



COWICHAN VALLEY REGIONAL DISTRICT

Request for Proposals

For

PROCESSING OF YARD WASTE AND/OR ORGANIC WASTE

Request for Proposals No.: ES-036-17

Issued: **September 14, 2017**

Submission Deadline: **November 16, 2017 at 2:00 p.m.**

COWICHAN VALLEY REGIONAL DISTRICT
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TABLE OF CONTENTS

PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS	3
1.1 Invitation to Proponents	3
1.2 RFP Contact	3
1.3 Type of Contract for Deliverables	3
1.4 RFP Timetable	3
1.5 Submission of Proposals	3
PART 2 – RFP PARTICULARS	5
2.1. THE DELIVERABLES	5
2.2. MATERIAL DISCLOSURES	6
2.3 MANDATORY TECHNICAL REQUIREMENTS	7
2.4. RATED CRITERIA	7
PART 3 - EVALUATION AND NEGOTIATION	11
3.1 Stages of Evaluation and Negotiation	11
3.2 Stage I – Mandatory Submission Requirements	11
3.3 Stage II – Evaluation	11
3.4 Stage III – Pricing	11
3.5 Stage IV – Ranking and Contract Negotiations	11
PART 4 – TERMS AND CONDITIONS OF THE RFP PROCESS	13
4.1 General Information and Instructions	13
4.2 Communication after Issuance of RFP	14
4.3 Notification and Debriefing	14
4.4 Conflict of Interest and Prohibited Conduct	15
4.5 Confidential Information	16
4.6 Procurement Process Non-binding	16
4.7 Governing Law and Interpretation	17
APPENDIX A – FORM OF AGREEMENT	18
APPENDIX B – SUBMISSION FORM	26

PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS

1.1 Invitation to Proponents

This Request for Proposals (the “RFP”) is an invitation by the Cowichan Valley Regional District (“the CVRD”) to prospective proponents to submit proposals for the processing of **Yard Waste** and **Organic Waste** as further described in the RFP Particulars (Part 2) (the “Deliverables”).

1.2 RFP Contact

For the purposes of this procurement process, the “RFP Contact” shall be:

Anthony Jeffery email: purchasing@cvrd.bc.ca

1.3 Type of Contract for Deliverables

If deemed favourable to the CVRD, the CVRD may enter into an agreement with more than one (1) proponent. The selected proponent(s) will be requested to enter into direct contract negotiations to finalize an agreement with the CVRD for the provision of the Deliverables. The terms and conditions found in the Form of Agreement (Appendix A) are to form the basis for commencing negotiations between the CVRD and the selected proponent.

The term of the agreement is to be for a period of 3 years with an option in favour of the Region to extend the agreement on the same terms and conditions for an additional term of up to two years.

1.4 RFP Timetable

Issue Date of RFP	September 14, 2017
Deadline for Questions	Monday, October 23, 2017 at 2:00 p.m.
Deadline for Issuing Addenda	Friday, October 27, 2017 at 2:00 p.m.
Submission Deadline	Thursday, November 16, 2017 at 2:00 p.m.
Rectification Period	3 days from issue of notice.
Anticipated Ranking of Proponents	Tuesday, November 23, 2017
Contract Negotiation Period	30 days
Anticipated Contract Start Date	February 1, 2018

The RFP timetable is tentative only, and may be changed by the CVRD at any time.

1.5 Submission of Proposals

Submissions must be sent by email to the RFP Contact at the email address set out above. The complete submission must be received in the inbox of the RFP Contact's email address by the Submission Deadline. Submissions received after the Submission Deadline will not be considered.

1.5.2 Proposals to be Submitted on Time

Proposals must be submitted at the location set out above on or before the Submission Deadline. Subject to the process described below, proposals submitted after the Submission Deadline will be rejected.

1.5.3 Amendment of Proposals

Proponents may amend their proposals via email to the RFP contact prior to the Submission Deadline by submitting the amendment prominently marked with the RFP title and number in the email subject line. Any amendment should clearly indicate which part of the proposal the amendment is intended to amend or replace.

1.5.4 Withdrawal of Proposals

At any time throughout the RFP process, until the execution of a written agreement for provision of the Deliverables, a proponent may withdraw a submitted proposal. To withdraw a proposal, a notice of withdrawal must be sent to the RFP Contact and must be signed by an authorized representative of the proponent. The CVRD is under no obligation to return withdrawn proposals.

[End of Part 1]

PART 2 – RFP PARTICULARS

2.1. THE DELIVERABLES

The CVRD is accepting proposals for the provision of **Yard Waste** and **Organic Waste** processing that is collected at CVRD Recycling Centers. Interested proponents may submit a proposal for the **Yard Waste** or the **Organic Waste**, or both.

A. Definitions

“Organic Waste” means source separated residential, commercial or institutional compostable waste including, but not limited to: food wastes (e.g. fruits, vegetables, meat, fish, bones, dairy products and other food items), food-soiled paper products (e.g. pizza boxes, paper towels, cups and plates), certified compostable products and hair. Smaller amounts of plant matter may also be included, however yard and garden waste is managed separately.

“Yard Waste” means source separated grass, lawn and hedge clippings, flowers, weeds, leaves, vegetable stalks, shrubs and branches less than 75 millimeters in diameters (3 inches), but does not include stumps.

“Material” means both **Organic Waste** and **Yard Waste**.

