



THE VILLAGE OF
N A K U S P

REQUEST FOR PROPOSALS

2024-RFP-03

Nakusp and District Community Sports Complex – Auditorium Mechanical Upgrade

Date Issued: May 22, 2024

The Village of Nakusp is seeking proposals from qualified Contractors to complete a mechanical upgrade (HVAC) for the Auditorium at the Nakusp & District Sports Complex (200 8th Ave NW) as per the specifications in Appendices “A”, “B”, and “C”. Alternative proposals will be considered if they meet the minimum required specifications.

Original and one (1) complete copy of a Proposal in an envelope plainly marked “2024-RFP-03” may be hand delivered, couriered, or mailed. Alternatively, submissions may be made through BC Bid. All submissions must be received prior to the Closing Date and Time.

RFP Closing Time: 3:00 p.m. local time

RFP Closing Date: Thursday, June 21, 2024

Delivered to: Village of Nakusp
PO Box 280
91 1st Street NW
Nakusp, BC V0G 1R0
Attention: Mark Tennant, Director of Finance

Submission Enquiries: Cavan Gates
E-mail: operations@nakusp.com
Phone: (250) 265-1677

NOTE: Questions will not be accepted or answered five business days prior to the closing date and time. Proposals will be opened on June 21, 2024, at 3:15 p.m. local time.

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1.0 Interpretation

1.1 Definitions

“Best Value” means the value placed upon quality, service, past performance and price.

“Village” means The Corporation of the Village of Nakusp.

“Village Representative” means the representative or appointee engaged by the Village to supervise the work.

“Contract” means an agreement between the Village and the Successful Proponent.

“Must,” “mandatory” or “required” means a requirement that must be met in order for a Proposal to receive consideration.

“Premises” means building(s) or part of a building with its appurtenances.

“Proposal” means the Proponent's submission to the RFP.

“Proponent” means a party submitting a Proposal to this RFP.

“RFP” means the “Request for Proposal”.

“Should” or “desirable” means a requirement having a significant degree of importance to the objectives of the Request for RFP.

“Special Conditions” means the special conditions, which are included in the RFP.

“Specifications” means the specifications which are included in the RFP.

“Subcontractor” includes, inter alia, a person, firm or corporation having a contract with the Successful Proponent for the execution of a part or parts, or furnishing to the Successful Proponent materials and/or equipment called for in the RFP.

“Successful Proponent” means the Proponent submitting the most advantageous RFP as determined by the Village of Nakusp.

“Work” means any labour, duty and/or efforts to accomplish the purpose of this Work.

2.0 Introduction

The Village of Nakusp is seeking proposals from qualified Contractors to complete a mechanical upgrade (HVAC) for the Auditorium at the Nakusp & District Sports Complex (200 8th Ave NW) as per the specifications in Appendices "A", "B", and "C". Alternative proposals will be considered if they meet or exceed the standard set by the specifications in Appendices "A", "B", and "C".

3.0 Summary Of Work

3.1.1 Mechanical

Provide and install new air handling unit with external condensing unit on roof of mechanical room. Ductwork to run from the unit, enter the building and distribute fresh air within the auditorium space. Location plan and details in Appendices.

Provide two new motorized dampers through the exterior of the building for unit return air and exhaust air.

3.1.2 Controls

Provide new control system for the new equipment. Includes system points list, panels wiring, program code, commissioning and documentation. Refer to Controls Specification for further details.

3.1.3 Electrical

Provide power, panels, starters, MCCs, safety switches, conduit and wiring for the new HVAC equipment. Include the removal and disposal of all the redundant panels, wire and conduit. Remove and dispose of all electrical conduit and wiring that are not re-used in this project. New conduit and wiring shall follow existing electrical routing.

Provide new panel and generator connection point on exterior of building.

3.1.4 General

The building HVAC and electrical systems must remain in operation during renovations except for short periods during the switch over from the existing systems to the new systems.

General contract work includes the supports for the new equipment, curbs, roofing repairs around new roof curbs, duct penetrations and repair around penetrations.

Startup, commissioning, documentation of the mechanical systems and controls.

