



REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

REQUEST FOR PROPOSALS

OSOYOOS LAKE PATHWAY

RETAINING WALL/EROSION PROTECTION STRUCTURE

REPLACEMENT

Issued: September 13, 2022

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN
REQUEST FOR PROPOSALS
OSOYOOS LAKE PATHWAY – RETAINING WALL / EROSION PROTECTION
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REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

REQUEST FOR PROPOSALS

OSOYOOS LAKE PATHWAY – RETAINING WALL/EROSION PROTECTION STRUCTURE

1. INTRODUCTION

1.1. PURPOSE

The Regional District of Okanagan Similkameen (RDOS) is requesting submission of Proposals from qualified Proponents in strict accordance with these Proposal Documents. Proposals will be evaluated for the selection of a contractor with the intent to enter into a contract (“the Contract”) to provide the services described in Section 5 – Project Work.

Generally the Work will consist of removal and replacement of a failed retaining wall/erosion protection structure. The Work will also include removal and repaving of a portion of roadway and any related traffic control required. The project Work is located along the 1800 block of 45th Street (Lakeshore Drive) just south of the city limits of Osoyoos, British Columbia. The RDOS will entertain all proposals that meet the requirements of this Request for Proposals (“RFP”).

The finished project will provide the Regional District with a repaired regional pathway, able to withstand regular lakeshore erosion as well as more substantial flooding events, along the west side of 45th Street (Lakeshore Drive.)

1.2. BACKGROUND

As part of a 2014 pedestrian corridor development project on the east side of Osoyoos Lake, a geobag retaining wall was constructed to support a roadside pathway segment along the 1800 block of 45th Street. Floodwaters in 2018 overtopped the road and pathway in this area, causing damage to said retaining wall. The failed geobag wall is no longer providing adequate support to the pathway. The intent of the pathway is to provide a safe pedestrian corridor and general connectivity between an existing pathway within the Town of Osoyoos and the Osoyoos Lake Regional Park.

1.3. SUPPORTING DOCUMENTATION

The following materials are available as separate documents linked to this RFP to assist in the preparation of Proposals.

- Civil Improvement Plan – Watershed Engineering – IFA 2021.10.07
- Structural Plan – Equilibrium Engineering – IFP 2022.02.28
- Change Approval (Water Sustainability Act – Section 11) – Dated July 11, 2022
- Permit to Construct, Use, and Maintain Works (MOTI) – Dated September 10, 2014
- 2020 Standard Spec for Highway Construction – Pedestrian Sidewalk Fence
- BC MoTI Figure 510.P – Cross Section for Low-Volume Roads

- EMP – Works and Mitigation Plan – Dated 2021.12.22
- Agreement to Bond (to be completed and submitted with Proposal)

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 above 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:

**Rudi Weckel, Projects Coordinator
Community Services
Regional District of Okanagan-Similkameen
101 Martin Street
Penticton, B.C. V2A 5J9**

AND/OR

Rudi Weckel at rweckel@rdos.bc.ca

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

TIME: 2:00 PM local time

DATE: Thursday, September 29, 2022

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 as above.

It is also the Proponent's sole responsibility to ensure their revisions are received, at the e-mail 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 Project Coordinator listed above. 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.

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.

2.3. PRE-PROPOSAL MEETING (Optional)

A Pre-Proposal Meeting will be held onsite at 1801 45th Street (Lakeshore Drive) just south of the city limits of Osoyoos, British Columbia (unincorporated area). Attendance at the pre-proposal meeting is optional.

The Pre-Proposal meeting will be held **Tuesday, September 20, 2022 at 10:00 AM (PDT)**.

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.;

"Contractor" 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.

A person authorized to sign on behalf of the Proponent must sign the 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 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. 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.

3.6. 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.

3.7. 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, the Regional District is entitled to cease negotiations with the preferred Proponent and to begin negotiations with another Proponent.

3.8. ACCEPTANCE OF PROPOSAL

Following acceptance of the Proposal, the agreement that the successful Proponent will be expected to execute with the Regional District will contain terms similar to those provided in Appendix B.

The expected attachments to the agreement will include the Request for Qualifications and the Proponent's submission, the Request for Proposal, the Proponent's Proposal submission and any mutually agreed upon modifications, changes or negotiated adjustments.

