



REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN
REQUEST FOR PROPOSALS
for
COMMUNITY WILDFIRE PROTECTION PLAN UPDATE

June 6, 2019

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN
REQUEST FOR PROPOSALS - CWPP UPDATE

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REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN
REQUEST FOR PROPOSALS
COMMUNITY WILDFIRE PROTECTION PLAN - UPDATE

1. INTRODUCTION

1.1. PURPOSE

The Regional District of Okanagan Similkameen (RDOS) is requesting submission of Proposals from qualified and experienced Proponents to update the current RDOS Community Wildfire Protection Plan (CWPP).

An updated CWPP will provide the RDOS with an updated plan that defines current wildfire risk levels and provides recommendations on steps that can be taken to mitigate those risks.

1.2. BACKGROUND

The RDOS CWPP was last updated by Valhalla Consulting in 2011. Funding for the RDOS CWPP Update is being provided via the Union of BC Municipalities (UBCM) Community Resiliency Investment (CRI) program. Funding available for the CWPP Update is capped at \$60,000.

2. INSTRUCTIONS TO PROPONENTS

2.1. SUBMISSION OF PROPOSALS

Proposals may be submitted by email and/or hardcopy until the Closing Time specified. It is the Proponent's sole responsibility to ensure its Proposal is received at the address or email set out below by the Closing Time. If submitting by hardcopy please enclose three (3) hard copies and an electronic copy on a memory stick.

The Proposals and their envelopes should be clearly marked with the name and address of the Proponent, the RFP program title, and be addressed to the following:

**Doug Reeve
Project Coordinator
Regional District of Okanagan-Similkameen
101 Martin Street
Penticton, B.C. V2A 5J9**

AND/OR

dreeve@rdos.bc.ca

Proposals must be received on or before the **Closing Time** of:

TIME: 10:00 AM local time
DATE: June 28, 2019

Proposals will not be opened publicly. The Proponent bears all risk associated with delivering its Proposal by electronic submission, including but not limited to delays in transmission between the Proponent's computer and the Regional District's email system.

Proponents wishing to make changes to their Proposals after submission but prior to the Closing Time may do so by submitting the revisions by email or hard copy to the address above.

It also is the Proponent's sole responsibility to ensure their revisions were received, at the email or address set out above, prior to the Closing Time.

Proposals received after the Closing Time will not be considered or evaluated.

2.2. INQUIRIES

All inquiries related to this RFP are to be directed, in writing, to the following person. Information obtained from any other source is not official and should not be relied upon. Inquiries and responses will be recorded and may be distributed through an addendum at the Regional District's option.

Any questions regarding this RFP must be submitted at least five (5) working days prior to the

Closing Date. Any questions submitted after this date may not be answered.

Doug Reeve
(250) 490-4222
dreeve@rdos.bc.ca

Proponents shall carefully examine the RFP documents and shall fully inform themselves as to the intent, existing conditions and limitations, which may affect their Proposal submission. No consideration will be given after submission of a Proposal to any claim that there was any misunderstanding with respect to the conditions imposed.

Proponents finding discrepancies or omissions in the Contract or RFP, or having doubts as to the meaning or intent of any provision, should immediately notify the above listed project contact. If there are any changes, additions, or deletions to the Proposal scope, conditions, or closing date, Proponents will be advised by means of an Addendum issued by the Regional District. All Addenda is to become part of the Proposal Documents and receipt of Addenda should be acknowledged by the Proponent in the submission.

Verbal discussion between the Regional District directors, trustees or staff and a Proponent shall not become a part of the RFP or modify the RFP unless confirmed by written Addendum. The Regional District shall not be responsible for Proponents adjusting their Proposals based only on oral instructions by any representative of the Regional District.

3. GENERAL TERMS OF PROPOSAL PROCESS

3.1. DEFINITIONS

“Addenda” means all additional information regarding this RFP including amendments to the RFP;

“Agreement” or **“Contract”** means a contract that is issued to formalize the Work with the successful Proponent based on the proposal submitted and incorporate by reference the Request for Proposal, any addenda issued, the Proponent’s response and acceptance by the Regional District.;

“Consultant” means the person(s), firm(s) or corporation(s) appointed by the Regional District to carry out all duties, obligations, work and services first contemplated in the Request for Proposal and all associated documentation, which may also include mutually agreed revisions subsequent to submission of a Proposal.;

“must” or **“mandatory”** or **“shall”** means a requirement that must be met in order for the proposal to receive consideration;

“Proponent” means the responder to this RFP with the legal capacity to contract;

“Proposal” means a written response to the RFP that is submitted by a Proponent;

“Regional District” means the Regional District of Okanagan-Similkameen;

“Request for Proposals” or **“RFP”** means the solicitation described in this document, including any attached or referenced appendices, schedules or exhibits and as may be modified in writing from time to time by the Regional District;

“Services” means and includes the provision by the successful Proponent of all services, duties and expectations as further described in this RFP.