The Village is not necessarily interested in obtaining the lowest price for this proposal, interested parties with proven experience and qualifications for the services required will only be considered. The scope of work, performance, service, and other factors will be taken into consideration in the evaluation of this RFP.

This document outlines the overall scope of Services, sets out the basic requirements for the Proposal document and provides the evaluation criteria to be used as the basis for awarding the Contract.

4.0 Content of Proposal

Proposals must include the following sections and form.

4.1 Part 1 - Proponent Information and Certification

RFP Project Title:	Nakusp and District Community Sports Complex – Auditorium Mechanical Upgrade
RFP Reference Number:	2024-RFP-03
Legal Name of Proponent:	
Contact Person and Title:	
GST Number:	
WorkSafe Number:	
Business Address:	
Telephone:	
Email Address:	

To the Village of Nakusp

I/We, the undersigned duly authorized representative of the Proponent, having received and carefully reviewed all of the Proposal documents, including the RFP and any issued addenda posted on the BC Bid Website (or having received directly), and having full knowledge of the Site, and having fully informed ourselves as to the intent, difficulties, facilities and local conditions attendant to performing the Services, submit this Proposal in response to the RFP.

I/We confirm that the following parts are attached to and form a part of this Proposal:

- Part 1 - Proponent Information;
- Part 2 - Alternate Proposal;
- Part 3 - Exceptions and Departures;
- Part 4 - Questionnaire;
- Part 5 - Pricing Proposal

I/We confirm that this proposal is accurate and true to best of my/our knowledge.

I/We confirm that, if I/we am/are awarded the Agreement, I/we will at all times be the “prime contractor” as provided by the Worker's Compensation Act (British Columbia) with respect to the

Services. I/we further confirm that if I/we become aware that another contractor at the place(s) of the Services has been designated as the “prime contractor”, I/we will notify the Village of Nakusp immediately, and I/we will indemnify and hold the Village of Nakusp harmless against any claims, demands, losses, damages, costs, liabilities or expenses suffered by the Village of Nakusp in connection with any failure to so notify the Village of Nakusp.

I/We confirm that by submitting a proposal and signing below, the undersigned declares that the owners and officers of the Proponent have no relationship with any employee, elected official, or committee member of the Village of Nakusp, or any other relationship or circumstance which could be perceived to be a conflict of interest, unless such relationship or circumstance is fully disclosed and attached to this form.

This Proposal is submitted this _____ day of _____, 20__.

I/We have the authority to sign on behalf of the Proponent.

(Name of Proponent)

(Signature of Authorized Signatory)

(Signature of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

(Print Name and Position of Authorized Signatory)

4.2 Part 2 – Alternate Proposal

I/We intend to submit an alternate proposal.

YES

NO

Circle one of the above

Alternate proposals must be submitted in a way that clearly identifies how it will meet the owner's objectives.

Proponents submitting an alternate proposal do not need to fill in Part 3 but must fill in all other parts.

Proponent initial: _____

4.3 Part 3 – Exceptions and Departures

If the Proponent is NOT submitting an alternate proposal and proposes an exception to any of the requirements, terms or conditions contained in the RFP Documents please identify all such exceptions here. Please add additional lines to the table below if required.

Reference should be made in each case to the relevant provision(s) of the RFP Documents to which the exception applies and, to the extent possible, Proponent should submit the wording it would propose.

Note: Exceptions not identified and submitted below may not be considered at a later date.

As of the date of this proposal, we advise that we have the ability to meet all of the above requirements except as follows (list in order of priority, if any):

Section Reference	Exception Description	Rationale	Proposed Wording

I/We offer the following alternates to improve the Services described in the RFP (list, if any):

Section	Requested Departure(s) / Alternative(s)

The Proponent acknowledges that the departures it has requested will not form part of the Contract unless and until the Village of Nakusp agrees to them in writing by initialing or otherwise specifically consenting in writing to be bound by any of them.

4.4 Part 4 - Questionnaire

Proponents should respond to the questions under each heading clearly and concisely.

Through the information provided in your Proposal, the Village of Nakusp expects to gain an in-depth understanding of a Proponent’s experience, capabilities, and capacity to provide the Services.

