner and the Contractor which remains unpaid for more than THIRTY (30) CALENDAR DAYS from the last day of the month in which the invoice was issued.

48.2. Where subcontractors or suppliers of materials are not receiving prompt payment, the Owner may make payment to such subcontractors or suppliers directly and deduct the amount of such payments from amounts otherwise due to the Contractor.

49. BUILDERS' LIENS

49.1. The Contractor shall remove or cause to be removed all claim of lien or liens filed or registered against the lands and premises on which the work is being performed which claim of lien or liens arise out of anything done or to be done under the Contract. Such removal shall be effected by the Contractor forthwith upon demand by the Owner or the Engineer.

49.2. The Owner shall release a holdback in respect of a completed subcontract if a Certificate of Completion has been issued in respect of that subcontract and the holdback period established under the *Builders' Lien Act* has expired without any claims of a lien being filed that arose under that subcontract.

49.3. Notwithstanding anything elsewhere contained in the Contract Documents, the Contractor shall indemnify and hold harmless the Owner from all demands, damages, costs, losses and actions arising in any way out of claims of lien or liens which arise out of anything done or to be done under the Contract whether the lien period binding on the Contractor has expired or not.

49.4. The obligations imposed on the Contractor by the provisions of this Article 49 shall not extend to claims of lien or liens properly and lawfully filed by the Contractor himself.

50. COMPLETION AND NOTICE OF ACCEPTANCE

50.1. When the Contractor is of the opinion that Contractor has substantially performed the work, Contractor shall inspect the work to ensure that all work has in fact been substantially performed, that it is in a clean and tidy condition and that it is ready for use by the Owner. Contractor should then submit a written request to the Engineer to determine whether the Contract has been substantially performed. The Engineer will make an inspection and if Engineer determines that the Contract has been substantially performed, the Engineer shall so advise the Owner and the Contractor, and a Certificate of Completion will be issued in accordance with the *Builders' Lien Act*.

50.2. The Engineer will notify the Contractor in writing of any defects or deficiencies which require correction. When the defects or deficiencies have been corrected and the work is ready in all respects for acceptance by the Owner and the Contractor has submitted to the Engineer a

written statement that all claims and demands of the Contractor for extra work or otherwise in connection with the Contract have been presented in writing to the Engineer, and after the Letter of Credit has been deposited in accordance with Article 30 and after the statutory declaration required under Article 47 has been provided, the Engineer will recommend to the Owner that a Notice of Acceptance be issued to the Contractor. The Owner, subject to their acceptance of the Engineer's recommendation, will issue the Notice of Acceptance.

51. PARTIAL COMPLETION AND NOTICE OF PARTIAL ACCEPTANCE

51.1. If the Contractor considers that, by reason of climatic or similar problems beyond Contractor's reasonable control, not all the work can be performed or defects or deficiencies corrected promptly, Contractor may in writing request of the Engineer a Notice of Partial Acceptance and a determination of whether the Contract has been substantially performed to the extent possible. Such request shall be accompanied by a written statement that all claims and demands of the Contractor for extra work or otherwise in connection with the work to be accepted have been presented in writing. If the Engineer considers such request to be reasonable, Engineer will carry out an inspection and will notify the Contractor in writing of any defects or deficiencies which require correction before Engineer will recommend partial acceptance. The Engineer will prepare an additional list of defects and deficiencies which in Engineer's opinion do not impair the usefulness to the Owner of the whole work and the correction of which may reasonably be deferred. This list shall show the amount which the Engineer considers to be the cost of completing such work and correcting such defects and deficiencies.

51.2. When all work has been performed and defects and deficiencies corrected other than those on this list and after the Engineer determines the Contract to be substantially performed to the extent possible, the Engineer shall so advise the Owner and the Contractor, and after the Letter of Credit has been deposited in accordance with Article 30, the Engineer will recommend to the Owner that a Notice of Partial Acceptance be issued to the Contractor. The Owner, subject to their acceptance of the Engineer's recommendation, will issue the Notice of Partial Acceptance. The Notice of Partial Acceptance shall list the work to be performed and the defects and deficiencies to be corrected and the estimated cost thereof and shall fix a date within which all such works shall be performed and the defects and deficiencies corrected.