“should” or **“may”** means a requirement having a significant degree of importance to the objectives of the RFP but is not a mandatory requirement

“Work” means and includes anything and everything required to accomplish the project in accordance with this RFP and Proposal.

3.2. ACCEPTANCE OF TERMS AND CONDITIONS

Submitting a Proposal indicates acceptance of all the terms and conditions set out in the RFP, including those that follow and that are included in all appendices and any Addenda. The Proponent shall provide a brief listing of all proposed modifications and /or deletions to the terms and conditions set out in the RFP, or it will be deemed that every clause will be strictly adhered to.

A Proposal must be signed by a person authorized to sign on behalf of the Proponent with the intent to bind the Proponent to the RFP and to the statements and representations in the Proponent’s Proposal.

3.3. PROPOSAL PREPARATION COSTS

All expenses incurred by the Proponent in preparation and submission of this Proposal are to be borne by the Proponent, with the express understanding that no claims for reimbursements against the Regional District, or any of its member municipalities, will be accepted. The Regional District shall not be responsible for any costs involved in or associated with any meetings, discussion or negotiation following submission that could lead to acceptance of the Proposal and award of a contract.

3.4. PROPOSAL EVALUATION

The Regional District recognizes that “Best Value” is the essential part of purchasing a product and/or service and therefore the Regional District may prefer a Proposal with a higher price, if it offers greater value and better serves the Regional District’s interests, as determined by the Regional District, over a Proposal with a lower price.

Appendix A contains the information regarding how Proposals will be evaluated. The evaluation team will not be limited to the criteria listed in Appendix A, and the evaluation team may consider other criteria that the team identifies as relevant during the evaluation process. However, any criteria considered will be applied evenly and fairly to all Proposals.

The Regional District, at its sole discretion, reserves the right to:

- reject any or all Proposals whether complete or not,
- reject any Proposal it considers not in its best interests,

- waive any minor irregularity or insufficiency in the Proposal submitted,
- not be liable for misunderstandings or errors in the Request for Proposals,
- issue addenda to the Request for Proposals,
- contact references provided by the Proponents,
- retain independent persons or contractors for assistance in evaluating Proposals,
- request points of clarification to assist the Regional District in evaluating Proposals,
- negotiate changes with the successful Proponent,
- award separate contracts for separate work components, and
- withdraw the Request for Proposals.

3.5. PROPOSAL PRESENTATION

The Regional District reserves the right to request one or more of the Proponents whose submissions are of particular interest to the Regional District, to make an oral presentation to the Regional District.

3.6. PROPOSAL VALIDITY

Proposals will be open for acceptance for at least 60 days after the closing date.

3.7. NO CONTRACT

This RFP is not a tender and does not commit the Regional District in any way to select a preferred Proponent. By submitting a Proposal and participating in the process as outlined in this RFP, Proponents expressly agree that no contractual, tort or other legal obligation of any kind is formed under or imposed on the Regional District by this RFP or submissions prior to the completed execution of a formal written Contract.

3.8. NO OBLIGATION TO PROCEED

The Regional District fully intends at this time to proceed with the proposed project, however the Regional District is under no obligation to proceed to award of the Contract. The receipt by the Regional District 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 Regional District.

There is no guarantee by the Regional District 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 Regional District for the purchase of the equipment, service, or project.

3.9. NEGOTIATION WITH PREFERRED PROPONENT

The Proponent that submits the most advantageous Proposal may be awarded the Contract. The Regional District reserves the right to accept or reject all or parts of the Proposal, however, the Regional District is not precluded from negotiating with the preferred Proponent to modify its Proposal to best suit the needs of the Regional District.

The Regional District will enter into negotiations with a preferred Proponent to finalize any scope

changes necessary to implement the project, as generally described in this RFP. If the Regional District considers that it is unlikely to settle such agreements with the preferred Proponent despite having negotiated with the preferred Proponent for at least 30 days after selection of the preferred Proponent, the Regional District is entitled to cease negotiations with the preferred Proponent and to begin negotiations with another Proponent.

3.10. ACCEPTANCE OF PROPOSAL

The acceptance of a Proposal will be made in writing from the Regional District, and will be addressed to the successful Proponent at the address given in the submitted Proposal. Following acceptance and approval to proceed with the Proposal, the Proponent is expected to enter into a contract with the Regional District to perform the works or services set out and agreed upon in the Proposal.

The agreement that the successful Proponent will be expected to execute with the Regional District will contain terms similar to those contained in the draft Contracting Services Agreement provided in Appendix B. The agreement attachments will include the entire Request for Proposal, the Proponent's total Proposal submission and any mutually agreed upon modifications, changes or negotiated adjustments.