Supplier Rating

Q1: Describe the background, years of business under the current legal entity, stability and structure of the Proponent. Provide an executive summary describing the Proponent’s relevant experience and qualifications in delivering Services similar to those required by the RFP.
A1:

Q2: Describe three (3) specific examples of recent work completed by the Proponent that required the performance of services similar to the Services described in this RFP (to the extent possible). In each case, the Proponent should identify:

- Project and client name;
- Project actual start and completion dates;
- Scope of services provided;
- Names of key personnel involved in the project who will be available to perform the work in this agreement;

Project 1

- Project and client name:
- Project actual start and completion dates:
- Scope of services provided;

- Names of key personnel involved in the project who will be available to perform the work in this agreement;

Project 2

- Project and client name:
- Project actual start and completion dates:
- Scope of services provided;

- Names of key personnel involved in the project who will be available to perform the work in this agreement;

Project 3

- Project and client name:
- Project actual start and completion dates:
- Scope of services provided;

- Names of key personnel involved in the project who will be available to perform the work in this agreement;

Approach

Q3: Provide a narrative that illustrates an understanding of the Village of Nakusp’s requirements and Services:

A3:

Q4: Provide a description of the general approach and methodology that the Proponent would take in performing and managing the Services and accomplishing the objectives within the Village of Nakusp's schedule:

A4:

Q5: Proposed Timeline		Proponents must propose work start and finish dates.
RFP Issued	May 23, 2024	
Questions Deadline	June 14, 2024	
RFP Closes	June 21, 2024	
Proposals evaluated	July 5, 2024	
Work Starts		
Work Finishes		

4.5 Part 5 - Pricing Proposal

Indicate the Proponent's proposed Fee (excluding GST), and the basis of calculation (use the spaces provided and/or attach additional pages, if necessary) as follows:

Item No.	Unit Pricing
Supply and installation of Auditorium HVAC as specified	
Optional items:	
Additional items:	
Subtotal (Net Price):	
GST:	
TOTAL PROPOSAL PRICE (including taxes):	

5.0 Evaluation Criteria

Proposals will be checked against the mandatory criteria. Proposals not meeting all mandatory criteria will be rejected without further consideration. If all submissions do not meet the Village’s mandatory criteria, it shall remain the Village’s sole discretion to evaluate submissions and reject all or award to the Proponent with the highest overall ranking.

5.1 Mandatory Criteria

- Complete RFP document submitted on time including all signatures.

5.2 Scored Evaluation Criteria

Proposals meeting the mandatory requirements will be further evaluated based on predetermined criteria and weighting as detailed below:

SUPPLIER RATING – 20%
<ul style="list-style-type: none">• Supplier qualifications & experience• Past performance
APPROACH – 30%
<ul style="list-style-type: none">• Understanding of the Owner’s Requirements• Approach and Methodology• Project Timeline
COST – 50%
<ul style="list-style-type: none">• Price

5.3 Evaluation Committee

Evaluation of Proposals may be by an Evaluation Committee formed by the Village.

6.0 Proposal Preparation

6.1 Enquiries

All enquiries related to this RFP are to be directed to the questions contact identified on page 1.

Information obtained from any other source is not official and should not be relied upon. Enquiries and responses will be recorded and may be distributed to all Proponents at the Village's option. Questions will be answered if time permits.

6.2 Submittal Deadline and Instructions

Delivery of Proposals to the Village office prior to the specified date and time is solely and strictly the responsibility of the Proponent. The Village shall not, under any circumstances, be responsible for delays caused by any private delivery service, or for delays caused by any other occurrence. All Proposals must be manually and duly signed by an authorized Corporate Officer or principal of the organization with the authority to bind said Proponent. Proposals must not be sent by facsimile or e-mail.

Proposals must be received prior to 3:00 p.m. (local time) on the closing date.

Original and one (1) complete copy of a Proposal in an envelope plainly clearly marked with the name and address of the Proponent and the RFP title may be hand delivered, couriered, or mailed to the address on page 1.

Alternatively, submissions may be made through BC Bid.

6.3 Alternative Solutions

If multiple solutions are offered, please submit the information in the same format as a separate Proposal.