51.3. In considering the Engineer's recommendation, the Owner will consider the effect of the deferred performance of work on the provisions of the applicable builder's lien legislation and may make acceptance conditional on the Contractor providing written consents of sureties under any Performance or Labour and Materials Payment Bonds or other evidence that no guarantor or surety will be relieved of its obligations.

51.4. When all such work has been performed and the defects and deficiencies corrected, the Contractor shall call for final inspection in accordance with Article 50 - Completion and Notice of Acceptance.

51.5. If all work is not performed and all defects and deficiencies are not corrected by the date set out in the Notice of Partial Acceptance, the Owner shall be entitled to deduct from any payments due to the Contractor the daily amount stipulated in the Tender Form as liquidated

damages. In addition, the Owner may have the work performed and the defects and deficiencies corrected by any means the Owner thinks suitable, and may recover the costs thereof from any money withheld from the Contractor or from the Contractor if such money is insufficient.

52. FINAL PROGRESS PAYMENT

52.1. The final progress payment certificate will be prepared following the issuance of the Notice of Acceptance. The Engineer will review with the Contractor all work quantities and all claims and demands of the Contractor for extra work in connection with the Contract. The final progress payment certificate will show the total amount of the payment due to the Contractor less the amount required to be retained under the applicable lien legislation.

52.2. The final progress payment shall be made by the Owner within THIRTY (30) CALENDAR DAYS of the date of the final progress payment certificate.

53. PROGRESS PAYMENT AFTER PARTIAL COMPLETION

If the Owner issues a Notice of Partial Acceptance, the Engineer will prepare a progress payment certificate in the same detail as required for a final progress payment certificate. From the amount shown on such certificate to be due to the Contractor shall be deducted the amount required to be retained under the applicable lien legislation and twice the amount shown on the Notice of Partial Acceptance to be the estimated cost of performing the remaining work and correcting the defects and deficiencies. Payment of the net amount due to the Contractor shall be made by the Owner within THIRTY (30) CALENDAR DAYS of the date of this progress payment certificate.

54. RELEASE OF HOLDBACK

54.1. A Certificate of Completion, shall be conclusively deemed between the Owner and the Contractor to start the period within which liens must be filed by the Contractor under the applicable lien legislation, and holdback must be released by the Owner.

54.2. The Owner shall pay the holdback to the Contractor within FOURTEEN (14) CALENDAR DAYS of the expiry of the statutory time for release of holdback, provided that:

- (a) The Contractor has provided to the Owner a certificate from the proper office to register liens to prove that, as of a date TWO (2) CALENDAR DAYS after the expiry of the statutory period, no notice of lien or liens has been filed or other matters recorded to make effective any lien;
- (b) The Contractor has complied with any conditions imposed by the Owner in Owner's acceptance of the recommendation of the Engineer to issue a Notice of Partial Acceptance;
- (c) The Workers' Compensation Board has, at the request of the Contractor, filed with the Owner a certificate that all assessments due to the Board by the Contractor have been paid, such certificate being dated after the expiry of the statutory period for filing liens;

- (d) If, under the applicable lien legislation, there is no person who can provide the certificate referred to in (a) above, in which case the Contractor shall furnish to the Owner a Statutory Declaration, dated not earlier than SEVEN (7) CALENDAR DAYS after the expiry of the statutory lien period, stating why no certificate as is referred to in (a) above is possible, and stating that all employees, subcontractors and suppliers used in connection with the work have been paid and satisfied by the Contractor and that there is no claim outstanding or pending in respect of the work carried out and no lien has been filed against the Owner's lands against any materials or equipment used in connection with the work;
- (e) The Contractor has certified to the Owner that there are no funds owing by the Owner to the Contractor other than those funds held back; and
- (f) The Contractor has provided a Standby Irrevocable Letter of Credit as stipulated in Article 30.

