

## RULES FOR PARTICIPATION

- 1 OWNERSHIP OF BID AND PROTECTION OF PRIVACY** - All responses to this Tender become the property of the RDCK. By submitting a Bid, the Bidder agrees the RDCK has the right to copy the Bid Documents. Bids will be held in confidence by the RDCK, subject to the provisions of the *Freedom of Information and Protection of Privacy Act* and any requirement for disclosure of all or a part of a Bid under that Act. The requirement for confidentiality shall not apply to any Bid that is incorporated into the Contract for the supply of the Services. Further, the RDCK may disclose all or part of any Bid to the RDCK Board of Directors or a delegated governance body of the RDCK.
- 2 EXAMINATION OF DOCUMENTS** - The Bidder must carefully examine the Tender and addenda. The Bidder may not claim after the submission of a Bid that there was any misunderstanding with respect to the requirements and conditions imposed by the RDCK. These documents will be incorporated into a Contract between the RDCK and the successful Bidder and therefore must be considered by the Bidder in preparing their Bid.
- 3 LIABILITY FOR ERRORS** - While the RDCK has undertaken efforts to ensure accurate representation of information in this Tender, the information contained is supplied solely as a guideline for Bidders. The information is not guaranteed or warranted to be accurate by the RDCK, nor is it necessarily comprehensive or exhaustive. Nothing in this Tender is intended to relieve Bidders from forming their own opinions and conclusions with respect to the information in this Tender.
- 4 BIDDER QUESTIONS AND CLARIFICATION** - Prior to submitting their Bid, the Bidder must seek clarification from the RDCK for any items within the Tender documents that may appear to be unclear or conflicting, or otherwise requiring the attention of the RDCK. The Bidder must satisfy themselves as to the quantities and nature of the Services to be supplied and in general, shall obtain all relevant information as to risks, contingencies and other circumstances which may influence their Bid. Queries and requests for clarification are to be submitted as per the instructions in the Tender Key Information section. The RDCK shall determine, at its sole discretion, whether the query requires response, and such responses will be made available to all by issue of addenda posted on the RDCK's website. No oral conversation will affect or modify the terms of the Tender
- 5 ADDENDA** - Bidders are required to check the RDCK's website for any updated information by the Tender closing date. Upon submitting a response to this Tender, Bidders are deemed to have received all addenda posted on the RDCK's website and deemed to have considered the information for inclusion in their submission. Should there be any discrepancy in the Tender documentation provided, the RDCK's original file copy shall prevail.
- 6 TENDER CLOSING DATE AND TIME** - Bids and responses will be received on or before the closing date indicated in the Tender document.
- 7 INSTRUCTIONS FOR BID SUBMISSIONS** - Bids must be submitted following the instructions in the Tender Key Information section. Bids submitted shall be deemed to be successfully received once a confirmation of receipt email is sent from the RDCK Representative to the Bidder. The RDCK will not be liable for any delay for any reason including technological delays, or issues by either party's network or email program, and the RDCK will not be liable for any damages associated with Bids not received.
- 8 PRICES** - Prices proposed by the Bidder shall be all-inclusive and stated in Canadian Funds. Except where expressly stated to the contrary in the Tender documents, the intention is that Prices shall remain fixed

for the completion of the Services. Prices shall include the provision of all tools, materials, equipment, commissioning, labour, transportation, fuel, supervision, management, overhead, materials, traffic control, services, all necessary packing and crating (where applicable), Canadian Customs import and export duties, freight, handling, insurance, all other associated or related charges, foreign, and municipal taxes, bonding costs, all licences, permits, inspections and all other requirements necessary for the commencement, performance and completion of Services as described.

- 9 CONFLICT OF INTEREST** - By submitting a Bid, the Bidder confirms that the current or past employment or other interests or relationships of the Bidder (including a Bidder's subcontractors and named personnel, if any) do not create or lead to any actual, potential or perceived conflict of interest, unfair advantage, bias or reasonable apprehension of bias that would favor the Bidder (including a Bidder's subcontractors and named personnel, if any) with respect to the procurement process. The RDCK may, in its sole discretion, disqualify a Bid or cancel its decision to identify a Bidder as a successful Bidder at any time prior to the execution of the Contract by the RDCK if the Bid, in the sole discretion of RDCK, reveals a conflict of interest that cannot be managed, mitigated or minimized.