6.4 Changes to Proposal Wording

The Proponent will not change the wording of its Proposal after the submission deadline and no words or comments will be added to the Proposal unless requested by the Village for purposes of clarification.

6.5 Pricing

Proposals must be firm for at least 60 days after the final date. Prices will be firm for the entire contract period.

6.6 CURRENCY AND TAXES Prices Quoted Are To Be:

- in Canadian dollars;
- inclusive of duty, where applicable;
- FOB destination, delivery charges included where applicable; and
- Taxes extra.

7.0 Terms

The following terms will apply to this RFP and to any subsequent Contract. Submission of a Proposal in response to this RFP indicates acceptance of all the following terms:

7.1 General

The law applicable to this RFP shall be the law in effect in the Province of British Columbia. Except for an appeal from a British Columbia Court to the Supreme Court of Canada, no action in respect to this RFP shall be brought or maintained in any court other than in a court of the appropriate jurisdiction of the Province of British Columbia.

In carrying out its obligations hereunder, the Proponent shall familiarize itself and comply with all applicable laws, bylaws, regulations, ordinances, codes, specifications and requirements of all regulatory authorities, and shall obtain all necessary licenses, permits and registrations as may be required by law. Where there are two or more laws, ordinances, rules, regulations or codes applicable to the Works, the more restrictive shall apply.

Applicability of law: All references in the RFP to statutes and regulations thereto and Village bylaws shall be deemed to be the most recent amendments thereto or replacements thereof.

Copyright: All designs, drawings, concept drawings, specifications, digital, hard copies, web pages, internet pages, maps and plans commissioned by the Village of Nakusp, shall remain the property of the Village of Nakusp.

In the case of any inconsistency or conflict between the provisions of the RFP, the provisions of such documents and addenda thereto will take precedence in governing in the following order:

addenda; (2) RFP; (3) Special Conditions; (4) Specifications; (5) Drawings; (6) Executed Form of RFP; (7) all other documents.

Headings are for convenience only: Headings and titles in the RFP are for convenience only and are not explanatory of the clauses with which they appear.

Method of payment is governed by Village policy as well as applicable Federal and Provincial laws.

The RFP, accepted submission, and Village Contract represent the entire Agreement between the Village and the Successful Proponent and supersede all prior negotiations, representations or agreements either written or oral. The Contract may be amended only by written instrument agreed and executed by the Successful Proponent and the Village.

7.2 Ownership Of Documents

All documents and materials submitted in response to this RFP become the property of the Village.

7.3 Request For Proposal Process

7.3.1 NOT A TENDER CALL

This RFP is not a tender call, and the submission of any response to this RFP does not create a tender process. This RFP is not an invitation for an offer to contract, and it is not an offer to contract made by the Village.

7.3.2 NO OBLIGATION TO PROCEED

Though the Village fully intends at this time to proceed through the RFP, in order to select the Works, the Village is under no obligation to proceed with the Work, or any other stage. The receipt by the Village of any information (including any submissions, ideas, plans, drawings, models or other materials communicated or exhibited by any intended Proponent, or on its behalf) shall not impose any obligations on the Village. There is no guarantee by the Village, its officers, employees or Managers, that the process initiated by the issuance of this RFP will continue, or that this RFP process or any RFP process will result in a contract with the Village for the purchase of the equipment, service, or Work.

7.3.3 LATE PROPOSALS

Proposals received after the Closing Date and time for receipt of Proposals will be considered as "late Proposals." Late Proposals will not be accepted and will be returned unopened to the sender.

7.4 Pre-RFP Information

7.4.1 COST OF PREPARATION

Any cost incurred by the Proponent in the preparation of this Proposal will be borne solely by the Proponent.

7.4.2 INTENTION OF THE VILLAGE

The Proponent that submits to the Village the most advantageous Proposal and which represents the interests of the Village, best overall, may be awarded the contract. The Village reserves the right to accept or reject all or part of the RFP, however, the Village is not precluded from negotiating with the Successful Proponent to modify its Proposal to best suit the needs of the Village.