3.9. 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

3.10. 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.

3.11. 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.

3.12. 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.

3.13. 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.

3.14. 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. CONTRACTOR 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 or affiliate 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-contractor(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 Contractor 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 listed in the Scope of Work will be completed.

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, sub-tasks and deliverables for each of the required tasks, including any proposed meetings.

The Regional District has established the following preliminary baseline schedule for the project. Any advancement of the dates indicated are desirable and would be welcomed by the Regional District.

Task	Completion Date
Award to Contractor	October 5, 2022
Preconstruction Site Meeting	October 13, 2022
Riparian Work Complete	March 31, 2023
Construction Complete	April 28, 2023

The Proponent should plan their work to conform to this or their improved schedule. The Regional District will provide information and responses to Contractor in a timely manner so as not to impact the schedule.

4.5. FEES AND DISBURSEMENTS

The Proposal shall specify a maximum or not-to-exceed dollar amount up to and including the completion of all construction through to issuance of as-built plans. The maximum costs or not-to-exceed amount will include all taxes, labour, equipment, sub-consultant expenses, permits, approvals and disbursement costs. The maximum/not-to-exceed amount shall be provided in a detailed breakdown of costs in the form of a Schedule of Materials, Equipment and Labour for the entire construction project.

A complete rate schedule for staff and equipment shall be provided to be used in the event that time and material work is necessary.

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

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

The successful Proponent shall prepare and submit invoices based on the requirements defined within the contract (sample contract within) and will reflect the final cost breakdown (Schedule of Materials, Equipment and Labour) provided to the RDOS.

Any extra/time and material/force account work will only be performed by the Proponent if approved by the RDOS project manager prior to said work. Approval will be in the form of a signed Change Order prepared by the Proponent and submitted to the RDOS project manager.

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.

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. WORKERS COMPENSATION ACT

The Proponent, and any proposed subcontractors and subconsultants, must 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 payment of claims 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.

The selected Contractor will meet with the Regional District to determine a finalized work plan and discuss any proposed optional items. This will include a review of responsibilities, expectations, and the establishing of timelines for the various stages of the project. The intent of the project is to remove and replace an existing retaining wall that supports the described path and roadway. The retaining wall will also act as an erosion protection structure from wave action along the shore of Osoyoos Lake.

5.1. SCOPE OF PROJECT WORK

The scope of work will include all tasks necessary to remove and replace a retaining wall/erosion protection structure/handrails pursuant to design, permit and approval documents contained herein. The scope also includes re-establishing the affected path and roadway to a paved surface meeting the requirements of MOTI standards.

Given the location of the project site is in close proximity to Osoyoos Lake, the successful Proponent must ensure that all Work conforms with the Change Approval (Water Sustainability Act – Section 11) received from the Ministry of Forests (Dated July 11, 2022.)

The following list of tasks has been identified by Regional District staff and is not intended to be complete or all-inclusive for completion of the Work. The Proponent is asked to include any items/tasks not listed (but required based on their expertise) in the Proposal:

Site Preparation

- Set in place and maintain any/all environmental protection requirements along the shoreline;
- Confirm subsurface utility locations, if any (BC 1 Call);
- Identify overhead utility lines and establish safety protocols;

Establish Traffic Accommodation

- Prepare and submit a traffic accommodation plan to the Regional District;
- Obtain MOTI traffic control permit (if required);
- Setup and maintain onsite physical traffic controls as needed;

Demolition & Removal

- Asphalt saw-cut project limits;
- Remove and dispose of any trees, shrubs or vegetation within the project limits (necessary to complete the Work);
- Remove and dispose of pavement, substructure and retaining wall material;
- Excavate and remove all material as outlined on the Civil Improvement Plans;

Cast In Place Wall/Erosion Protection Structure

- Proponent must review all relevant plans to determine structure install and backfill requirements;
- Install guard railing to match existing;
- Pave finished surface to MOTI standards;

Riparian Restoration

- Plant native shrubs and trees (16) to restore the riparian zone as outlined in the Change Approval

– Water Sustainability Act – Section 11;

5.1. WORK BY OTHERS

The Regional District will retain independent contractor(s) to verify standards and design criteria are being met. This does not relieve the contractor from completing their own testing.

5.2. CONSTRUCTION PHASE

All Work will be performed in accordance with this Request for Proposals and the individual sections within. Project Work will comply with all applicable construction, environmental and safety standards and requirements.