For the purposes of this section, the term "Conflict of Interest" means:

- (a) in relation to the Tender process, the Bidder has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to;
  - (i) having, or having access to, confidential information of the RDCK in the preparation of its Bid that is not available to other Bidders;
  - (ii) communicating with any person with a view to influencing preferred treatment in the Tender process (including but not limited to the lobbying of decision makers involved in the Tender process; or
  - (iii) engaging in conduct that compromises, or could be seen to compromise, the integrity of the Tender process; or
- (b) in relation to the performance of its contractual obligations contemplated in the contract that is the subject of this procurement, the Bidder's other commitments, relationships or financial interests;
  - (i) could, or could be seen to, exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement; or
  - (ii) could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.

- 10 RIGHT TO MODIFY OR CANCEL TENDER** - The RDCK reserves the right to modify the terms of the Tender at any time prior to the Closing Date and Time, including the right to cancel the Tender at any time prior to entering into a Contract with a Bidder.

- 11 NO CLAIM** - Each Bidder, by submitting a Bid, irrevocably waives any claim, action, or proceeding including without limitation any judicial review or injunction application, against the RDCK or any of the RDCK's elected officials, employees, advisors or representatives, for damages, expenses or costs including costs of Bid preparation, loss of profits, loss of opportunity or any consequential loss for any reason including: any actual or alleged unfairness on the part of the RDCK at any stage of the Tender

process; if the RDCK does not award or execute a contract; or, if the RDCK is subsequently determined to have accepted a noncompliant Bid or otherwise not complied with the terms of this Tender, with the exception of fraud on the RDCK's part.

- 12 NO ASSIGNMENT** - Under no circumstances may the Bidder assign any rights to any other party. Joint submissions must identify a prime Bidder that will assume responsibility for the Bid as well as for the professional standards, actions and performance of Bidders if awarded the Services. Services or any part thereof may not be subcontracted, transferred, or assigned to another firm, person, or company without prior written authorization of the RDCK.
- 13 WITHDRAWAL OF BID** - Bids may be withdrawn upon request by following the instructions on the Tender Key Information section.
- 14 RIGHT TO ACCEPT AND REJECT BIDS** - The RDCK may, in its sole discretion, reject any and all Bids, or accept the Bid deemed most favourable in the interests of the RDCK. The lowest, or any Bid, will not necessarily be awarded. Bids which contain qualifying conditions or otherwise fail to conform to the instructions contained in this Tender may be disqualified or rejected. The RDCK may, however, in its sole discretion, reject or retain for its consideration Bids which are non-conforming because they do not contain the content or form required by the Tender, or for failure to comply with the process for submission set out in this Tender, whether or not such non-compliance is material.
- 15 LITIGATION** - Without limiting section 14 of these Rules for Participation, the RDCK may, in its absolute discretion, reject a Bid if the Bidder, or any officer or director has been engaged directly or indirectly in a legal action against the RDCK, its elected or appointed officers, representatives or employees in relation to any matter, or if the RDCK has initiated legal action against any officers or directors of the Bidder. In determining whether or not to reject a Bid, the RDCK will consider whether the litigation is likely to affect the Bidder's ability to work with the RDCK, its consultants and representatives, and whether the RDCK's experience with the Bidder indicates there is a risk the RDCK will incur increased staff and legal costs in the administration of an agreement if it is awarded to the Bidder.
- 16 AWARD TO MULTIPLE BIDDERS** - The RDCK reserves the right to award sections of the Services to separate companies to obtain best value.
- 17 TERMS AND CONDITIONS OF THE CONTRACT** - By submitting a Bid, the Bidder agrees that, should it be identified as the successful Bidder, it is willing to enter into the Contract with the RDCK within fifteen (15) days of the date of the Notice of Award.