3.11. LIABILITY FOR ERRORS

While the Regional District has expended considerable efforts to ensure an accurate representation of information in this Request for Proposal, the information contained in this Request for Proposal is supplied solely as a guideline for Proponents. The information is not guaranteed or warranted to be accurate by the Regional District, nor is it comprehensive or exhaustive. Nothing in this Request for Proposals is intended to relieve Proponents from forming their own opinions and conclusions with respect to the matters addressed in the Scope of Work

3.12. PROPOSAL CONFIDENTIALITY AND PROPRIETARY INFORMATION

All submissions become the property of the Regional District and will not be returned to the Proponent. The Regional District will consider all Proposals submitted as confidential but reserves the right to make copies of all Proposals received for its internal review and for review by its financial, accounting, legal, and technical consultants.

Proponents should be aware that the Regional District is a "public body" as defined in and subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.

If the Proponent believes any of the information requested in this RFP and provided by them is confidential, then they should identify it as such and provide a rationale as to why it should not be released under "Freedom of Information" legislation.

The rationale for keeping information confidential under this legislation includes:

- a) Trade secrets of the Proponent;
- b) Financial, commercial, scientific or technical information, the disclosure of which could reasonably be expected to result in material financial loss or gain or could reasonably be expected to prejudice the competitive position of the Proponent; or

- c) Information the disclosure of which could be reasonably expected to interfere with contractual or other negotiations of the Proponent.

3.13. CONFLICT OF INTEREST

A Proponent shall disclose in its Proposal any actual or potential conflicts of interest and existing business relationships it may have with the Regional District, its elected or appointed officials or employees, any property ownership direct or indirect in the project area. The Regional District may rely on such disclosure.

3.14. NO COLLUSION

Except as otherwise specified or as arising by reason of the provision of the contract documents, no person whether natural, or body corporate, other than the Proponent has or will have any interest or share in this Proposal or in the proposed contract which may be completed in respect thereof.

There is no collusion or arrangement between the Proponent and any other actual or prospective Proponents in connection with Proposals submitted for this project and the Proponent has no knowledge of the contents of other Proposals and has made no comparison of figures or agreement or arrangement, express or implied, with any other party in connection with the making of the Proposal.

3.15. NOT AN EMPLOYEE

The successful Proponent will acknowledge and agree that neither the Proponent nor any person employed by or associated with the successful Proponent in the performance of the services or otherwise, is an employee of, or has an employment relationship of any kind with the Regional District or is in any way entitled to terms or conditions of employment or employment benefits of any kind whatsoever from the Regional District under any collective agreement or otherwise including but not limited to private programs or coverages and statutory programs and coverages, whether under the *Employment Standards Act* of British Columbia (as amended from time to time), the *Workers Compensation Act* of British Columbia (as amended from time to time), the *Employment Insurance Act* of Canada (as amended from time to time), health pay contributions or otherwise.

3.16. LITIGATION

Proponents who, either directly or indirectly through another corporation or entity, have been or are in litigation, or who have served notice with intent to proceed with court action against the Regional District in connection with any contract for works or services, may be considered ineligible Proponents. Receipt of Proposals from such Proponents may be disqualified from the evaluation process.

4. GENERAL PROPOSAL CONTENT

4.1. CONSULTANT INFORMATION

- COMPANY INFO: Full name, address and telephone number of the submitting office of the

Proponent and where applicable, the name, address and telephone number of any branch office, affiliate or sub-consultant(s) that will be involved in the project.

- **PROJECT MANAGER:** The Proposal shall confirm the proposed project manager who will be the single point of contact, and responsible for direct interaction with the Regional District. Describe the work to be performed by the project manager and his/ her qualifications and substantive experience directly related to the proposed Work.
- **PROPOSED PROJECT TEAM:** The Proposal shall list key individuals including the project manager and sub-consultant(s) who will have major responsibilities for the performance of the work. Describe the work to be performed by each listed individual and their qualifications, in terms of education and substantive experience directly related to the proposed Work. Capacity and ability of the Project Manager and Project Team to deliver the services within the defined timeframe must be discussed

The Proposal shall include the following endorsement:

“Identified Key Project Team members shall only be replaced with written approval of the Regional District.”

- **REFERENCES:** The Proposal shall provide no less than two (2) references that are relevant to the proposed Work. The references should be from a third party who can provide information about the performance of the Proponent in delivering the works or services for the experience cited.
- **EXPERIENCE:** The Proposal should include details on only the most recent three (3) or four (4) projects of related work for the Consultant and project team. It is the Proponent’s responsibility to demonstrate that they possess the required knowledge, understanding and capacity to carry out the Work as outlined in this RFP within the project schedule and budget.

