

**REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN**

**REQUEST FOR PROPOSALS**

**FACILITY NEEDS ASSESSMENT**

**NOVEMBER 16, 2020**

**REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN  
REQUEST FOR PROPOSALS - FACILITY NEEDS ASSESSMENT**

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# REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN REQUEST FOR PROPOSALS – FACILITY NEEDS ASSESSMENT

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## **DEFINITIONS**

“**CONSULTANT**” means the Proponent whose Proposal has been accepted by the Regional District and enters into an agreement with the Regional District to carry out the Work.

“**PROPONENT**” means the responder to this RFP.

“**PROPOSAL**” means a proposal to carry out the Work submitted by a Proponent in response to this RFP.

“**REGIONAL DISTRICT**” or “**RDOS**” means the Regional District of Okanagan-Similkameen.

“**RFP**” means this Request for Proposals.

“**WORK**” means and includes anything and everything required to be done for fulfillment and completion of the project in accordance with this RFP and Proposal.

## **1. INTRODUCTION**

### **1.1. PURPOSE**

The Regional District of Okanagan-Similkameen is requesting submission of Proposals from suitably qualified Consultants to assess its current and future administrative facility needs, and to provide options for meeting those needs.

### **1.2. BACKGROUND**

The Regional District of Okanagan-Similkameen (RDOS) provides direct and indirect services to six municipalities and nine electoral areas in the south Okanagan & Similkameen Valleys. It has a geographic area of approximately 10,400 km<sup>2</sup> and serves 82,000 residents.

The RDOS’s primary administrative office is located at 101 Martin Street in Penticton, BC.

## **2. INSTRUCTIONS TO PROPONENTS**

### **2.1. SUBMISSION OF PROPOSALS**

Proposals will be accepted in hardcopy and/or by email. If submitting by hardcopy please enclose three (3) copies.

Hardcopy Proposal submissions and their envelopes should be clearly marked with the name and address of the Proponent, the RFP program title, and be addressed as follows:

**Community Services Department  
Regional District of Okanagan-Similkameen  
101 Martin Street  
Penticton, BC V2A 5J9**

Email Proposal submissions should include the RFP program title in the subject line, and be sent

to the project contact:

Doug Reeve [dreeve@rdos.bc.ca](mailto:dreeve@rdos.bc.ca)

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

TIME: **10:00 AM local time**

DATE: **Monday, December 7<sup>th</sup>, 2020**

The Proponent is responsible for ensuring its Proposal is received at the address or email set out above by the Closing Time.

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

Proposals received after the Closing Time will not be considered and will be returned.

## **2.2. INQUIRIES**

Proponents must carefully examine the RFP documents any other factor that may affect the Work. No consideration will be given after submission of a Proposal to any claim that there was any misunderstanding with respect to undertaking of the Work.

Proponents finding discrepancies or omissions in this RFP, or having doubts as to the meaning or intent of any provisions therein, should immediately notify the Regional District project contact. If there are any changes, additions, or deletions to the RFP, Proponents will be advised by means of an Addendum issued by the Regional District. All Addenda will become part of the RFP. Receipt of Addenda should be acknowledged by the Proponent in their submission.

Verbal discussions between the Proponent and the RDOS (including Regional District directors, trustees, management, Parks and Recreation Commission members, or staff) shall not become a part of the RFP or modify the RFP unless confirmed by written Addendum.

All project inquiries must be submitted by **Monday November 30<sup>th</sup> at 12:00 noon**.

## **3. GENERAL TERMS OF PROPOSAL PROCESS**

### **3.1. PROPOSAL PREPARATION COSTS**

All expenses incurred by the Proponent in preparation and submission of a Proposal are to be borne by the Proponent. The Regional District shall not be responsible for any costs involved in or associated with any meetings, discussion or negotiation following submission that may or may not result in acceptance of the Proposal and award of a contract.