B. Background

The CVRD collects **Material** at CVRD Recycling Centres:

- Bings Creek Recycling Centre located at 3900 Drinkwater Road, Duncan;
- Peerless Road Recycling Centre located at 10830 Westdowne Road, Ladysmith; and
- Meade Creek Recycling Centre located at 8855 Youbou Road, Lake Cowichan.

The **Material** will be hauled directly from CVRD Recycling Centres to the proponent’s processing facility.

C. Objectives

Ensure that the **Material** processed in a manner that does not negatively impact the environment (air, soil, surface and groundwater); and, cause dust, noise or odour nuisance for neighboring properties.

D. Quantities

The quantities of **Material** required to be managed by the successful proponent(s) are not guaranteed and may be lower or greater than estimated below:

1. two thousand (2,000) metric tonnes of **Organic Waste** per year; and
2. six thousand (6,000) metric tonnes of **Yard Waste** per year.

E. Deliveries

❖ **Organic Waste Deliveries**

- The CVRD will deliver the **Organic Waste** in forty (40) yard roll-off bins;
- The average bin is estimated to contain seven and half (7.5) tonnes of **Organic Waste**;
- The proponent should expect to receive approximately two (2) to three (3) deliveries of per day during peak times; and
- Deliveries to the proponent's facility may occur seven (7) days per week.

❖ **Yard Waste Deliveries**

- The CVRD will deliver the **Yard Waste** in forty (40) yard roll-off bins;
- The average bin is estimated to contain six and a half (6.5) tonnes of **Yard Waste**;
- The proponent should expect seasonal increases of **Yard Waste** during spring, summer and fall, and after windstorms (peak times). During peak times, the proponent should expect several deliveries per day (approximately two (2) to five (5)); and
- Deliveries to the proponent's facility may occur seven (7) days per week.

❖ **CVRD Hauling Costs**

The CVRD will use \$1.90 per kilometre (\$1.90/km) to estimate CVRD's cost of hauling the **Material** from the CVRD Recycling Centres to the proponent(s) facility for processing. In addition, the CVRD will use the following number of loads for this estimate:

Organic Waste loads:

- 266 loads from the Bings Creek Recycling Centre.

Yard Waste loads:

- 525 load from the Bings Creek Recycling Centre;
- 325 loads from the Peerless Road Recycling Centre; and
- 70 loads from the Meade Creek Recycling Centre.

The CVRD will consider the CVRD hauling cost as part of the overall price to the CVRD for entering into an agreement with any given proponent.

2.2. MATERIAL DISCLOSURES

The CVRD will:

1. Weigh the **Material** at the CVRD Recycling Centres weigh scale prior to hauling it to the proponent's facility;
2. Haul, using CVRD staff and equipment, or a CVRD authorized hauler to transport the **Material** in forty (40) yard roll-off bins to the proponent's facility; and
3. Provide the proponent with a copy of the weigh scale slip from the CVRD Recycling Centre.

The proponent will be required to provide details regarding the following:

1. The final product produced from the processed **Material**, and how it will be used (e.g. the **Organic Waste** and/or the **Yard Waste** will be processed into Class and all of the Class A compost will be sold to landscapers, plant nurseries, etc.).

2. All proponents proposing to receive and/or manage the **Material** within the CVRD must hold a valid waste stream management licence under *CVRD Bylaw No. 2570 – Waste Stream Management Licensing Bylaw, 2004* and must be in compliance with their Licence, and all other applicable regulation, including but not limited to the provincial *Organic Matter Recycling Regulation (OMRR)* at the time of contract award.
3. As part of CVRD's commitment to the BC Climate Action Charter, the CVRD is required to report on greenhouse gas emissions generated from contracted services. As a result, the CVRD will require the winning proponent(s) to communicate the quantity and type of fuel used to operate vehicles, equipment and machinery as part of the delivery of the services described in this RFP. The CVRD will provide the necessary forms to be completed for this reporting. The successful proponent(s) will be required to provide a brief written annual report showing the quantity and type of fuel used to operate vehicles, equipment and machinery as part of the delivery of the services described in this RFP.
4. All rights, title and interest in any **Carbon Credits** from the collected and processed **Material** shall be and remain the sole property of the CVRD. (**Carbon Credits** means any credits, offsets, allowances or other forms of recognition or exchangeable value of any kind arising out of or in respect of greenhouse gas emission reductions resulting or expected to result in any way from the collection and processing of the **Material** under this Agreement, whether pursuant to the Greenhouse Gas Reduction Targets Act, SBC 2007, c.42, or any other voluntary or mandatory emission offset recognition scheme or emission reduction program).

2.3 MANDATORY TECHNICAL REQUIREMENTS

The proponent will be required to provide a detailed description of the **Material** receiving and processing method, including the environmental controls to ensure no negative environmental impact, and details on the final product produced from the **Material**.

2.4. RATED CRITERIA & SUBMISSION REQUIREMENTS

The following is an overview of the categories and weighting for the rated criteria of the RFP. Proponents who do not meet a minimum threshold score for a category will not proceed to the next stage of the evaluation process.