54.3. The statutory period within which liens must be filed is FORTY-FIVE (45) CALENDAR DAYS after the Certificate of Completion was issued, and the statutory period for the release of holdback is FIFTY-FIVE (55) CALENDAR DAYS after the Certificate of Completion was issued.

55. INSURANCE

Without restricting the generality of Article 33, Indemnity, the Contractor shall, at Contractor's own expense, provide and maintain the following insurance coverages listed herein unless otherwise stipulated.

Each policy shall contain a clause stating that: "This policy will not be cancelled or materially changed without the Insurer giving at least THIRTY (30) CALENDAR DAYS' notice by registered mail to the Owner."

Unless specified otherwise the duration of each insurance policy shall be from the date of Notice to Proceed until the date of the Owner's Notice of Acceptance.

Certified copies of these policies shall be filed by the Contractor with the Owner within FOURTEEN (14) CALENDAR DAYS after the date of written notification of the acceptance of Contractor's tender, and prior to commencement of the work or the supply of materials. Wherever the word "Owner" or "Engineer" is to appear in these policies, the legal name shall be inserted.

The Contractor shall be responsible for any deductible amounts under the policies. The cost of all insurance required by this Contract shall be included in the Total Tendered Amount.

If the Contractor fails to provide or maintain insurance as required by this Article 55, then the Owner shall have the right to provide and maintain such insurance and give evidence thereof to the Contractor. The cost thereof shall be payable by the Contractor to the Owner on demand or the Owner may deduct the costs thereof from monies which are due or may become due to the Contractor.

Wrap Up Liability Insurance

Wrap Up Liability Insurance acceptable to the Owner with limits of liability of not less than THREE MILLION DOLLARS (\$3,000,000.00) inclusive, for bodily injury and property damage for any one occurrence or series of occurrences arising out of one cause and not less than THREE MILLION DOLLARS (\$3,000,000.00) for personal injury.

The insurance shall be in the joint names of the Contractor and the Owner.

The Wrap Up Liability Insurance shall include but not necessarily be limited to the following coverage:

- (a) Premises and operations liability;
- (b) Products and completed operations liability;
- (c) Blanket contractual liability;
- (d) Bodily injury and property damage on an "occurrence" basis;
- (e) "All Risk" property damage including the loss of use of property;
- (f) Owner's and Contractor's protective liability;
- (g) Elevator and hoist liability;
- (h) Contingent employer's liability;
- (i) Personal injury liability arising out of false arrest, detention or imprisonment or malicious prosecution; libel, slander or defamation of character; invasion of privacy, wrongful eviction or wrongful entry;
- (j) Shoring, blasting, excavating, underpinning, demolition, pile driving and caisson work, work below ground surface, tunnelling and grading, as applicable; and
- (k) Cross liability or severability of interest clause.

The insurance shall continue for a period of at least ONE (1) YEAR beyond the date of the Owner's Notice of Acceptance for the completed operations hazard.

Automobile Liability Insurance

Automobile Liability insurance in respect of licensed vehicles shall have limits of not less than THREE MILLION DOLLARS (\$3,000,000.00) inclusive per occurrence for bodily injury, death, and damage to property, in the following forms:

- (a) Standard non-owned automobile policy including standard contractual liability endorsement; and
- (b) Standard owner's form automobile policy providing third party liability and accident benefits insurance and covering licensed vehicles owned or operated by or on behalf of the Contractor.

Aircraft and Watercraft Liability

NOT APPLICABLE

Builder's Risk Course of Construction Insurance

Builder's Risk insurance acceptable to the Owner, insuring the full value of the work in the amount of the Total Tendered Amount, and full value as stated of products, if any, that are specified to be provided by the Owner for incorporation into the work.

The insurance shall be in the joint names of the Contractor, the Owner and Great Pacific Consultant, and shall include the interests of the Contractor, the Owner, the subcontractors and all others having an insurable interest in the work.

The policy shall preclude subrogation claims by the insurer against anyone insured thereunder and shall contain the following clause:

"It is agreed that the right to subrogation against the Owner and the Engineer or any of their parent, subsidiary, or affiliated companies or corporations or any employee thereof is hereby waived."