### **3.2. PROPOSAL EVALUATION**

Appendix B contains the Proposals evaluation criteria. The evaluation team may consider other criteria that, at their discretion, is relevant to the evaluation process. Any additional criteria considered will be used in the evaluation of 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 any 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 consultants for assistance in evaluating Proposals,
- request points of clarification to assist the Regional District in evaluating Proposals,
- negotiate changes with the successful Proponent,
- select a Proposal with a higher price if it offers greater value,
- award separate contracts for separate work components, and
- withdraw the Request for Proposals.

### **3.3. PROPOSAL CONFIDENTIALITY**

All Proposal submissions become the property of the Regional District and will not be returned. The Regional District reserves the right to make copies of Proposals 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 provided by them in their Proposal 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.

### **3.4. CONFLICT OF INTEREST**

Proposals must disclose any actual or potential conflicts of interest and existing business relationships the Proponent may have with the Regional District, its elected or appointed officials or employees. The Regional District may rely on such disclosure.

### **3.5. 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. By submission of a Proposal, the Proponent certifies that 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.

### **3.6. 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.

### **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 acceptance of a Proposal and the execution of a formal written contract.

### **3.8. ACCEPTANCE OF PROPOSAL**

The acceptance of a Proposal will be made in writing from the Regional District, and will be sent to the successful Proponent at the address given in the submitted Proposal. Following acceptance, the Proponent is expected to enter into a contract with the Regional District to perform the works or services set out in their Proposal. Acceptance of a Proposal may be subject to approval by the RDOS Board of Directors.

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

### **3.9. PROPOSAL CONTENT**

The Proponent shall address all the information requested in this RFP. Content to be included in the Proposal:

- Proponent Information: 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-consultants that will be involved in the project.
- Project Manager: The Proposal shall identify the proposed project manager who will be the single point of contact, responsible for direct interaction with the Regional District. State his/her position and professional discipline and substantive experience directly related to the proposed Work.
- Proposed Project Team: The Proposal shall list key individuals/sub-consultants (including the project manager) who will have major responsibilities for the performance of the Work. Describe the task to be performed by each individual/sub-consultant and their qualifications in terms of education and substantive experience directly related to the proposed project.

- 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 services for the experience cited.
- Statement of Understanding: The Proponent must show that they have an understanding of the Scope of Work and what is required to complete the Work. 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.
- Project Schedule and Work Plan: Provide a preliminary Work Plan, including schedule and list of deliverables. See section 4.3 for further details.

### **3.10. PROPONENT STAFF AND SUB-CONSULTANTS**

Proponent staff and sub-consultants listed in the Proposal may not be substituted 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 any sub-consultants prior to acceptance of the Proposal.

### **3.11. PROPOSAL CONTENT AND INNOVATION**

The Proponent is encouraged to include innovative, alternative or unique solutions to the RFP subject that may, along with other things, indicate cost initiatives, improved public relations and/or project acceptance, reduced risk, improved management or administrative efficiencies, etc. Any alternative Proposals submitted should include all the requirements of the original RFP with costs identified for comparative purposes.

### **3.12. SAFETY REQUIREMENTS**

While undertaking the Work, the Consultant will be required to meet or exceed at all times the Provincial Occupational Health and Safety Regulations.

### **3.13. WORKERS COMPENSATION ACT**

The Proponent, and any proposed sub-consultant (s), should provide a Workers Compensation Board Registration Number in the Proposal and shall at the time of signing a contract, provide proof of having an account that is active and in good standing with Work Safe BC.

## **4. SCOPE OF WORK AND SCHEDULE**

### **4.1. PROJECT LOCATIONS**

- RDOS Main Office, 101 Martin Street, Penticton
- RDOS Annex, 105 Martin Street, Penticton
- RDOS Parks admin office / works yard, 1655 Reservoir Road, Penticton
- Sather property, 1313 Greyback Road, Penticton

- RDOS Naramata Water Office, 224 Robinson Avenue, Naramata

#### **4.2. SCOPE OF WORK**

See scope of Work document in Appendix A.

#### **4.3. WORK PLAN**

Upon acceptance of a Proposal, the Proponent shall prepare a written plan outlining tasks, schedule and responsibilities from start to finish for the Work.