4.2. SUBCONTRACTORS AND SUBCONSULTANTS

The Proposal shall include the company name of all subcontractors and subconsultants proposed to be used in the performance of the Work with a description of the work they would be performing.

The subcontractors and subconsultants listed in the Proposal may not be changed without the written consent of the Regional District. If the Regional District so requires, the Proponent shall be prepared to confirm to the Regional District the competence of subcontractors and subconsultants prior to acceptance of the Proposal.

4.3. METHODOLOGY

The Proposal shall contain an outline of strategies and skills that will be used to manage the project’s expectations, resources, budget and to ensure quality control. The methodology must discuss how the Work will be completed that is listed in Scope of Work. Include other items identified and what services or interaction is required from/ with the Regional District.

In their own words, the Proponent must show that they have an understanding of what the Work involves and what is required to complete the project, specifically an understanding of the project critical issues and fixed budget.

4.4. SCHEDULING

The Proposal shall contain a proposed work schedule showing the major activities or tasks, order and interdependence of the various milestones, sub-tasks and deliverables for each of the required tasks, including any proposed meetings. The project has a completion deadline of March 1, 2020 to comply with the UBCM grant funding.

4.5. FEES AND DISBURSEMENTS

The Proposal shall contain a breakdown of fees by task.

4.6. PROPOSAL CONTENT & INNOVATION

The Proponent shall address in the Proposal submission, all the information as requested in the RFP documentation. The Proponent is also encouraged to include innovative, alternative or unique solutions to the Proposal subject.

4.7. SAFETY REQUIREMENTS

During completion of the work, the Consultant is required to meet or exceed at all times, any requirements as detailed at the place of Work, which includes but not limited to all OHS regulations or standards. Prior to any onsite work, the successful Consultant will provide their Health and Safety Manual to the Regional District and participate in a site orientation with the Regional District.

4.8. WORKERS COMPENSATION ACT

The Proponent, and any proposed subcontractors and subconsultants, should provide a Work Safe BC (Workers Compensation Board) Registration Number in the Proposal and shall at the time of signing a contract agreement, provide proof of registration in good standing with Work Safe BC.

5. PROJECT WORK

While the Regional District has used considerable effort to ensure an accurate representation of information in this RFP, the information contained herein is given solely as a guideline for Proponents. The information is not guaranteed to be accurate, nor is it necessarily comprehensive or exhaustive.

5.1. SCOPE OF WORKS REQUIRED

The scope of works includes updates to the 2011 RDOS Community Wildfire Protection Plan. The work must be completed in accordance with requirements set out by the UBCM's CRI program at <https://www.ubcm.ca/EN/main/funding/lgps/community-resiliency-investment.html>. This includes use of the 2018 CWPP Template, which outlines the minimum mandatory content for a CWPP.

Proponents may propose to complete the scope of works with enhancements above minimum mandatory content, where those enhancements provide additional value to the RDOS.

The RDOS is comprised of nine Electoral Areas, which cumulatively cover 10,400 km². Information from local areas where current CWPP's exist or are under development (municipalities of Keremeos,

Oliver, Penticton, Summerland), will need to be considered/incorporated into the updated RDOS CWPP.

The 2011 RDOS CWPP is available at <http://www.rdos.bc.ca/departments/community-services/emergencyprotective-services/community-wildfire-protection-plan/>.

Files from the 2011 CWPP will be made available to the successful proponent. This includes Community Fire Hazard Assessment form/reports, plot forms, and GIS data.

Many aspects of the works fall under the practice of professional forestry as outlined in the ABCFP Interim Guidelines - Fire and Fuel Management (see https://member.abcfp.ca/web/Files/policies/Fire_Fuel_Management-Interim_Guidelines.pdf).

Sections of the CWPP may be required to be prepared by a forest professional that possesses a sound understanding of fire threat analysis, fire behavior and suppression, and resource management.

5.2. SCHEDULING

The Proposal shall contain a work schedule showing the major activities or tasks, order and interdependence of the various milestones, sub-tasks and deliverable for each of the required tasks, including any proposed meetings.

Award of the project is subject to approval by the RDOS Board of Directors during the July 18, 2019 Regional District Board meeting.

All work must be completed by March 1, 2020.

5.3. PROJECT MANAGEMENT

Provide project management services throughout all project phases in cooperation with the Regional District project manager. Items required during the performance of the work include the following, at a minimum:

- The Consultant shall manage the project schedule, resources and budget very closely through all phases of this Work. To facilitate Project Management, the Consultant shall identify specific milestones, set completion dates of the various milestones, track the progress of each task and indicate how budget control is to be exercised.
- Deliverable: The Consultant shall provide a monthly progress memo to the Regional District summarizing the progress to date in comparison to the baseline schedule, project constraints, delivery dates, outstanding items, project budget, and any corrective actions that will be implemented to maintain the approved schedule.