Rated Criteria Category	Weighting (Points)
2.4.1 Experience and Qualifications	15
2.4.2 References	5
2.4.3 Capacity	20
2.4.4 Environmental Protection	30
2.4.5 Pricing	30
Total Points	100

Proponents should provide the following information which will be evaluated against the rated criteria:

2.4.1 Experience and Qualifications – Total Points = 15

Each proponent should provide the following in its proposal:

- (a) a brief description of the proponent;
- (b) a description of the services the proponent has previously delivered and/or is currently providing, with an emphasis on experience relevant to the Deliverables; and
- (c) the number of staff and contractors that will be directly involved with providing the service, including their roles and responsibilities, relevant experience and training.

2.4.2 References – Total Points = 5

Each proponent is requested to provide three (3) references from clients who have obtained services similar to those requested in this RFP from the proponent in the last twelve (12) months.

2.4.3 Capacity - Total Points = 20

- A. The quantity (in metric tonnes) of **Organic Waste** and/or **Yard Waste** that the facility is proposing to manage in a calendar year.
- B. The proponent should demonstrate how they will meet the below requirements for processing facility:
 - 1. The maximum onsite and annual throughput limits (in metric tonnes) of the **Organic Waste** and/or **Yard Waste** under the proponent's waste stream management licence, as well as any other restrictions or limitations that may apply;
 - 2. Confirmation of compliance with their waste stream management licence, and other applicable regulations, including but not limited to OMRR (OMRR is applicable to all composting facilities);
 - 3. How the **Organic Waste** and/or **Yard Waste** will be managed, including details on:
 - a. Receiving hours (at a minimum, the CVRD requires the facility to be able to receive the **Organic Waste** and/or **Yard Waste** between 8:00 a.m. and 4:30 p.m., Monday to Saturday, and 10:00 a.m. to 2:00 p.m. on Sundays, except statutory holidays. However, it is CVRD preference to be able to deliver **Material** any time between 7 a.m. and 7 p.m., Monday to Sunday);
 - b. How the material will be received (e.g. onto a paved surface, etc.), and any safety features, considerations or limitations that may apply to the CVRD **Material** deliveries;
 - c. How increases of **Material** (for example for **Yard Waste** during spring, summer and fall, and after windstorms) will be managed;
 - d. The back-up equipment and/or method that will be used to ensure uninterrupted processing service; and
 - e. The maximum duration that the **Material** will sit onsite before it is processed (e.g. hours or days).
 - 4. The street address and status of landownership of the receiving and processing facility;

5. The location of the receiving and processing area (show on a site map);
6. The method that will be used to track the incoming **Material** (e.g. weight scale);
7. The proponent's ability to provide fuel consumption data annually to the CVRD;
8. Confirmation that all **Carbon Credits** will remain the sole property of the CVRD; and
9. Details on the end-use of the collected and processed **Material**, including information on compliance with applicable regulations for the proposed end-use.

2.4.4 Environmental Protection - Total Points = 30

The proponent should provide the following details for the processing facility:

1. The method that will be used to receive, process and store the **Material** in a manner that prevents negative impact on the environment (air, soil, surface and groundwater), including the:
 - a. system used to prevent leachate generation and the collection and management of any leachate generated at all stages of the processing; and
 - b. maintenance of the system described under bullet 'a' above.
2. The method to prevent/limit the spreading of invasive plants that may be mixed in with **Yard Waste**.
3. The method to prevent fires, including the:
 - a. method to monitor and address emerging fire risks; and
 - b. description of the resources available at the facility to extinguish fires.
4. The method used to store and manage any product produced from the **Material** until it is sold/distributed to an offsite location. This includes the method to store or manage the product in a manner that prevents negative impact on the environment (air, soil, surface and groundwater);
5. How by-products and/or incidental materials will be stored, managed, recycled and/or disposed of;
6. The method to prevent dust, noise and odour nuisance impact on neighbouring properties;
7. The neighbourhood mitigation plan that will be used to effectively receive, manage and resolve any community concerns as a result of the receiving, processing and storage of the **Material**; disclosure of any environmental violations and fines for the past three (3) years; and
8. A copy of the proponent's fuel management plan, greenhouse gas reduction strategy or other policies on reducing fuel consumption (as associated greenhouse gas emissions). Include information on the use of biofuels, electric vehicles, fuel-efficient

driver training, anti-idling policies, right sizing of vehicles and/or optimization of trip planning, etc. The proponent should also provide information on the:

- a. type(s) of fuel that will be used to process the **Material**; and
- b. the annual quantity (in litres) of fuel required to complete the service described in this RFP. The proponent should clearly show how the fuel use is calculated.

2.4.5 Evaluation of Pricing - Total Points = 30

Pricing will be scored based on a relative pricing formula. Each proponent will receive a percentage of the total possible points allocated to price relative to the lowest bid price, based on the following formula:

$$\text{lowest price} \div \text{proponent's price} \times \text{total available points} = \text{proponent's score}$$

As set out in Section 2.1.E – *Deliveries*, the CVRD intends to haul the **Material** to the proponent's facility. The cost of hauling the **Material** to the proponent's facility will be considered as part of the overall cost to the CVRD.

[End of Part 2]

PART 3 - EVALUATION AND NEGOTIATION

3.1 Stages of Evaluation and Negotiation

The CVRD will conduct the evaluation of proposals and negotiations in the following stages:

3.2 Stage I – Mandatory Submission Requirements

Stage I will consist of a review to determine which proposals comply with all of the mandatory submission requirements. If a proposal fails to satisfy all of the mandatory submission requirements, the CVRD will issue the proponent a rectification notice identifying the deficiencies and providing the proponent an opportunity to rectify the deficiencies. If the proponent fails to satisfy the mandatory submission requirements within the Rectification Period, its proposal will be excluded from further consideration. The Rectification Period will begin to run from the date and time that the CVRD issues a rectification notice to the proponent. The mandatory submission requirements are as follows:

3.2.1 Submission Form (Appendix B)

Each proposal must include a Submission Form (Appendix B) completed and signed by an authorized representative of the proponent.