#### **4.4. SAFETY PLAN**

Prior to the start of the Work, the successful Proponent will be required to supply the Regional District with a written Work Safety Plan, including provisions for Covid-19.

#### **4.5. INSURANCE REQUIREMENTS**

Insurance requirements will be as detailed in Article 8 of the attached sample contract (Appendix C).

### **5. COMMUNICATIONS AND REPORTING**

Bi-weekly status updates to the Regional District project contact are required throughout the project. These may be in the form of a short email update.

### **6. CONTRACT TERM**

The contract term is anticipated to be from December 9, 2020 to February 24, 2021.

### **7. FEES AND DISBURSEMENTS**

The Proposal shall specify a maximum or upset cost for all labour, materials, equipment, permits, and all other expenses necessary to complete the Work. 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. Hourly rates for all Proponent staff and sub-consultant staff should be provided.

All prices quoted are to be:

1. In Canadian dollars;
2. Exclusive of GST.

## **APPENDIX A – Scope of Work**

## Facility Needs Assessment – Scope of Work

The Regional District of Okanagan-Similkameen (RDOS) provides direct and indirect services to six municipalities and nine electoral areas in the south Okanagan & Similkameen Valleys. It has a geographic area of approximately 10,400 km<sup>2</sup> and serves 82,000 residents.

The RDOS's primary administrative office is located at 101 Martin Street in Penticton, BC. The RDOS is seeking a suitable qualified consultant to assess its current and future facility needs, and to provide options for meeting those needs.

The RDOS undertook a space analysis and renovation of 101 Martin Street in 2015/2016. While addressing a number of structural, energy efficiency and cosmetic issues, complaints from staff of overcrowding and productivity-sapping conditions are prevalent. With growing numbers of staff and no place in the main office for them, satellite facilities have been established at numerous locations. RDOS office facilities need to be investigated in terms of condition, short- and long-term capacity, and to ensure that the portfolio of spaces is utilized in a cost-effective manner.

The primary objectives of the Facility Needs Assessment are:

1. To review the general condition of RDOS's facilities (listed below). This should be done in conformance with ASTM E2018-15<sup>1</sup>, a standard for commercial property condition assessments.
2. To consider work locations, functions and inter-dependencies. This will involve a review to determine if offices are: i) appropriately located to realize business efficiencies, ii) a staff needs assessment (work space) survey, and iii) a departmental needs assessment (work space, technology, operational needs).
3. To consider the adequacy of facilities for current and future space needs using provincial office space standards<sup>2</sup> as a baseline and looking forward 30 years. This assessment should focus on the main office facility. Satellite facilities may be considered in the assessment, but should not be the primary focus.
4. To provide recommendations on future facility options, which should consider:
  - a. Maintaining ownership and renovating/expanding/amalgamating
  - b. Disposing of facilities and purchasing elsewhere
  - c. Disposing of facilities and leasing elsewhere
  - d. Any combination of a, b and c.
5. To provide comparative capital and operating cost estimates for each of the recommended facility options on a lifecycle basis (30 years).

### RDOS Facilities

#### Primary Facility & Ownership:

- Main Office @ 101 Martin Street. RDOS owned and operated. A single-level office building on two adjoining lots with a combined area of 0.95 acres. The building was constructed in 1981 and has 10,800 square feet of floor space. The original plans made some provisions for addition

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<sup>1</sup> <http://www.astm.org/cgi-bin/resolver.cgi?E2018-15>

<sup>2</sup> Province of British Columbia Government Office Space Standards, 2001.

of a second floor. Structural<sup>3</sup> and geotechnical<sup>4</sup> reports are available. The current floorplan is attached.