5.4. COMMUNICATIONS

Project communications will be a key component in the success of the complete project and will carry through all project phases. At minimum, the Regional District expects the following:

- Meet with the Regional District project manager and other staff as required in a timely

manner to review project objectives and to gather information at project milestones.

- Meet with the Regional District project manager and other staff as required to review interim issues that may arise during all stages of the project.

6. REPORTING REQUIREMENTS

Before the conclusion of the project all documents, including but not limited to memos, reports, photographs, video, spreadsheets, project management information and tracking, assessments and other documents created for the purpose of this project, will be provided on a memory stick to the Regional District. Some specific reporting requirements are detailed in the following sections.

6.1. SAFETY PROCEDURES

Prior to the start of the project, the successful Proponent is required to supply the Regional District with their safety procedure manual. At this time the Proponent will also be informed of the Regional District's safety requirements.

7. FEES AND DISBURSEMENTS

The total budget available for the entire project is capped at \$60,000. This includes all costs for a successful completion of the project scope of work. No additional funds are available for project overages. Please ensure to include details on relevant recent projects that were kept within budget and schedule in the Proposal, as this is an important evaluation factor.

The Proposal shall specify a maximum or upset fee up to and including the completion of the updated CWPP. The maximum costs or upset fees will include all taxes, labour, equipment, sub-consultant expenses, and disbursement costs.

Any costs incurred by the Consultant above the submitted maximum cost will be the sole responsibility of the Consultant unless pre-approved by the Regional District.

A schedule of hourly rates for all personnel, equipment and disbursement rates (includes transportation expenses) for the project shall be included in the Proposal. The rates provided in the Proposal shall remain at these set rates through the entire project.

Fees must include all applicable taxes, but show taxes as separate items. All prices quoted to be in Canadian dollars.

The obligations of the Regional District to the Builder's Lien Act of British Columbia will be applied to the payment for the Work as required.

APPENDIX "A"

REQUEST FOR PROPOSALS EVALUATION FORM – CWPP UPDATE

Proponent's Name: _____			
Evaluation Date: _____			
Evaluator: _____			
Step 1:		YES	NO
Mandatories	Proposal received prior to closing		
	Subconsultant list submitted		
	Project Manager identified		
	Proposed schedule included		
	Reference List		
	Hourly rates provided		
	Maximum or upset fee included		
Complete proposal as requested			
Step 2:		Assigned Points	Points
Proponent	Qualifications of firm and project team members	10	
	Experience of firm and project team members	15	
	Past Performance / References	5	
	Resources	5	
Proposal	Scope	5	
	Methodology	15	
	Scheduling	10	
	Project Team - Level of Effort	5	
	Clarity of Proposal	10	
Price	Points for Price = (lowest cost Proposal divided by Proposal being evaluated) x (20% weight)	20	
Total Score	Proponent + Proposal + Price Scores	100	

1. Requests for Proposals (RFP's) will be reviewed by an Evaluation Team, which will consist of at least two RDOS staff members.
2. Each Evaluation Team member will complete the RFP Evaluation Form for each Proposal.
3. Evaluation Team Members will use the following list of questions to complete the RFP Evaluation Form:

Proponent Evaluation

- (i) **Qualifications of Firm and Project Team Members**
Are the firm and project team members specialized and qualified in the nature of the project work?
- (ii) **Experience of Firm and Project Team Members**
Has the firm completed similar projects during the last three years? Do the assigned project team members have appropriate qualifications and experience with similar projects?
- (iii) **Past Performance**
Is the firm's record of past performance sound? Do reference checks reveal weaknesses? Was abnormal level of monitoring required? Does the firm consistently complete assignments on time and within budget?
- (iv) **Resources**
Does the firm have ample resources (e.g. staff, equipment, etc.) to apply to this project?

Proposal Evaluation

- (i) **Scope**
Do the objectives, scope, work plan, and prediction of results comply with the terms of reference and project objectives?
- (ii) **Methodology**
Is the methodology clear and in sufficient detail to cover all necessary aspects? Does the Proposal reflect the required understanding of the project? Is each task clearly outlined and in logical sequence?
- (iii) **Scheduling**
Does the Proposal indicate that the achievement of objectives will be met according to an acceptable schedule? Are they within the timelines set by the terms of reference (if outlined in the terms of reference). Are problems or delays accounted for? Is timing realistic for the project?
- (iv) **Project Team**
Is the level of effort (total hours) adequate, low or high? Are the hours of professionals involved adequate, low or high? Is the proportion of professional vs. technical hours adequate or appropriate?
- (v) **Clarity of Proposal**
Is the Proposal clear, concise, and logical?