7.4.3 REJECTION OF PROPOSALS

The Village reserves the right to reject, at the Village's sole discretion, any or all Proposals, without limiting the foregoing, any Proposal which either:

- is incomplete, obscure, irregular or unrealistic;
- has non-authorized (not initialed) erasures or corrections in the Proposal or any schedule thereto;
- omits or fails to include any one or more items in the Proposal for which a price is required by the RFP;
- fails to complete the information required by the RFP to be furnished with a Proposal; and/or

- fails to complete the information required whether the same purports to be completed or not.

Further, a Proposal may be rejected on the basis of the Proponent's past performance, financial capabilities, completion schedule and compliance with Federal, Provincial, and/or Municipal legislation. As it is the purpose of the Village to obtain a Proposal most suitable to the interests of the Village and what it wishes to accomplish, the Village has the right to waive any irregularity or insufficiency in any Proposal submitted and to accept the Proposal which is deemed most favorable to the interest of the Village.

Upon submitting a Proposal, Proponents agree that the Village may disclose their company name; however, no prices, scores, weights or totals will be provided to any Proponents.

Awards will be made based on the Best Value offered, and the Best Value will be determined by the Village. The quality of the service to be supplied, the conformity with the specifications, the suitability to requirements, guarantee clauses, and references shall all be taken into consideration.

7.4.4 CONFIDENTIALITY

The Village will endeavor to keep all Proposals confidential. The material contained in the Proposal from the Successful Proponent will be incorporated in a contract and information which is considered sensitive and/or proprietary shall be identified as such by the Proponent. Technical or commercial information included in the Village contract shall not be released if the Finance Department of the Village deems such releases inappropriate, subject to the *Protection of Privacy and Freedom of Information Act*.

7.4.5 CLARIFICATION

The Village reserves the right to seek Proposal clarification with the Proponents to assist in making evaluations.

7.4.6 GIFTS AND DONATIONS

Proponents will not offer entertainment, gifts, gratuities, discounts, or special services, regardless of value, to any employee of the Village. The Successful Proponent shall report to the Finance Department of the Village any attempt by Village employees to obtain such favours.

7.4.7 ACCEPTANCE OF PROPOSAL

The Village shall not be obligated in any manner to any Proponent whatsoever until a written agreement has been duly executed relating to an approved Proposal.

No act of the Village other than a notice in writing signed by the Village's Corporate Officer or Director of Finance shall constitute an acceptance of a Proposal. Such acceptance shall bind the Successful Proponent to execute in a manner satisfactory to the Village.

7.4.8 NEGOTIATION DELAY

If a written Contract cannot be negotiated within 30 days of notification of the Successful Proponent, the Village may, at its sole discretion at any time thereafter, terminate negotiations with that Proponent

and either negotiate a Contract with the next qualified Proponent or choose to terminate the RFP process and not enter into a Contract with any of the Proponents.

7.5 Limitation of Damages

The Proponent, by submitting a Proposal, agrees that it will not claim damages, for whatever reason, relating to the RFP or in respect of the competitive process, in excess of an amount equivalent to the reasonable costs incurred by the Proponent in preparing its Proposal. The Proponent, by submitting a Proposal, waives any claim for loss of profits if no agreement is made with the Proponent.

7.6 Sub-Contracting

Using a Sub-contractor (who must be clearly identified in the Proposal) is acceptable. This includes a joint submission by two (2) Proponents having no formal corporate links. However, in this case, one of these Proponents must be prepared to take overall responsibility for successful interconnection of the two (2) product or service lines and this must be defined in the Proposal.

A Sub-contractor individual or firm, whose current or past corporate or other interests may, in the Village's opinion, give rise to a conflict of interest in connection with this Work will not be permitted. This includes, but is not limited to, any firm or individual involved in the preparation of this Proposal.

7.7 Liability for Errors

While the Village has used considerable efforts to ensure an accurate representation of information in this RFP, the information contained in this RFP is supplied solely as a guideline for Contractors. The information is not guaranteed or warranted to be accurate by the Village, nor is it necessarily comprehensive or exhaustive. Nothing in this RFP is intended to relieve Contractors from forming their own opinions and conclusions with respect to the matters addressed in this RFP.