Note:

- Removal and disposal of all waste materials will be the responsibility of the Contractor as part of the Work.
- Any/all construction survey layout will be the responsibility of the Contractor.

5.3. POST-CONSTRUCTION / CLOSEOUT PHASE

The Contractor will schedule and conduct a final walk through of the site to review all project Work upon completion. The purpose will be to confirm Work is complete and in substantial conformance with the design and project requirements, or to identify deficiencies. Any/all deficiencies will be addressed and corrected before the Regional District considers the Work complete.

The Contractor will prepare and provide a complete set of As-Built Plans / Record Drawings based on the IFC plan set which will define any/all changes or variation made during the construction process. Said As-Built Plans will be provided within one month of the Work being complete.

5.4. COMMUNICATIONS

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

- Meet with the Regional District project manager, engineer(s) of record and the environmental biologist to initiate the project and confirm scope, key dates and requirements as well as to review/identify milestone accomplishments and resolve any challenges.
- Written status updates to the Regional District project manager will be required weekly throughout the entire project via email or memo.

5.5. SAFETY PROCEDURES

Prior to the start of the project, the successful Proponent is required to supply the Regional District with their written safety protocols. The Proponent will also be informed of the Regional District's safety requirements at that time.

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While undertaking the Work, the Proponent is required to meet or exceed (at all times) any/all requirements as detailed at the place of Work, which includes but is not limited to all OHS regulations and standards.

APPENDIX “A” – PROPOSAL EVALUATION CRITERIA

REQUEST FOR PROPOSALS EVALUATION FORM

Proponent's Name: _____			
Project Title: Osoyoos Lake Pathway – Retaining Wall / Erosion Protection Structure Replacement			
Evaluation Date: _____			
Evaluator: _____			
Step 1:		YES	NO
Mandatories	Proposal received prior to closing		
	Subcontractor 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 (30 points)	Qualifications of firm and project team members	10	
	Experience of firm and project team members	10	
	Past Performance / References	5	
	Resources	5	
Proposal (25 points)	Scope	5	
	Methodology	5	
	Scheduling	5	
	Project Team - Level of Effort	5	
	Clarity of Proposal	5	
	Points for Price = (lowest cost Proposal divided by Proposal being evaluated) x (45% weight)	45	
Price (45 points)	Proponent + Proposal + Price Scores	100	
Total Score			

1. Requests for Proposals (RFP's) shall be reviewed by an Evaluation Team, which shall consist of at least two staff members.
2. Each Evaluation Team member shall 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 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 shall determine, by consensus, the score for each Proposal and will forward these scores to the Board for its consideration to select the successful Proponent.

APPENDIX “B” – SAMPLE CONTRACTING SERVICES AGREEMENT

CONTRACTING AGREEMENT

THIS AGREEMENT made the _____ day of _____ 2022.

BETWEEN :

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

101 Martin Street

Penticton, British Columbia, V2A 5J9

(hereinafter called the “Regional District”)

OF THE FIRST PART

AND :

Contractor

(hereinafter called the “Contractor”)

OF THE SECOND PART

WHEREAS the Regional District desires to engage the services of the Contractor as an independent contractor to perform consulting services and the Contractor has agreed to provide consulting services subject to the hereinafter terms and conditions.

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

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

As described in the RFP document and Proposal for the design and construction work involved....

SECTION 1. INTERPRETATION

1.1 For purposes of this Agreement, except as otherwise expressly provided:

- (a) Section—all references in this Agreement to a designated “section” or other subdivision or to a Schedule is to the designated section or other subdivision of, or Schedule to, this Agreement;
- (b) Whole Agreement—the words “herein”, “hereof”, “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular section or other subdivision or Schedule;
- (c) Headings—any headings have been inserted for convenience only and do not form a part of this Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof;

- (d) Non-limiting—the singular of any term includes the plural, and vice versa; the use of any term referable to a particular gender is equally applicable to any gender and, where applicable, a body corporate; the word “or” is not exclusive and the word “including” is not limiting (whether or not non-limiting language, such as “without limitation” or “but not limited to” or words of similar import is used with reference thereto).