#### Select Satellite Facilities & Ownership:

- Annex @ 105 Martin Street, Penticton. Short-term lease (5 years, expires Feb 2024). Renovated in 2018, approximately 1600 square feet of floor area on a single level. The current floorplan is attached.
- Greyback Lodge, 1655 Reservoir Road, Penticton. RDOS owned and operated. Residential structure (~2400 square feet over two levels) on a 6-acre lot repurposed as a works office/yard for Parks operations.
- Sather Property, 1313 Greyback Road, Penticton. RDOS is in process of purchasing. Double-wide trailer on a 79-acre lot.
- Naramata Water Office, 224 Robinson Avenue, Naramata. RDOS owned and operated. An old single-story building (~1200 square feet) that adjoins the Naramata Museum.

#### RDOS Staffing

RDOS has 90 employees working out of the facilities listed above, including 73 full-time and 17 part-time or seasonal positions.

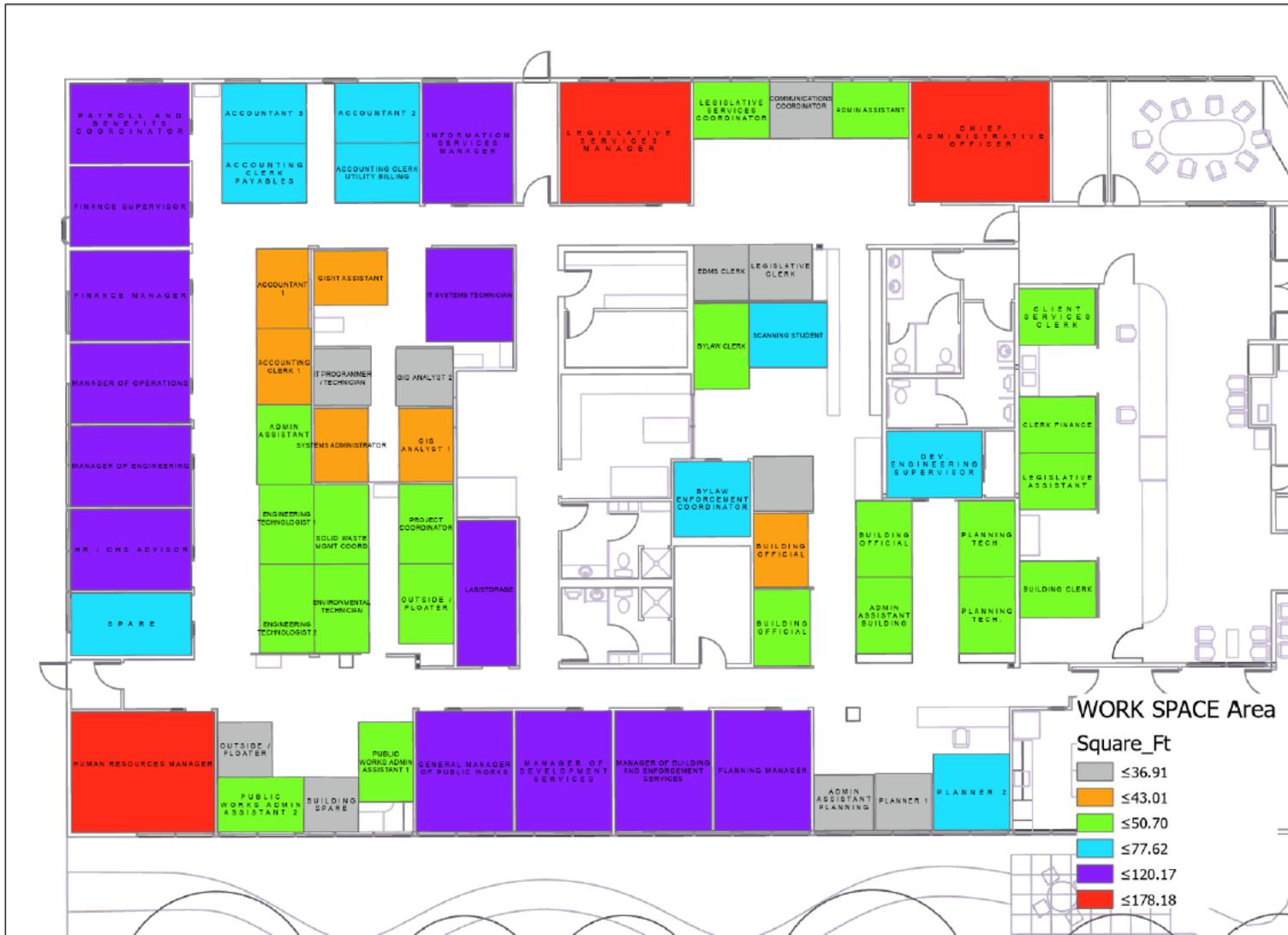
#### Deliverables

Deliverables will include draft and final written reports outlining the assessment process, findings, and recommendations that will be suitable to guide the RDOS in making future space needs decisions.

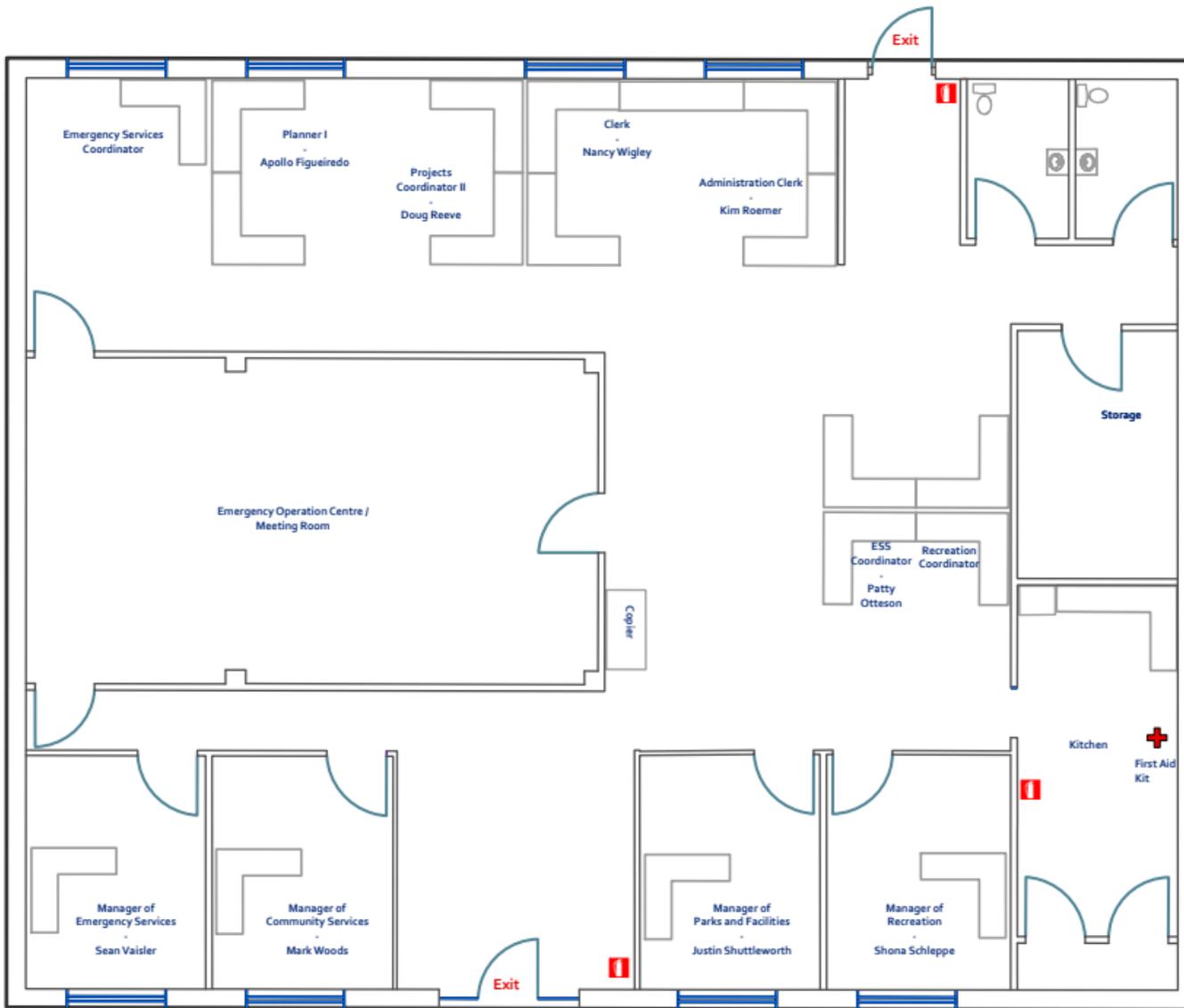
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<sup>3</sup> Building Structural Assessment, Hillside Engineering Services, 2014.