7.8 Agreement with Terms

By submitting a Proposal the Contractor agrees to all the terms and conditions of this RFP. Contractors who have obtained the RFP electronically must not alter any portion of the document, with the exception of adding the information requested. To do so will invalidate the Proposal.

7.9 Use of Request for RFP

This document, or any portion thereof, may not be used for any purpose other than the submission of Proposals.

8.0 Conditions

A qualified Proposal is one which meets the needs and specifications of the Village, the terms and conditions contained in the RFP. The preferred Proposal is a qualified Proposal offering the Best Value, as determined by the Village.

The Village will decide whether a Proposal is qualified by evaluating all of the Proposals based on the needs of the Village, specifications, terms and conditions and price. The Village Director of Finance and/or department head of the Village will examine all Proposals and recommend which Proposal is in the Village's best interest.

A Proposal which is unqualified is one that exceeds the cost expectations of the Village and/or does not meet the terms and conditions contained in the RFP and/or does not meet the needs and specifications of the Village. The Village reserves the right to reject any or all unqualified Proposals.

The Village reserves the right to cancel this RFP at any time.

The Village recognizes that Best Value is the essential part of purchasing a product and/or service and therefore the Village may prefer a Proposal with a higher price, if it offers greater value and better serves the Village's interests, as determined by the Village, over a Proposal with a low price. The Village's decision shall be final.

The Village reserves the right to negotiate with a preferred Proponent, or any Proponent, on any details, including changes to specifications and price. If specifications require significant modification, all Proponents shall have the opportunity to adjust their Proposals or re-submit altogether, as determined by the Village Treasurer and/or department head.

All equipment, goods and workmanship must conform to all Laws and Standards necessary for use in Canada and the Province of British Columbia.

The Successful Proponent, herein named the Contractor, shall guarantee that his Proposal will meet the needs of the Village and that any or all item(s) supplied and/or service(s) rendered shall be correct. If the item(s) supplied by the Contractor and/or the service(s) rendered by it are in any way incorrect or unsuitable, all correction costs shall be borne solely by the Contractor.

All proposed prices shall include delivery F.O.B. Village Public Works yard or other destination point, as specified by the Village, and the Contractor shall bear all risks of loss and/or damage.

Where only one Proposal is received, the Village reserves the right not to make public the amount of the Proposal. The amount of the Proposal will be made public if a contract is awarded. The Village reserves the right to accept or reject a Proposal, where only one Proposal is received.

The Village reserves the right in its sole discretion to accept or reject all or part of any Proposal which is non-compliant with the requirements of this RFP.

The Village shall not be obligated either to accept or reject any non-compliance with the requirements of this RFP.

Cancellation Clause: The Village reserves the right to cancel the Contract Agreement for goods and/or

services as outlined in this RFP, at any time, by providing 30 days written notice to the Contractor.

8.1 Registration With WorkSafe BC (WCB)

The Contract may contain a provision that the Contractor and any approved Sub-contractors must be registered with WorkSafe BC (WCB), in which case WorkSafe BC (WCB) coverage must be maintained for the duration of the Contract. Prior to receiving any payment, the Contractor may be required to submit a WorkSafe BC (WCB) Clearance Letter indicating that all WCB assessments have been paid.

The Contractor must ensure compliance on his part with the *Workers' Compensation Act* and any regulations there under, especially provisions of said Act or of regulations under said Act having to do with the prevention of accidents, the prevention of diseases and the provision of safe working conditions, including proper sanitation and ventilation.

In any case where pursuant to the provisions of the *Workers' Compensation Act*, the Workers' Compensation Board orders the Contractor in respect of his operations under this Agreement, to cease operations because of failure to install or adopt safety devices or appliances directed by the order of the said Board, or required under said Act or regulations there under or because said Board is of the opinion that conditions of immediate danger exist that would be likely to result in injury to any person, or because of lack of payment of an account due to the Board, the Village on twenty-four (24) hours written notice to the Contractor, may terminate the Contract.

8.2 Governing Regulations

The Contractor shall apply and pay for all necessary permits or licenses required for the execution of the Work (but this shall include the obtaining of permanent easements or rights of servitude). The Contractor shall give all necessary notices, pay for all fees required by law, and comply with all laws, ordinances, rules and regulations relating to the Work and to the preservation of the public health. The Contractor shall be responsible for the safety of all workmen and equipment on the Work in accordance with all applicable safety legislation passed by Federal, Provincial and local authorities governing safety.