3.3 Stage II – Evaluation

Stage II will consist of a scoring on the basis of the Rated Criteria. Subject to the Terms of Reference and Governing Law, the top-ranked respondent as established under the evaluation, will be selected to enter into a contract for the provision of the Deliverables. The selected respondent will be expected to enter into a contract within the timeframe specified in the selection notice. Failure to do so may, among other things, result in the disqualification of the respondent and the selection of another respondent, or the cancellation of the RFP.

3.4 Stage III – Pricing

Stage III will consist of a scoring of the submitted pricing in accordance with the price evaluation method set out in 2.4.5 of Part 2 – RFP Particulars.

3.5 Stage IV – Ranking and Contract Negotiations

3.5.1 Ranking of Proponents

After the completion of Stage III, all scores from Stage II and Stage III will be added together and the proponents will be ranked based on their total scores. The top-ranked proponent(s) will receive a written invitation to enter into direct contract negotiations to finalize the agreement with the CVRD.

3.5.2 Contract Negotiation Process

Any negotiations will be subject to the process rules contained in the Terms and Conditions of the RFP Process (Part 4) and will not constitute a legally binding offer to enter into a contract on the part of the CVRD or the proponent and there will be no legally binding relationship created with any proponent prior to the execution of a written agreement. The terms and conditions found in the Form of Agreement (Appendix A) are to form the basis for commencing negotiations between

the CVRD and the selected proponent. Negotiations may include requests by the CVRD for supplementary information from the proponent to verify, clarify or supplement the information provided in its proposal or to confirm the conclusions reached in the evaluation, and may include requests by the CVRD for improved pricing or performance terms from the proponent.

3.5.3 Time Period for Negotiations

The CVRD intends to conclude negotiations and finalize the agreement with the top-ranked proponent(s) during the Contract Negotiation Period, commencing from the date the CVRD invites the top-ranked proponent(s) to enter negotiations. A proponent invited to enter into direct contract negotiations should therefore be prepared to provide requested information in a timely fashion and to conduct its negotiations expeditiously.

3.5.4 Failure to Enter into Agreement

If the parties cannot conclude negotiations and finalize the agreement for the Deliverables within the Contract Negotiation Period, the CVRD may discontinue negotiations with the top-ranked proponent(s) and may invite the next-best-ranked proponent(s) to enter into negotiations. This process shall continue until an agreement is finalized, until there are no more proponents remaining that are eligible for negotiations or until the CVRD elects to cancel the RFP process.

3.5.5 Notification to Other Proponents

Other proponents that may become eligible for contract negotiations will be so notified at the commencement of the negotiation process with the top-ranked proponent. Once an agreement is finalized and executed by the CVRD and a proponent, the other proponents will be notified in accordance with the Terms and Conditions of the RFP Process (Part 4).

[End of Part 3]

PART 4 – TERMS AND CONDITIONS OF THE RFP PROCESS

4.1 General Information and Instructions

4.1.1 Proponents to Follow Instructions

Proponents should structure their proposals in accordance with the instructions in this RFP. Where information is requested in this RFP, any response made in a proposal should reference the applicable section numbers of this RFP.

4.1.2 Proposals in English

All proposals are to be in English only.

4.1.3 No Incorporation by Reference

The entire content of the proponent's proposal should be submitted in a fixed form and the content of websites or other external documents referred to in the proponent's proposal, but not attached, will not be considered to form part of its proposal.

4.1.4 References and Past Performance

In the evaluation process the CVRD may include information provided by the proponent's references and may also consider the proponent's past performance or conduct on previous contracts with the CVRD or other institutions.

4.1.5 Information in RFP Only an Estimate

The CVRD and its advisers make no representation, warranty or guarantee as to the accuracy of the information contained in this RFP or issued by way of addenda. Any quantities shown or data contained in this RFP or provided by way of addenda are estimates only and are for the sole purpose of indicating to proponents the general scale and scope of the Deliverables. It is the proponent's responsibility to obtain all the information necessary to prepare a proposal in response to this RFP.

4.1.6 Proponents to Bear Their Own Costs

The proponent shall bear all costs associated with or incurred in the preparation and presentation of its proposal, including, if applicable, costs incurred for interviews or demonstrations.

4.1.7 Proposal to be Retained by the CVRD

The CVRD will not return the proposal or any accompanying documentation submitted by a proponent.

4.1.8 Trade Agreements

Proponents should note that procurements falling within the scope of Chapter 5 of the Agreement on Internal Trade and/or the New West Partnership Trade Agreement are subject to those trade agreements but that the rights and obligations of the parties shall be governed by the specific terms of this RFP.

4.1.9 No Guarantee of Volume of Work or Exclusivity of Contract

The CVRD makes no guarantee of the value or volume of work to be assigned to the successful proponent. The agreement to be negotiated with the selected proponent will not be an exclusive contract for the provision of the described Deliverables. The CVRD may contract with others for

goods and services the same as or similar to the Deliverables or may obtain such goods and services internally.