Price Evaluation

- (i) **Total Price**

4. Upon completion of Step 2, the Evaluation Team will determine, by consensus, the score for each Proposal and will forward these scores to the Board for its consideration to select the successful Proponent.

CONSULTING SERVICES AGREEMENT

CONSULTING SERVICES AGREEMENT

THIS AGREEMENT made the _____ day of _____, 20XX.

BETWEEN :

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

101 Martin Street
Penticton, British Columbia, V2A 5J9

(hereinafter called the "Regional District")

OF THE FIRST PART

AND :

NAME

(hereinafter called the "Consultant")

OF THE SECOND PART

AND WHEREAS the parties hereto wish to set out herein their respective rights and obligations.

NOW THEREFORE, the Regional District and the Consultant in consideration of their mutual rights and obligations as hereinafter set forth do hereby agree as follows:

Article 1 Consultant's Duties

- 1.1 The Consultant has agreed to provide professional services to the Regional District for _____.
- 1.2 The Consultant shall provide to the Regional District all services at the rate provided in Schedule "A" of which forms part of this agreement. If work is required that is not included in this Schedule of rates, the Provincial Blue Book rates will apply.
- 1.3 In performing the Services under this Agreement, the Consultant shall, at all times, act in the best interests of the Regional District and exercise that degree of professional skill, care and diligence required according to generally accepted professional science and engineering standards applicable to the performance of such Services at the time and place the Services are performed.
- 1.4 It is agreed that in awarding the professional services encompassed within this agreement to the Consultant, the Regional District has relied upon the Consultant's representations concerning the experience of certain identified personnel in the employ of the Consultant. It is agreed that, in performing the services under this agreement, the Consultant shall assign such identified personnel to the project.
- 1.5 The Consultant shall request of the Regional District any information or data contained in Regional District files which the Consultant requires in order to perform the services. The Regional District is only obligated to provide to the Consultant information and data that is pertinent to the terms

of reference and work set out from the Regional District. The Consultant may rely on such information or data as may be provided by the Regional District without independent verification.

Article 2 Fees and Disbursements

- 2.1 Costs which have not been identified by the Consultant in the estimates requested for the various work components will not be paid by the Regional District without prior approval and confirmation in writing. The Regional District shall make no payment to the Consultant for cost overruns that have not been the subject of prior notice and approval. Any change in the rates charged for fees and the Regional District must approve disbursements in advance, in writing.
- 2.2 The Consultant shall provide all necessary and sufficient substantiation to the Regional District in order to verify any invoice upon request. If the Regional District is unable to verify any invoice within the said period, any payment by the Regional District either may be withheld or may be made and treated as an advance pending verification of the invoice.
- 2.3 Any necessary adjustments which have not been made prior to payment of an invoice may be made by the Regional District at the time of a later payment. If the Regional District is shown to have overpaid, the Regional District may deduct the amount from any other sums due to the Consultant from the Regional District or the Consultant shall pay the amount to the Regional District within thirty (30) days of the amount being agreed upon or otherwise established.
- 2.4 The Regional District may request the Consultant to submit prior to payment of the final invoice a statutory declaration or other proof that there are no outstanding costs, assessments, liens or claims in connection with the project.

Article 3 Confidentiality, Ownership and Use of Documents and Materials

- 3.1 The Consultant shall act in a confidential manner and make his best efforts to keep confidential all communications, plans, specifications, reports or other information used in connection with the project unless the same are stated by the Regional District to be in the public domain except as required by law; or by prior written consent of the Regional District. The Consultant shall instruct all his employees and agents of the obligations under this Article.
- 3.2 All studies, reports, drawings, plans, designs, specifications, models, photographs, software; i.e. custom applications, digital database, etc., and other materials developed for the Regional District are the property of the Regional District regardless of whether the project proceeds and the Regional District reserves the copyright, patent and trademark therein and in the work executed there from and they shall not be used on any other work without the prior written agreement of the Regional District.
- 3.3 The Regional District acknowledges and agrees that the Consultant's Services have been provided for a specific purpose. Any reuse, modification, or misuse of the Consultant's studies, reports, drawings, plans, designs, specifications, models, software, processes, documents, or other information by the Regional District or third parties shall be at the Regional District's sole risk and responsibility.

Article 4 Special Tools and Equipment

- 4.1 All necessary special tools, equipment and other things shall be acquired by the Consultant solely at the Consultant's cost and shall be the property of the Consultant unless the Regional District

specifically authorizes the purchase of a specific item at the Regional District's expense.

- 4.2 The cost of special tools, equipment and other things that have not been specifically identified in detail by the Consultant or specifically authorized in writing by the Regional District during performance of the project shall be considered to be within the overhead of the Consultant.
- 4.3 If the Regional District specifically authorizes, in writing, that the Consultant shall purchase any special tool, equipment, or other things at the expense of the Regional District then such items shall become the property of the Regional District. The Consultant shall bear the risk of loss or damage, normal wear and tear excepted, to all such items for the time when such items are out of the possession and control of the Regional District. Upon completion of the project, the Consultant shall deliver all such special tools, equipment and other things to the Regional District.