The policy shall be written to insure the work on an "All Risks" basis granting coverage at least equivalent in scope to that provided by the form known and referred to in the Insurance Industry as IAO Form 507, All Risks Builders Risk - Comprehensive Form, including flood and earthquake, subject to a deductible not exceeding FIVE THOUSAND DOLLARS (\$5,000.00) for all losses except TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) flood and TEN PERCENT (10%) earthquake.

The policy shall provide that, in the event of a loss or damage, payment shall be made to the Owner and the Contractor as their respective interests may appear. The Contractor shall act on behalf of the Owner and himself for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined the Contractor shall proceed to restore the work. Loss or damage shall not affect the rights and obligations of either party under the Contract except that the Contractor shall be entitled to such reasonable extension of Contract time relative to the extent of the loss or damage as the Engineer may decide in consultation with the Contractor.

Boiler Insurance

NOT APPLICABLE

Contractor's Equipment Insurance

Notwithstanding anything contained elsewhere herein, it is understood and agreed that the Owner and/or Engineer will not be liable for any loss or damage to the Contractor's equipment including loss of use thereof. Each and every policy insuring the Contractor's equipment to be used on this project shall contain the following clause:

"It is agreed that the right to subrogation against the Owner and the Engineer or any of their parent, subsidiary or affiliated companies or corporations or any employee thereof is hereby waived."

56. GOODS AND SERVICES TAX (GST)

Federal law states that a five percent (5%) tax be paid on all goods and services. The Contractor is required to identify this tax on all invoices and the Owner is liable to pay this amount to the Contractor.

57. NORMAL HOURS OF WORK

The normal hours of work shall be a maximum of eight (8) hours per day, between the hours of 7:00 am and 6:00 pm, Monday through Friday. No work shall be done at other times or on legal holidays except to carry out such work as is necessary for the proper care and protection of the work already performed, or in case of emergency, or in special cases that the Contractor has requested in writing and the Engineer has approved in writing. Inspection personnel will be provided by the Owner between the hours of 8:00 am and 4:30 pm, Monday through Friday. If the Contractor elects to work outside these hours they must first make arrangements to do so with the Engineer. The additional cost (if any) of inspection by the Owner outside the hours of 8:00 am to 4:30 pm, Monday through Friday shall be refunded by the Contractor to the Owner.

58. DISPUTE RESOLUTION

If any dispute arises between the Capital Regional District and the Contractor as to their rights and obligations under this Contract, after requesting/obtaining the initial decision from the Engineer under Article 6, either of them may give to the other written notice of such dispute and may request arbitration thereof. The parties may agree to submit the matter in dispute to arbitration and such arbitration shall be carried out in accordance with the provisions of the *Arbitration Act* R.S.B.C. 1979, C18.

THE SPECIFICATIONS

APPENDIX A

OWNER'S NOTIFICATION OF HAZARD



Making a difference...together

OWNER'S NOTIFICATION OF HAZARD

Contract #: SSI 2021-005	Location: Drake Road Trail	Date:
Contractor:		Phone: ()
Contractor Representative:		Phone: ()
Prime Contractor:		
CRD Representative: Dan Ovington		Phone: (250) 538-8668
<p>Listed below are pre-existing known hazards identified by the Capital Regional District which are relevant to the project. The list may not be all-inclusive. The Contractor must assess the work area to determine if other hazards exist. If the Contractor identifies additional hazards, the Contractor must notify the CRD project manager or designate.</p> <p>The Contractor is responsible for addressing these hazards and other hazards identified during the course of the project.</p>		
Hazard:	Details:	
Working Near or around Traffic	Work in the vicinity of several roadways / driveways.	
Uneven Ground	Uneven ground may be encountered within the project extents.	
Machinery	Machinery anticipated for projects works.	
Vegetation that May Cut or Scrape	Work in the vicinity of existing vegetation that may cut and scape when encountered.	
Trip Hazards	Various hazards with the potential to trip such as tree roots, rocks and other objects may be encountered within the project extents.	

Date:

Signature:

Distribution: Project Manager, Contractor, Safety Officer, File

THE DRAWINGS

(Bound Separately)