4.2 Communication after Issuance of RFP

4.2.1 Proponents to Review RFP

Proponents shall promptly examine all of the documents comprising this RFP and may direct questions or seek additional information in writing by email to the RFP Contact on or before the Deadline for Questions. No such communications are to be directed to anyone other than the RFP Contact. The CVRD is under no obligation to provide additional information, and the CVRD is not responsible for any information provided by or obtained from any source other than the RFP Contact. It is the responsibility of the proponent to seek clarification from the RFP Contact on any matter it considers to be unclear. The CVRD is not responsible for any misunderstanding on the part of the proponent concerning this RFP or its process.

4.2.2 All New Information to Proponents by Way of Addenda

This RFP may be amended only by addendum in accordance with this section. If the CVRD, for any reason, determines that it is necessary to provide additional information relating to this RFP such information will be communicated to all proponents by addendum issued in the same manner that this RFP was originally issued. Each addendum forms an integral part of this RFP and may contain important information, including significant changes to this RFP. Proponents are responsible for obtaining all addenda issued by the CVRD. In the Submission Form (Appendix B), proponents should confirm their receipt of all addenda by setting out the number of each addendum in the space provided.

4.2.3 Post-Deadline Addenda and Extension of Submission Deadline

If the CVRD determines that it is necessary to issue an addendum after the Deadline for Issuing Addenda, the CVRD may extend the Submission Deadline for a reasonable period of time.

4.2.4 Verify, Clarify and Supplement

When evaluating proposals, the CVRD may request further information from the proponent or third parties in order to verify clarify or supplement the information provided in the proponent's proposal. The CVRD may revisit and re-evaluate the proponent's response or ranking on the basis of any such information.

4.3 Notification and Debriefing

4.3.1 Notification to Other Proponents

Once an agreement is executed by the CVRD and a proponent, the other proponents may be notified directly in writing and shall be notified by public posting in the same manner that this RFP was originally posted of the outcome of the procurement process.

4.3.2 Debriefing

Proponents may request a debriefing after receipt of a notification of the outcome of the procurement process. All requests must be in writing to the RFP Contact and must be made within sixty (60) days of such notification. The intent of the debriefing information session is to aid the proponent in presenting a better proposal in subsequent procurement opportunities. Any debriefing provided is not for the purpose of providing an opportunity to challenge the procurement process or its outcome.

4.3.3 Procurement Protest Procedure

If a proponent wishes to challenge the RFP process, it must provide written notice to the RFP Contact within sixty (60) days of notification of the outcome of the procurement process. The notice must provide a detailed explanation of the proponent's concerns with the procurement process or its outcome.

4.4 Conflict of Interest and Prohibited Conduct

4.4.1 Conflict of Interest

The CVRD may disqualify a proponent for any conduct, situation or circumstances determined by the CVRD, in its sole and absolute discretion, to constitute a Conflict of Interest. For the purposes of this Section, "Conflict of Interest" has the meaning ascribed to it in the Submission Form (Appendix B).

4.4.2 Disqualification for Prohibited Conduct

The CVRD may disqualify a proponent, rescind an invitation to negotiate or terminate a contract subsequently entered into if the CVRD, in its sole and absolute discretion, determines that the proponent has engaged in any conduct prohibited by this RFP.

4.4.3 Prohibited Proponent Communications

A proponent shall not engage in any communications that could constitute a Conflict of Interest and should take note of the Conflict of Interest declaration set out in the Submission Form (Appendix B).

4.4.4 Proponent Not to Communicate with Media

A proponent shall not at any time directly or indirectly communicate with the media in relation to this RFP or any agreement entered into pursuant to this RFP without first obtaining the written permission of the RFP Contact.

4.4.5 No Lobbying

A proponent shall not, in relation to this RFP or the evaluation and selection process, engage directly or indirectly in any form of political or other lobbying whatsoever to influence the selection of the successful proponent(s).

4.4.6 Illegal or Unethical Conduct

Proponents shall not engage in any illegal business practices including activities such as bid-rigging, price-fixing, bribery, fraud, coercion or collusion. Proponents shall not engage in any unethical conduct, including lobbying, as described above or other inappropriate communications; offering gifts to any employees, officers, agents, elected or appointed officials or other representatives of the CVRD, deceitfulness, submitting proposals containing misrepresentations or other misleading or inaccurate information, or any other conduct that compromises or may be seen to compromise the competitive process provided for in this RFP.

4.4.7 Past Performance or Past Conduct

The CVRD may prohibit a supplier from participating in a procurement process based on past performance or based on inappropriate conduct in a prior procurement process, including but not limited to the following:

- (a) illegal or unethical conduct as described above;

- (b) the refusal of the supplier to honour its submitted pricing or other commitments; or
- (c) any conduct, situation or circumstance determined by the CVRD, in its sole and absolute discretion, to have constituted an undisclosed Conflict of Interest.

4.5 Confidential Information

4.5.1 Confidential Information of the CVRD

All information provided by or obtained from the CVRD in any form in connection with this RFP either before or after the issuance of this RFP:

- (a) is the sole property of the CVRD and must be treated as confidential;
- (b) is not to be used for any purpose other than replying to this RFP and the performance of any subsequent contract for the Deliverables;
- (c) must not be disclosed without prior written authorization from the CVRD; and
- (d) must be returned by the proponent to the CVRD immediately upon the request of the CVRD.