<sup>4</sup> Geotechnical Findings for Condition Assessment, Rock Glen Consulting Ltd, 2014.



RDOS Main Office Floorplan @ 101 Martin Street



RDOS Annex Floorplan @ 105 Martin Street

## APPENDIX B – Proposal Evaluation Criteria

Proponent's Name: _____			
Project Title:     Facility Needs Assessment			
Evaluation Date: _____			
Evaluator: _____			
Step 1:		YES	NO
Mandatories	Proposal received prior to closing		
	Sub-consultant 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 (40 points)	Qualifications of firm and project team members	15	
	Experience of firm and project team members	15	
	Past Performance / References	10	
Proposal (30 points)	Statement of Understanding	10	
	Schedule/Work Plan	10	
	Safe Work Procedures	10	
Price (30 points)	Points for Price = (lowest cost Proposal divided by Proposal being evaluated) x (30% weight)	30	
Total Score	Proponent + Proposal + Price Scores	100	

## **APPENDIX C – Sample Contract**

# CONSULTING SERVICES AGREEMENT

THIS AGREEMENT made the \_\_\_ day of \_\_\_\_, 2020.

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**  
Address  
Address

(hereinafter called the “Consultant”)

OF THE SECOND PART

WHEREAS the Regional District desires to engage the services of the Consultant as an independent contractor to perform consulting services and the Consultant 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 Consultant in consideration of their mutual rights and obligations as hereinafter set forth do hereby agree as follows:

**To complete a Facility Needs Assessment for the RODS Main Office and four satellite locations.**

## **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     CONSULTANT’S DUTIES**

- 2.1     The Consultant 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 Consultant’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 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.
- 2.3     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 designate those key staff and subconsultants specified in Schedule “B” to carry out and provide the Services to be provided by the Consultant as referred to herein
- 2.4     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 program set out in Schedules “A” and “B”. The Consultant 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 Consultant 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 Consultant 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 Consultant will be processed by the Regional District within 14 days of receipt.
- 2.6     Costs which have not been identified by the Consultant in the cost estimate set out in Schedule “B” will not be paid by the Regional District without prior approval and confirmation in writing. No payment shall be made to the Consultant 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 Consultant shall submit to the Regional District regular progress reports, as requested from time to time, and such additional reports as may be reasonably required.

## **SECTION 3     FEES AND DISBURSEMENTS**

- 3.1     The Consultant shall receive from the Regional District for the performance of the Services the compensation referred to in the proposal set out in Schedule “B”.

- 3.2 Invoices may be rendered on a monthly basis prorated to the work completed or, at the conclusion of each phase by the Consultant 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 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 thirty (30) days of receipt, 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 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.
- 3.5 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.

#### **SECTION 4 CONFIDENTIALITY, OWNERSHIP AND USE OF DOCUMENTS AND MATERIALS**

- 4.1 The Consultant acknowledges that in the performance of the Consultant's responsibilities hereunder, the Consultant 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 Consultant 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 Consultant 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 Consultant 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 Consultant (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 Consultant to the Regional District. The Consultant may retain one copy of its materials for record purposes.
- 4.3 The Consultant 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 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.

## **SECTION 5 SPECIAL TOOLS AND EQUIPMENT**

- 5.1 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.
- 5.2 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.
- 5.3 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.

## **SECTION 6 SUB-CONSULTANTS AND SUB-CONTRACTORS**

- 6.1 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.
- 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 Consultant and the Regional District.
- 6.3 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.
- 6.4 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.