SECTION 2 CONTRACTOR’S DUTIES

- 2.1 The Contractor shall provide, and has agreed to provide to the Regional District all Services set out in the Request for Proposal (attached hereto as Schedule “A”) and the Contractor’s Proposal (attached hereto as Schedule “B”), both of which form part of this agreement (hereinafter collectively called the “Services”). The Services shall be provided within the times specified in Schedules A and B.
- 2.2 In performing the Services under this Agreement, the Contractor 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.
- 2.3 It is agreed that in awarding the professional Services encompassed within this agreement to the Contractor, the Regional District has relied upon the Contractor’s representations concerning the experience of certain identified personnel in the employ of the Contractor. It is agreed that, in performing the Services under this agreement, the Contractor shall designate those key staff and subcontractors specified in Schedule “B” to carry out and provide the Services to be provided by the Contractor as referred to herein.
- 2.4 The Contractor shall request of the Regional District any information or data contained in Regional District files which the Contractor requires in order to perform the Services. The Regional District is only obligated to provide to the Contractor information and data that is pertinent to the terms of reference and work program set out in Schedules “A” and “B”. The Contractor may rely on such information or data as may be provided by the Regional District without independent verification.
- 2.5 To ensure that the Project is processed in a timely manner, the Contractor and the Regional District will apply their best efforts to meeting the following deadlines:
- a) Phone call inquiries from the Regional District will be returned within 24 hours;
 - b) Public inquiries to the Contractor on technical issues will be returned within 48 hours;
 - c) Meetings will be scheduled within 5 working days from date of request;
 - d) Review comments for material submitted by the Contractor will be processed by the Regional District within 14 days of receipt.
- 2.6 Costs which have not been identified by the Contractor in the cost estimate will not be paid by the Regional District without prior approval and confirmation in writing. No payment shall be made to the Contractor for cost overruns that have not been the subject of prior notice and approval by the Regional District.
- Any change in the rates charged for fees and disbursements must be approved in advance, in writing, by the Regional District.
- 2.7 The Contractor shall submit to the Regional District regular progress reports, as requested from time to time, and such additional reports as may be reasonably required.

2.8 Water Shutdowns

The Contractor shall undertake personal face to face meetings with residents for the purposes of notification of impending Works, allowing a minimum of 48 hours notice of disruption or obstruction to a resident's access. Costs for this will be incidental to the Works.

Notification for water shutdowns and inactivation of hydrants at anytime shall be given to the Okanagan Falls Fire Department.

SECTION 3 FEES AND DISBURSEMENTS

- 3.1 The Contractor shall receive from the Regional District for the performance of the Services the compensation referred to in Schedule "B" and any negotiated and approved changes.
- 3.2 Invoices may be rendered on a monthly basis prorated to the work completed or, at the conclusion of each phase by the Contractor to the Regional District, and shall be delivered to the Regional District of Okanagan-Similkameen, 101 Martin Street, Penticton, British Columbia, V2A 5J9. Invoices shall be payable in full by the Regional District within thirty (30) days of receipt.
- 3.3 The Contractor 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.
- 3.4 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 Contractor from the Regional District or the Contractor shall pay the amount to the Regional District within thirty (30) days of the amount being agreed upon or otherwise established.
- 3.5 The Regional District may request the Contractor 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.

SECTION 4 CONFIDENTIALITY, OWNERSHIP AND USE OF DOCUMENTS AND MATERIALS

- 4.1 The Contractor acknowledges that in the performance of the Contractor's responsibilities hereunder, the Contractor may have access to confidential information, records and customer lists of the Regional District (the "Confidential Information"). During and after the term of this Agreement, the Contractor shall not, directly or indirectly, disclose such Confidential Information to any person or use any such Confidential Information, except:
 - (a) as required in the course of performing such Services and then only to staff of the Regional District on a need-to-know basis; or
 - (b) with the prior written consent of the Regional District;

and all Confidential Information which the Contractor shall prepare or use or come in contact with shall be and remain the Regional District's sole property and shall not be removed from the Regional District's premises without its prior written consent, except as required in the normal course of performing the Services under this Agreement.