4.5.2 Confidential Information of Proponent

A proponent should identify any information in its proposal or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by the CVRD. The confidentiality of such information will be maintained by the CVRD, except as otherwise required by law or by order of a court or tribunal. Proponents are advised that their proposals will, as necessary, be disclosed on a confidential basis to advisers retained by the CVRD to advise or assist with the RFP process, including the evaluation of proposals. If a proponent has any questions about the collection and use of personal information pursuant to this RFP, questions are to be submitted to the RFP Contact.

4.6 Procurement Process Non-binding

4.6.1 No Contract A and No Claims

This procurement process is not intended to create and shall not create a formal, legally binding bidding process and shall instead be governed by the law applicable to direct commercial negotiations. For greater certainty and without limitation:

- (a) this RFP shall not give rise to any Contract A–based tendering law duties or any other legal obligations arising out of any process contract or collateral contract; and
- (b) neither the proponent nor the CVRD shall have the right to make any claims (in contract, tort, or otherwise) against the other with respect to the award of a contract, failure to award a contract or failure to honour a proposal submitted in response to this RFP.

4.6.2 No Contract until Execution of Written Agreement

This RFP process is intended to identify prospective suppliers for the purposes of negotiating potential agreements. No legal relationship or obligation regarding the procurement of any goods or services shall be created between the proponent and the CVRD by this RFP process until the successful negotiation and execution of a written agreement for the acquisition of such goods and/or services.

4.6.3 Non-binding Price Estimates

While the pricing information provided in proposals will be non-binding prior to the execution of a written agreement, such information will be assessed during the evaluation of the proposals and the ranking of the proponents. Any inaccurate, misleading or incomplete information, including withdrawn or altered pricing, could adversely impact any such evaluation or ranking or the decision of the CVRD to enter into an agreement for the Deliverables.

4.6.4 Cancellation

The CVRD may cancel or amend the RFP process without liability at any time.

4.7 Governing Law and Interpretation

These Terms and Conditions of the RFP Process (Part 4):

- (a) are intended to be interpreted broadly and independently (with no particular provision intended to limit the scope of any other provision);
- (b) are non-exhaustive and shall not be construed as intending to limit the pre-existing rights of the parties to engage in pre-contractual discussions in accordance with the common law governing direct commercial negotiations; and
- (c) are to be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.

[End of Part 4]

APPENDIX A

AGREEMENT FOR SERVICES

THIS AGREEMENT dated for reference this _____ day of _____, 201__.

BETWEEN:

COWICHAN VALLEY REGIONAL DISTRICT

175 Ingram Street
Duncan, BC V9L 1N8

(the "**Regional District**")

OF THE FIRST PART

AND:

[NAME OF CONTRACTOR]

[address]
[address]

(the "**Contractor**")

OF THE SECOND PART

W H E R E A S:

- A. The Regional District wishes to engage the Contractor to provide certain Services, and the Contractor has agreed to provide the Regional District with the Services described in this Agreement.

NOW THEREFORE the Regional District and the Contractor, in consideration of their mutual duties and responsibilities and in consideration of the payment to be made by the Regional District to the Contractor agree as follows:

1.0 DEFINITIONS

- 1.1 In this Agreement:

- (a) "**Services**" means the services to be provided by the Contractor, as described in Schedule "A" to this Agreement.

2.0 TERM

- 2.1 The term of this Agreement is for the period commencing * and terminating on * (the "**Term**"), subject to earlier termination as provided in section 7 of this Agreement.

3.0 CONTRACTOR'S DUTIES AND RESPONSIBILITIES

- 3.1 The Contractor must:

- (a) provide the Regional District with the Services throughout the Term, in accordance with the specifications and requirements set out in Schedule "A" to this Agreement, and to the satisfaction of the Regional District;
- (b) supply all labour, equipment and material, and do all things necessary for the provision of the Services;
- (c) perform the Services for the Regional District with that degree of care, skill and diligence normally utilized by contractors having similar qualifications and performing duties similar to the Services;
- (d) charge only the fees which the Contractor is entitled to under this Agreement for the provision of the Services;
- (e) obtain and maintain in force throughout the Term the insurance required under Schedule "B" to this Agreement;
- (f) be registered as an employer with WorkSafe BC, and maintain workers compensation coverage with WorkSafe BC for the Contractor and its employees;
- (g) provide satisfactory proof of the Contractor's WorkSafe BC coverage to the CVRD upon request;
- (h) not subcontract any of its obligations under this Agreement without the Regional District's prior written consent;
- (i) not commit or purport to commit the Regional District to the payment of any money to any person, firm or corporation, without the Regional District's prior written consent;
- (j) keep proper and accurate books of account and records of any and all monies received and disbursed in the provision of the Services and make the books of account and records available for inspection and audit by the Regional District or its authorized representatives upon request;
- (k) provide the Services in compliance with all applicable health and safety standards, rules, regulations, requirements and codes of practice prescribed under any federal, provincial or local government statute, regulation, bylaw or permit relating in any respect to the Contractor's provision of the Services; and
- (l) during the Term, not perform a service for or provide advice to any person, firm or corporation which gives rise to a conflict of interest with the duties and obligations of the Contractor to the Regional District under this Agreement.