## **SECTION 7 TERMINATION AND SUSPENSION**

### **By the Regional District:**

- 7.1 If the Consultant is in default in the performance of any of their 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.
- 7.2 The Regional District may terminate this Agreement upon seven (7) days' prior written notice in the event the Consultant:
  - (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) month's prior written notice to the Consultant, 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 Consultant 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 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. On said payment the Regional District shall have no further liability of any nature whatsoever to the Consultant for any loss of profit or any other losses suffered, either directly or indirectly, by the Consultant as a result of the termination of this Agreement.

7.4 The Consultant shall, upon termination, forthwith provide to the Regional District a reproducible copy of all materials used by the Consultant or prepared by the Consultant in regards to the Services.

7.5 The Consultant agrees that the termination or suspension of this Agreement or any change thereto does not operate as to relieve or discharge the Consultant from any obligation under this Agreement or imposed upon the Consultant by law in respect of the Services or any portion of the Services that the Consultant has completed to date or such termination or suspension. This provision shall survive the expiry or sooner termination of this Agreement.

**By the Consultant:**

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 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.

7.7 If the Consultant's Services are suspended by the Regional District at any time for more than thirty (30) 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.

## **SECTION 8     INSURANCE AND INDEMNITY**

- 8.1     The Consultant 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 Consultant’s insurance broker and returned to the Regional District.
- 8.2     The Consultant shall, at their expense, establish and maintain Errors and Omissions Insurance in respect to the Services and operations of the Consultant 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 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 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 Consultant with limits of not less than \$2,000,000 inclusive per occurrence for bodily injury and property damage. Detailed coverage is to be as specified on the provided Standard Certificate Form.
- 8.5     The Consultant shall ensure that Commercial General Liability insurance coverage maintained by the Consultant in accordance with this Agreement shall name the Regional District as an additional insured, contain a severability of interests or cross liability clause, a waiver of any subrogation rights which the Consultant’s insurers may have against Regional District, its elected officials, directors, officers, employees, contractors, agents and representatives, and shall provide that no such insurance policy may be cancelled without the insurer providing no less than thirty (30) days’ written notice of such cancellation to the Regional District. The Consultant shall, upon the request of the Regional District, furnish written documentation, satisfactory to the Regional District, evidencing the required insurance coverage. The cost of all of the insurance required to be held by the Consultant as set forth herein shall be borne by the Consultant.
- 8.6     The Consultant shall at all times indemnify and hold harmless the Regional District, and the Regional District elected and appointed officials, officers, employees and agents from and against all liabilities, losses, costs, damages, reasonable legal fees, disbursements, fines, penalties, expenses, all manner of actions, causes of action, claims, demands, and proceedings, 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

Consultant or its employee.

## **SECTION 9 DISPUTE RESOLUTION**

- 9.1 In the case of any dispute arising between the Regional District and the Consultant, as to their respective rights and obligations under the terms and conditions of this Agreement and subsequent documents, either party shall be entitled to give the other written notice, within ten (10) working days of that party's awareness of such a dispute.
- 9.2 If a mutually agreeable resolution is not reached under section 9.1, the parties agree to the following procedure:
- (a) the Regional District's [INSERT POSITION] and the Consultant's [INSERT POSITION] will work to resolve the dispute. If a resolution still cannot be reached the dispute will be escalated to the second level detailed in subsection (b);
  - (c) the matter in dispute may be referred to the British Columbia International Commercial Arbitration Centre ("BCICAC") for commercial mediation, pursuant to its rules; and
  - (c) in the event the commercial mediation process is unsuccessful, the parties may agree to have the BCICAC will appoint an arbitrator and if so agreed by the parties, the decision of any arbitrator shall be final and binding upon the parties, including any decision of the arbitrator with respect to the costs of arbitration.
- 9.3 Unless the parties agree to binding arbitration under subsection 9.2(c), any efforts by the parties to resolve a dispute shall not preclude either of them from commencing legal proceedings or in accessing any other rights under law.