8.3 General Insurance

Before starting the Work, the Contractor must file with the Village, certificates of all insurance policies acceptable to the Village. These certificates shall state that the insurance complies with the requirements of the Contract and that the territory of the policy includes the country in which the Work is to be constructed.

Each insurance policy required under this Article shall contain an endorsement to provide all Additional Insured with prior notice of changes and cancellations. Such endorsement shall be in the following form:

"It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way or cancelled until thirty (30) days after written notice of such change or cancellation shall have been given or sent by registered mail to all Additional Insured."

Should the Contractor fail to make a payment of any premiums or other assessments required by the Contractor's insurers to maintain such policies in force and effect, the Village may in their discretion make payment of such premiums or assessments and deduct the amount thereof from such monies as

may then or later be payable to the Contractor pursuant to the Contract or recover the same from the Contractor as the Village in his discretion may determine.

Whenever the word The Village is to appear in the insurance policies, the legal name shall be inserted.

8.4 Protection of Work, Property And Public:

The Contractor shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss.

The Contractor shall protect the property adjacent to the Work areas from damage as the result of operations under the Contract. The Contractor shall protect the Work and the Village's property from damage and shall make good at their own expense any damage which may arise as the result of the Contractor's operations under the Contract.

8.5 Contractor's Insurance:

Public Liability & Property Damage Insurance. The Contractor shall save and hold harmless the Village, its officers, Managers, servants and employees, from and against any and all suits or claims alleging damage or injury (including death) to any person or property that may occur or that may be alleged to have occurred, in the course of the performance of this Contract, whether such claim shall be made by an employee of the Contractor, or by a third person and whether or not it shall be claimed that the alleged damage or injury (including death) was caused through a willful or negligent act or omission of the Contractor, its officers, servants, managers or employees, or a willful negligent act or omission of any of its sub-contractors or any of their officers, servants, managers or employees; and at its own expense, the Contractor shall defend any and all such actions and pay all legal charges, costs and other expenses arising there from.

The Contractor shall maintain and keep in force during the term of the Contract and until the date of the completion certificate, Five Million Dollars (\$5,000,000) inclusive limits for public liability and property damage, against liabilities or damages in respect of injuries to persons (including injuries resulting in death) and in respect of damage to property arising out of the performance of work.

The Contractor shall, at the time the Contract is signed, submit to the Village two copies of the insurance policies required under this Article and shall also provide to the Village from time-to-time, as may be required, satisfactory proof that such policies are still in full force and effect.

The Village shall be an additional insured on the policy. The policies shall preclude subrogation claims by the insurer against anyone insured thereunder. In addition, such insurance policy shall include the following "Cross Liability" clause:

"The insurance afforded by this policy shall apply in the same manner, as though separate policies were issued, to any action brought against any of the additional insured by or on behalf of any other additional insured."

8.6 Indemnity

The Contractor shall be liable for all loss, costs, damages, and expenses whatsoever incurred or suffered by the Village, its elected officials, officers, employees and Managers (collectively) including but not limited to damage to or loss of property and loss of use thereof, and injury to or death of a person or persons resulting from or in connection with the performance, purported performance, or non-performance of this contract, excepting only where such loss, costs, damages and expenses are as a result of the sole negligence of the Indemnities.

The Contractor shall defend, indemnify and hold harmless the Indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this contract, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the Indemnities.

8.7 Village Representative

A Village Representative will be assigned by the Village to oversee the compliance of the Proposal awarded to the Contractor. In addition, the Contractor will be expected to name a counterpart Work Manager. The Contractor's Work Manager will be responsible for providing scheduled status reports to the Village Representative.

8.8 Software

It is the Contractor's responsibility to ensure that the Village has all licenses required to use any software that may be supplied by the Contractor pursuant to the Contract.

8.9 Arbitration

All disputes arising out of or in connection with the Contract must, unless the parties otherwise agree, be referred to and finally resolved by arbitration pursuant to the *Commercial Arbitration Act*.