- 4.2 The Contractor agrees that all base materials, research results, computer programs, computer files, drawings, documents and notes and materials of any type whatsoever developed or prepared by the Contractor (hereinafter called the "Documents") in the performance of the Services shall vest and become the absolute property of the Regional District, including copyright of such Documents and upon completion of the Services or termination of this Agreement, all copies of Documents shall be delivered by the Contractor to the Regional District. The Contractor may retain one copy of it's materials for record purposes.
- 4.3 The Contractor agrees that all restrictions in this Section 4 are reasonable, fair and valid in all the circumstances and, to the fullest extent permitted by law, hereby waives all defences to the strict enforcement thereof by the Regional District.
- 4.4 The Regional District acknowledges and agrees that the Contractor's Services have been provided for a specific purpose. Any reuse, modification, or misuse of the Contractor'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.

SECTION 5 SPECIAL TOOLS AND EQUIPMENT

- 5.1 All necessary special tools, equipment and other things shall be acquired by the Contractor solely at the Contractor's cost and shall be the property of the Contractor unless the Regional District specifically authorizes the purchase of a specific item at the Regional District's expense.
- 5.2 The cost of special tools, equipment and other things that have not been specifically identified in detail by the Contractor or specifically authorized in writing by the Regional District during performance of the project shall be considered to be within the overhead of the Contractor.
- 5.3 If the Regional District specifically authorizes, in writing, that the Contractor 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 Contractor 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 Contractor shall deliver all such special tools, equipment and other things to the Regional District.

SECTION 6 SUB-CONSULTANTS AND SUB-CONTRACTORS

- 6.1 The Contractor may, with the prior written approval of the Regional District, engage the services of sub-consultants or sub-contractors to perform work which the Contractor is unable to perform.
- 6.2 The sub-consultants and sub-contractors shall agree in writing prior to their participation in the Project to be bound by duties and obligations arising out of this Agreement between the Contractor and the Regional District.
- 6.3 The Contractor 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 Contractor.
- 6.4 The Contractor 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 Contractor.

SECTION 7 TERMINATION AND SUSPENSION

By the Regional District :

- 7.1 If the Contractor 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 Contractor, 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 Contractor and remaining unpaid as of the effective date of the termination.
- 7.2 The Regional District may terminate this Agreement upon seven (7) days' prior written notice in the event the Contractor:
- (a) fails to complete the Services or any portion thereon within the time specified by this Agreement;
 - (b) becomes insolvent;
 - (c) commits an act of bankruptcy;
 - (d) assigns this Agreement without the required written consent of the Regional District;
 - (e) fails to adhere to or perform any of the provisions of this Agreement;
 - (f) has any conflict of interest which may, in the opinion of the Regional District, adversely affect any project for which the Services are being provided; or
 - (g) there is a change in the personnel referred to in Schedule "B" herein without the prior written approval of the Regional District.
- 7.3 Notwithstanding anything herein to the contrary, the Regional District may, for whatever reason, terminate this Agreement on One (1) months' prior written notice to the Contractor, in which case the term of this Agreement shall expire upon the effective date set out in the aforesaid notice, and the Regional District shall have no further obligation to the Contractor for the balance of the term of this Agreement save and except as may exist on the termination date.
- Upon receipt of such written notice, the Contractor shall perform no further Services other than those reasonably necessary to close out the project.
- In such event, the Contractor 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. On said payment the Regional District shall have no further liability of any nature whatsoever to the Contractor for any loss of profit or any other losses suffered, either directly or indirectly, by the Contractor as a result of the termination of this agreement.
- 7.4 The Contractor shall, upon termination, forthwith provide to the Regional District a reproducible copy of all materials used by the Contractor or prepared by the Contractor in regards to the Services.
- 7.5 The Contractor agrees that the termination or suspension of this agreement or any change thereto does not operate as to relieve or discharge the Contractor from any obligation under this agreement or imposed upon the Contractor by law in respect of the Services or any portion of the Services that the Contractor has completed to date or such termination or suspension. This indemnity shall survive the expiry or sooner termination of this agreement.

By the Contractor :

- 7.6 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 Contractor 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 Contractor may, without limiting any other right or remedy he may have, immediately terminate this agreement. In such an event, the Contractor 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.

- 7.7 If the Contractor's Services are suspended by the Regional District at any time for more than thirty (30) days through no fault of the Contractor, then the Contractor 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 Contractor 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.