4.0 CONTRACTOR REPRESENTATIONS AND WARRANTIES

4.1 The Contractor represents and warrants to the Regional District that:

- (a) if the Contractor is a corporation, it is duly organized, validly existing and legally entitled to carry on business in British Columbia and is in good standing with

respect to filings of annual reports according to the records of the Registrar of Companies of British Columbia; and

- (b) the Contractor has sufficient trained staff, facilities, materials, and appropriate equipment in place and available to enable it to fully perform the Services.

5.0 FEES AND EXPENSES

- 5.1 In consideration for the provision of the Services, the Regional District shall pay to the Contractor the fee for all Services rendered under this Agreement according to the amounts and times of payment set out in Schedule "A" to this Agreement, plus any Goods and Services Tax applicable.
- 5.2 The Regional District shall pay the disbursements listed in Schedule "A" if incurred by the Contractor in providing the Services, provided the total disbursements payable shall not exceed the estimate set out in Schedule "A".

6.0 INDEMNIFICATION

- 6.1 The Contractor shall release, indemnify and keep indemnified the Regional District, its elected officials, officers, and employees of and from all claims, costs, losses, damages, actions, causes of action, expenses and costs arising from any error, omission or negligent act of the Contractor, or its officers, employees, agents or contractors, in the performance of the Services.

7.0 TERMINATION

- 7.1 If the Contractor is in default in the performance of any of its obligations under this Agreement, or if the Contractor becomes insolvent or is assigned into bankruptcy, then the Regional District may terminate this Agreement by written notice to the Contractor.
- 7.2 The Regional District may terminate this Agreement, without cause, at any time by giving not less than forty-five (45) days written notice to the Contractor.
- 7.3 In the event that this Agreement is terminated, the Contractor shall be paid by the Regional District for Services performed to the date of termination and remaining unpaid, less any amounts necessary to compensate the Regional District for damages or costs incurred by the Regional District or any person employed by or on behalf of the Regional District arising from the Contractor's default.

8.0 CONFIDENTIALITY

- 8.1 The Contractor shall not disclose any information, data or confidential information of the Regional District to any person, other than representatives of the Regional District duly designated for that purpose in writing by the Regional District, and shall not use for its own purposes or for any purpose other than for the purpose of providing the Services any such information, data or confidential information it may acquire as a result of its engagement under this Agreement.

9.0 NOTICE

9.1 Any notice required to be given under this Agreement will be deemed to be sufficiently given:

- (a) if delivered at the time of delivery;
- (b) if delivered by email or fax to the email or fax numbers set out below, upon acknowledgement of receipt by the recipient; and
- (c) if mailed from any government post office in the Province of British Columbia by prepaid registered mail addressed as follows:

if to the CVRD: 175 Ingram Street
Duncan, BC V9L 1N8
Attention:
Email:
Fax:

if to the Contractor: **[Insert the Contractor's address for delivery here
as well as email and fax contact information]**

10.0 TIME

10.1 Time is of the essence of this Agreement.

11.0 BINDING EFFECT

11.1 This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees.

12.0 SURVIVAL OF CERTAIN COVENANTS

12.1 The covenants and agreements contained in sections 3.1(l), 6.1, and 8.1 shall survive the expiry or earlier termination of this Agreement and those sections are severable for that purpose.

13.0 RELATIONSHIP

13.1 The legal relationship between the Contractor and the Regional District is that of an independent contractor and purchaser of services, and, in particular and without limiting the generality of the foregoing, nothing in this Agreement shall be construed so as to render the relationship between the Contractor and the Regional District to be that of employee and employer.

14.0 NO ASSIGNMENT

14.1 The Contractor shall not assign its interest in this Agreement or any right, benefit or obligation conferred or imposed hereunder, in whole or in part, whether by operation of law or otherwise, except with the prior written consent of the CVRD, which may be withheld for any reason.

15.0 WAIVER

- 15.1 The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

16.0 ENTIRE AGREEMENT

- 16.1 This Agreement constitutes the entire agreement between the parties with respect to the matters herein and may not be modified except by subsequent agreement in writing.

17.0 LAW APPLICABLE

- 17.1 This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

18.0 AMENDMENT

- 18.1 This Agreement may not be modified or amended except by the written agreement of the parties.

19.0 COUNTERPART

- 19.1 This Agreement may be executed in counterpart with the same effect as if both parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

IN WITNESS HEREOF the Regional District and the Contractor have executed this Agreement as of the day, month and year first above written.

COWICHAN VALLEY REGIONAL DISTRICT, by its authorized signatory(ies):

Name: _____

Name: _____

[NAME OF CONTRACTOR (corporation)], by
its authorized signatory(ies):

Name:

Name: _____

SCHEDULE "A"

A.1 SERVICES

- [List all services to be provided by the Contractor, and include all necessary details as to where, when and how the services are to be performed]

A.2 FEES

- [Insert details of fees and payment schedule]

A.3 REIMBURSABLE EXPENSES

- [List all reimbursable expenses, if any.]

SCHEDULE "B"

INSURANCE

1. The Contractor shall, at its own expense, provide and maintain throughout the Term the following insurance in a form acceptable to the Regional District, with an insurer licensed in British Columbia:

- | | | |
|-----|---|----------------|
| (a) | Commercial General Liability
and Property Damage | \$2,000,000.00 |
| (c) | Automobile Insurance
(owned and non-owned) | \$2,000,000.00 |

In all policies of insurance required under this Agreement (except automobile insurance on vehicles owned by the Contractor) the Regional District shall be named as an additional insured and all such policies shall contain a provision that the insurance shall apply as though a separate policy had been issued to each named insured. All such policies shall provide that no cancellation or lapse of or material alteration in the policy shall become effective until 30 days after written notice of such cancellation, lapse or alteration has been given to the Regional District.