## **SECTION 10 INDEPENDENT CONTRACTOR**

- 10.1 Nothing in this Agreement or the Consultant's performance of their 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.

## **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 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.

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

**SECTION 15 CORPORATE STANDING**

- 15.1 The Consultant is required to be in compliance with the *Business Corporations Act* – BC Laws and provide to the Regional District a Certificate of Good Standing from the BC Corporate Registry.

**SECTION 16 TERM**

- 16.1 The parties hereto agree that the Term of this Consulting Services Agreement will be from \_\_\_\_\_ to \_\_\_\_\_.

**SECTION 17 ENTIRE AGREEMENT**

- 17.1 This Agreement constitutes and expresses the whole Agreement of the parties with reference to the engagement of the Consultant by the Regional District.

**SECTION 18 NOTICE**

- 18.1 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 Consultant:  
\_\_\_\_\_  
Fax No. \_\_\_\_\_

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 19 TIME OF THE ESSENCE**

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

#### **SECTION 20 EXECUTION**

20.1 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.

20.2 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 21 ELECTRONIC MAIL**

21.1 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:

---

*Karla Kozakevich, Chair*

---

*Bill Newell, Chief Administrative Officer*

The signatures of the Signing  
Authority of the  
**CONSULTANT** by its authorized signatories,  
was hereto affixed:

---

*Authorized Signatory*

---

*Authorized Signatory*

**SCHEDULE A: REQUEST FOR PROPOSALS**

**SCHEDULE B: SUBMITTED PROPOSAL**

## **APPENDIX D – Insurance Requirements**



Type of Insurance	Insurer Name and Policy Number	Policy Term yyyy/mm/dd	Limits of Liability/Amount
<b>Section 1</b>  Comprehensive/Commercial General Liability  <b>(Please see Particulars on Page 1)</b>		From:   To:	Bodily Injury, Death & Property Damage  \$ _____ Per Occurrence \$ _____ Aggregate \$ _____ Umbrella Limit \$ _____ Excess Limit \$ _____ Deductible  <b>MINIMUM PER OCCURRENCE \$2,000,000</b>
<b>Section 2:</b> <input type="checkbox"/> indicates that the coverage is included.  Automobile Liability (owned or leased vehicles)	<b>If insured by ICBC, attach a copy of the ICBC form APV-47</b>	From:   To:	Personal Injury & Property Damage  \$ _____ Limit  <b>MINIMUM \$2,000.000</b>  Reviewed: Broker Initials <input type="checkbox"/>
<b>Section 3:</b> <input type="checkbox"/> indicates that the coverage is included.  Contractor's Equipment:		From:   To:	\$ _____ Limit \$ _____ Deductible  Reviewed: Broker Initials <input type="checkbox"/>
<b>Section 4:</b> <input type="checkbox"/> indicates that the coverage is included.  Professional Liability  <input type="checkbox"/> Claims Made Basis  <input type="checkbox"/> Coverage Primary and not contractual		From:   To:	\$ _____ Per Occurrence \$ _____ Aggregate \$ _____ Deductible Per Claim, minimum \$50,000  Reviewed: Broker Initials <input type="checkbox"/>
<b>Section 5:</b> <input type="checkbox"/> indicates that the coverage is included.  Builder's Risk:		From:   To:	\$ _____ Limit \$ _____ Deductible  <input type="checkbox"/> <b>Regional District of Okanagan-Similkameen, added as Additional Insured</b>  Reviewed: Broker Initials <input type="checkbox"/>
<b>Section 6:</b> <input type="checkbox"/> indicates that the coverage is included.  Other:		From:   To:	\$ _____ Limit \$ _____ Deductible  Reviewed: Broker Initials <input type="checkbox"/>

The Insurer confirms the above details are accurate and reflect the Insured's coverage. It is understood and agreed any deductible or reimbursement clause contained in the policy shall be the sole responsibility of the Named Insured.

\_\_\_\_\_  
(Authorized to Sign on Behalf of Insurers)

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Insured's

\_\_\_\_\_  
Date Signed