SECTION 8 INSURANCE AND INDEMNITY

- 8.1 The Contractor shall maintain in full force and effect with insurers licensed in the Province of British Columbia, all insurance as outlined on the attached **Certificate of Insurance – Standard Certificate Form** as provided by the Regional District. This form must be completed by the Contractor's insurance broker and returned to the Regional District.:

- 8.2 For any engineered design component to the Work, the Contractor shall, at his expense, establish and maintain Errors and Omissions Insurance in respect to the Services and operations of the Contractor based on the following:

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 \$1,000,000 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 \$2,000,000 per claim.

- 8.3 The Contractor's Professional Errors and Omissions Insurance shall be maintained continuously during the term of this Contractor 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 Contractor will provide 30 days written notice in advance of cancelation of any policies.

- 8.4 General liability insurance must be obtained on an occurrence basis for the Contractor with limits of not less than \$5,000,000 inclusive per occurrence for bodily injury and property damage.

Detailed coverage is to be as specified on the provided Standard Contractor's Certificate Form.

- 8.5 The Contractor shall at all times indemnify, defend, release, hold harmless and forever discharge the Regional District, and the Regional District elected and appointed officials, officers, employees and agents from and against all liability, claims, damages, losses, costs, actions, causes of action, suits, proceedings and expenses at law and in equity, whether known or unknown, including all actual legal and other professional fees and disbursements on a full indemnity basis, whether arising directly or indirectly from death, personal or bodily injury, sickness, disease, property loss, property damage or other loss or damage which may result from or be connected with the performance of this Agreement, including any breach or default of this Agreement by the Contractor or its employee.

SECTION 9 ARBITRATION

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

SECTION 10 INDEPENDENT CONTRACTOR

- 10.1 Nothing in this agreement or the Contractor's performance of his duties under this agreement shall constitute or create an employer-employee relationship. The Contractor 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.

SECTION 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.

SECTION 12 RECORDS AND AUDIT

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

SECTION 13 SUCCESSORS AND ASSIGNS

- 13.1 This agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective executors, heirs, administrators, successors and assigns, as the case may be.
- 13.2 Neither party may assign this agreement without the prior consent in writing of the other, which

consent shall not be unreasonably withheld.

SECTION 14 COMPLIANCE WITH LAWS

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

SECTION 15 TERM

- 15.1 The parties hereto agree that the Term of this Contractor Agreement will begin on the date of execution until _____.

SECTION 16 ENTIRE AGREEMENT

- 16.1 This agreement constitutes and expresses the whole agreement of the parties with reference to the engagement of the Contractor by the Regional District.

SECTION 17 NOTICE

- 17.1 Except in the case of emergency, when notice may be given by telephone with later confirmation in writing, any notice, request, approval, demand or other communication which may be or is hereby required or permitted to be given under this agreement shall be in writing and either delivered by hand or sent by facsimile transmission addressed as follows:

- (a) if to the Regional District:

101 Martin Street, Penticton, BC, V2A 5J9

Fax No. 250-492-0063; and

- (b) if to the Contractor:

or at such other address or facsimile number, which notice has been given as provided in this section. Any notice which is delivered by hand will be deemed to have been given on the first day on which it is delivered. Any notice which is sent by facsimile transmission will be deemed to have been given on the first day after it is transmitted, provided that the sender obtains written confirmation of successful transmission. If a party will promptly give notice of its new address or facsimile number, or both, to such other parties provided in this section, whereupon such notice to such party will thereafter be sent to such new address or facsimile number.

SECTION 18 TIME OF THE ESSENCE

18.1 Time shall remain of the essence with respect to this Agreement.

SECTION 19 EXECUTION

19.1 This agreement may be executed in any number of counterparts, each of which so executed shall be deemed an original and the counterparts together from a valid and binding agreement which may be sufficient evidence by any one such original counterpart.

19.2 In the event this agreement is executed by two or more persons, the covenants and agreements herein shall be deemed to be joint and several covenants.

SECTION 20 ELECTRONIC MAIL

20.1 This agreement may be executed by the parties and transmitted by facsimile or electronic mail and if so executed and transmitted, this agreement will be for all purposes as effective as if the parties hereto had delivered an executed original of this agreement.

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:

Mark Pendergraft, Chairman

Bill Newell, Chief Administrative Officer

The signatures of the Signing
Authority of the
CONTRACTOR
by its authorized signatories
was hereto affixed:

Authorized Signatory

Authorized Signatory

Corporate seal