Any deductible amounts in the foregoing insurance which are payable by the policyholder shall be in an amount acceptable to the Regional District.

2. The Contractor shall provide to the Regional District at the commencement of the Term, and at any time during the Term upon request, a certificate or certificates of insurance as evidence that the insurance required under this Agreement is in force.
3. Maintenance of such insurance and the performance by the Contractor of its obligation under this clause shall not relieve the Contractor of liability under the indemnity provisions under the Agreement.

APPENDIX B – SUBMISSION FORM

1. Proponent Information

Please fill out the following form, naming one person to be the proponent's contact for the RFP process and for any clarifications or communication that might be necessary.	
Full Legal Name of Proponent:	
Any Other Relevant Name under which Proponent Carries on Business:	
Street Address:	
City, Province/State:	
Postal Code:	
Phone Number:	
Fax Number:	
Company Website (if any):	
Proponent Contact Name and Title:	
Proponent Contact Phone:	
Proponent Contact Fax:	
Proponent Contact Email:	

2. Acknowledgment of Non-binding Procurement Process

The proponent acknowledges that the RFP process will be governed by the terms and conditions of the RFP and that among other things, such terms and conditions confirm that this procurement process does not constitute a formal, legally binding bidding process (and for greater certainty, does not give rise to a Contract A bidding process contract) and that no legal relationship or obligation regarding the procurement of any good or service shall be created between the CVRD and the proponent unless and until the CVRD and the proponent execute a written agreement for the Deliverables.

3. Ability to Provide Deliverables

The proponent has carefully examined the RFP documents and has a clear and comprehensive knowledge of the Deliverables required. The proponent represents and warrants its ability to provide the Deliverables in accordance with the requirements of the RFP for the rates submitted.

4. Non-binding Pricing

The proponent has submitted its pricing in accordance with the instructions in the RFP. The proponent confirms that the pricing information provided is accurate. The proponent acknowledges that any inaccurate, misleading or incomplete information, including withdrawn or altered pricing, could adversely impact the acceptance of its proposal or its eligibility for future work.

PROCESSING COSTS			
A	B	C	D
Item	Processing Cost per Metric Tonne	Est. Annual Tonnes	Annual Cost [B x C]
1. Organic Waste Processing:	\$ _____ /tonne	2,000	\$ _____
GST:			\$ _____
PST:			\$ _____
Organic Waste - Total Annual Cost:			\$ _____
2. Yard Waste Processing:	_____ /tonne	6,000	\$ _____
GST:			\$ _____
PST:			\$ _____
Yard Waste - Total Annual Cost:			\$ _____

Total annual processing cost if awarded both the **Organic Waste** and the **Yard Waste** processing:

TOTAL COST FOR ALL MATERIAL	
Total Annual Cost:	\$ _____

5. Addenda

The proponent is deemed to have read and taken into account all addenda issued by the CVRD prior to the Deadline for Issuing Addenda. The proponent is requested to confirm that it has received all addenda by listing the addenda numbers, or if no addenda were issued by writing the word "None", on the following line: _____. If this section is not completed, the proponent will be deemed to have received all posted addenda.

6. No Prohibited Conduct

The proponent declares that it has not engaged in any conduct prohibited by this RFP.

7. Conflict of Interest

For the purposes of this RFP, the term "Conflict of Interest" includes, but is not limited to, any situation or circumstance where:

- (a) in relation to the RFP process, the proponent 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 CVRD in the preparation of its proposal that is not available to other proponents, (ii) communicating with any person with a view to influencing preferred treatment in the RFP process (including but not limited to the lobbying of decision makers involved in the RFP process), or (iii) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive RFP process or render that process non-competitive or unfair; or
- (b) in relation to the performance of its contractual obligations under a contract for the Deliverables, the proponent'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, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.

For the purposes of section (a)(i) above, proponents should disclose the names and all pertinent details of all individuals (employees, advisers, or individuals acting in any other capacity) who (a) participated in the preparation of the proposal; **AND** (b) were employees of the CVRD within twelve (12) months prior to the Submission Deadline.

If the box below is left blank, the proponent will be deemed to declare that (a) there was no Conflict of Interest in preparing its proposal; and (b) there is no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the RFP.

Otherwise, if the statement below applies, check the box.

- ☐ The proponent declares that there is an actual or potential Conflict of Interest relating to the preparation of its proposal, and/or the proponent foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the RFP.

If the proponent declares an actual or potential Conflict of Interest by marking the box above, the proponent must set out below details of the actual or potential Conflict of Interest:

8. Disclosure of Information

The proponent hereby agrees that any information provided in this proposal, even if it is identified as being supplied in confidence, may be disclosed where required by law or by order of a court or tribunal. The proponent hereby consents to the disclosure, on a confidential basis, of this proposal by the CVRD to the advisers retained by the CVRD to advise or assist with the RFP process, including with respect to the evaluation this proposal.

Signature of Witness

Signature of Proponent Representative

Name of Witness

Name of Proponent Representative

Title of Proponent Representative

Date

I have the authority to bind the proponent.