Article 5 Sub-Consultants and Sub-Contractors

- 5.1 The Consultant may, with the prior written approval of the Regional District, engage the services of sub-consultants or sub-contractors to perform work which the Consultant is unable to perform.
- 5.2 The Consultant shall advise the sub-consultants and sub-contractors in writing prior to their participation in the project of the duties and obligations arising out of this agreement between the Consultant and the Regional District.
- 5.3 The Consultant shall be responsible to the Regional District for all work carried out by sub-consultants and sub-contractors in connection with the project as if such work had been performed by the Consultant.
- 5.4 The Consultant shall be responsible to the Regional District for the acts and omissions of all sub-consultants and sub-contractors, their employees and agents, as if such sub-consultants and sub-contractors, their employees and agents, were persons directly employed by the Consultant.

Article 6 Termination and Suspension

By the Regional District :

- 6.1 If the Consultant is in default in the performance of any of his material obligations set forth in this agreement, then the Regional District may, by written notice to the Consultant, require such default to be remedied.

If, within seven (7) days after delivery of such notice, such default shall not have been corrected or reasonable steps to correct such default have not been taken, the Regional District may, without limiting any other right or remedy the Regional District may have, immediately terminate this agreement and discharge its obligations under this agreement by paying for the cost of the services rendered and disbursements incurred by the Consultant and remaining unpaid as of the effective date of the termination.
- 6.2 If the Regional District decides for any reason not to proceed with the Project, the Regional District may terminate this agreement by giving seven (7) days prior written notice to the Consultant. Upon receipt of such written notice, the Consultant shall perform no further services other than those reasonably necessary to close out the project.

In such event, the Consultant shall be paid by the Regional District for all services performed and all disbursements incurred pursuant to this agreement and remaining unpaid as of the effective

date of such termination.

By the Consultant :

- 6.3 If the Regional District is shown to be in default in performance of any of its material obligations set forth in this agreement, then the Consultant may, by written notice to the Regional District, require such default to be corrected.

If, within seven (7) days after receipt of such notice such default shall not have been corrected, or reasonable steps have not been taken to correct such default, the Consultant may, without limiting any other right or remedy he may have, immediately terminate this agreement. In such an event, the Consultant shall be paid by the Regional District for all services performed and disbursements incurred pursuant to this agreement and remaining unpaid as of the effective date of such termination.

- 6.4 If the Consultant's services are suspended by the Regional District at any time for more than seven (7) days through no fault of the Consultant, then the Consultant shall have the right at any time until such suspension is lifted by the Regional District, to terminate this agreement upon giving written notice thereof to the Regional District.

In such event, the Consultant shall be paid by the Regional District for all services performed and all disbursements incurred pursuant to this agreement and remaining unpaid as of the effective date of such suspension.

Article 7 Compliance With Laws

- 7.1 The Consultant shall comply with all applicable bylaws and regulations of the Regional District and all applicable laws of the Province of British Columbia and the Government of Canada. Without restricting the generality of the foregoing, the Consultant shall abide by all provisions of the Workers' Compensation Act of British Columbia and upon request by the Regional District shall supply proof that all assessments have been paid.

- 7.2 The laws of the Province of British Columbia shall govern this agreement and any arbitration or litigation in respect thereof.

Article 8 Insurance

- 8.1 At the time of signing this Contracting Services Agreement, the Contractor shall provide, maintain, and pay for all insurance as outlined on the attached **Certificate of Insurance – Standard Contractor's Certificate Form** as provided. This form must be completed by the Contractor's insurance broker and returned to the Regional District.

- 8.2 The Consultant shall, at his expense, establish and maintain Professional Errors and Omissions Insurance acceptable to the Regional District as follows:

1. Preliminary Project where fees do not exceed \$15,000: Insurance limit shall be a minimum of \$250,000 per claim and \$500,000 per policy period.
2. Studies with no designing required: Insurance limit shall be a minimum of \$500,000 per claim and \$1,000,000 per policy period.
3. Design assignments and/ or planning services covering projects not exceeding \$1,000,000 in value: Insurance limit shall be a minimum of \$500,000 per claim and \$1,000,000 per policy period.
4. Design assignments and/ or planning services covering projects exceeding \$1,000,000 in value:

Insurance limit shall be a minimum of \$1,000,000 per claim and \$1,000,000 per policy period.

- 8.2 The Consultant's Professional Errors and Omissions Insurance shall be maintained continuously during the term of this Consulting Services Agreement and subsequently continue to be in force for twelve (12) months beyond the project completion date of services (i.e., submission of Final Report, as approved in writing by the Regional District).

The Consultant shall provide to the Regional District a Certificate of Insurance verifying that the Consultant has such Professional Errors and Omissions Insurance. The Certificate of Insurance shall indicate that notice will be given or sent by registered mail to the Regional District at least thirty (30) days in advance of cancellation of this insurance. Upon request the Consultant shall provide the said policy of insurance for inspection by the Regional District.

The Consultant shall provide the Regional District at least thirty (30) days written notice in advance of any material change or amendment to such Professional Errors and Omissions Insurance restricting coverage. Notice shall be given or sent by registered mail to the Regional District.

- 8.3 General Liability Insurance must be obtained on an occurrence basis for the Consultant with limits of not less than \$5,000,000.00 inclusive per occurrence for bodily injury and property damage. Detailed coverage is to be as included on the Certificate of Insurance Form.

This insurance shall be maintained continuously from commencement of the Work until the date of completion.

- 8.4 The Consultant shall, at all times, indemnify and save harmless the Regional District and its officers, directors, agents, and employees from and against all claims, damages, losses and expenses arising from personal injury, death, or damage, inclusive of claims made by third parties, to the extent directly attributable to the negligent acts, errors, or omissions of the Consultant.

The Regional District shall, at all times, indemnify and save harmless the Consultant and its officers, directors, agents, and employees from and against all claims, damages, losses and expenses arising from personal injury, death, or damage, inclusive of claims made by third parties, to the extent directly attributable to the negligent acts, errors, or omissions of the Regional District.

Article 9 Arbitration

- 9.1 All matters in dispute under this agreement may, with the concurrence of both the Regional District and the Consultant, be submitted to arbitration to a single arbitrator appointed jointly by them and the provisions of the Commercial Arbitration Act shall apply.

- 9.2 No one shall be nominated to act as arbitrator who is in any way financially interested in the project or in the affairs of either the Regional District or the Consultant.

Article 10 Independent Contractor

- 10.1 Nothing in this agreement or the Consultant's performance of his duties under this agreement shall constitute or create an employer-employee relationship. The Consultant shall act solely as an independent contractor and not as an employee or agent of the Regional District and is not authorized to create obligations on the part of the Regional District to third parties.

Article 11 Waiver

11.1 Any failure of the Regional District at any time to enforce or require strict compliance with any of the terms of this agreement shall not constitute a waiver or relinquishment of any such terms and the same shall remain at all times in full force and effect.

Article 12 Records and Audit

12.1 The Consultant shall keep reasonable and proper records, accounts, statements and other relevant documents for a period of not less than twelve (12) months after completion of the Project or for such extended period as the Regional District may request in advance and in writing.

12.2 The Consultant shall permit the Regional District to inspect, audit and copy all records, accounts, statements and other relevant documents of the Consultant relating to the Project at all reasonable business hours in the offices of the Consultant unless otherwise agreed in writing by the parties.

Article 13 Successors and Assigns

13.1 This agreement shall inure to the benefit of and be binding upon the parties hereto and their respective executors, heirs, administrators, successors and assigns.

13.2 Neither party may assign this agreement without the prior consent in writing of the other, which consent shall not be unreasonably withheld.

Article 14 Notices

14.1 All notices required by this agreement to be given by either party shall be deemed to be properly given and received within two (2) business days, if made in writing to the other party, by registered mail, or facsimile addressed to the regular business address of such party.

Article 15 Term

15.1 The parties hereto agree that the End Date of this Consulting Services Agreement will be **July 31, 20XX**. If work proceeds past this date, an amendment extending the date can be prepared and signed with the agreement of both parties.

Article 16 Entire Agreement

16.1 This agreement constitutes the sole and entire agreement between the Regional District and the Consultant relating to the Project and supersedes all prior agreements and communications between them whether written or oral respecting the subject matter hereof and no other terms, conditions or warranties whether expressed or implied shall form a part hereof.

16.2 The Consultant, by signing this agreement, is agreeing in writing to be the Principal Consultant and agrees to perform all the duties and responsibilities of the Principal Consultant as set out in the most current edition of the Workers' Compensation Board, Occupational Health and Safety Regulation including amendments and the duties and responsibilities normally required of a consultant by the Workers' Compensation Board.

16.3 Wherever the masculine gender is used in this agreement it includes the feminine and body

corporate where the context so requires.

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

The signatures of the Signing
Authority of the
**REGIONAL DISTRICT OF
OKANAGAN - SIMILKAMEEN**
was hereto affixed:

Karla Kozakevich, Chairman

Bill Newell, Chief Administrative Officer

CONSULTANT
by its authorized signatories:

Authorized Signatory

Authorized Signatory

Corporate seal

SCHEDULE "A"

DRAFT