



REQUEST FOR PROPOSALS

2017-RFP-02

District of Summerland Parks and Recreation Master Plan

Issue Date: February 1, 2017

Two (2) complete printed copies and one (1) electronic complete copy of a Proposal in an envelope plainly marked "2017-RFP-02 District of Summerland Parks and Recreation Master Plan" may be hand delivered, couriered or mailed and must be received prior to the Closing Date and Time. Fax or e-mailed copies will not be accepted.

RFP Closing Time: 2:00 pm local time

RFP Closing Date: Tuesday, February 28, 2017

Delivered to: District of Summerland
Box 159
13211 Henry Avenue
Summerland, BC V0H 1Z0
Attention: Linda Tynan, CAO

Proposals will not be opened in public.

It is the sole responsibility of the Proponent to check the District's website at www.summerland.ca for any updated information and addendum issued before the closing date. The District's website at www.summerland.ca is the only authorized website to obtain competitive bid documents for the District of Summerland opportunities. The District of Summerland shall not be held responsible for our competitive bid documents that are located on any other website.

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1.0 PROJECT OVERVIEW (SCOPE OF THE PROPOSAL)

The District of Summerland (the District) is seeking a qualified proponent or firm to develop the District of Summerland Parks and Recreation Master Plan 2017-2026 (the “Master Plan”) intended to provide the District of Summerland with long term direction with regards to the provision of parks and recreation services to District residents and visitors. This RFP describes the supply of services sought by the District of Summerland and sets out the District’s RFP process, evaluation and selection process and Proposal requirements. The comprehensive Parks and Recreation Master Plan shall include the identification of strategic priorities that will define the future direction, philosophy, policies, priorities, and actions for the District over the next ten years.

The Successful proponent will be responsible to undertake significant consultation and engagement with user groups, citizens and visitors; and will work with District staff and the District Recreation Commission to complete a Parks and Recreation Master Plan that will provide guidance to the District for a ten (10) year period.

2.0 DEFINITIONS

- a. **"Best Value"** mean the highest total ranked score of evaluation criteria and closest alignment with project goals as determined by the District.
- b. **"Closing Date and Time"** means Tuesday, February 28, 2017 at 2:00 p.m. (PT).
- c. **"CAO"** mean the Chief Administrative Officer of the District of Summerland.
- d. **"Contract"** means a written agreement between the District of Summerland and the Successful Proponent resulting from this RFP.
- e. **"Contractor"** means the Successful Proponent who is a party to the Contract.
- f. **"District"** means the District of Summerland.
- g. **"must", "mandatory", or "required"** means a requirement that must be met in order for a Proposal to receive consideration.
- h. **"Master Plan"** means the District of Summerland Parks and Recreation Master Plan
- i. **"Project"** means the District of Summerland Parks and Recreation Master Plan
- j. **"Project Manager"** means the Recreation Manager.
- k. **"Project Office"** means the Municipal Hall
 PO Box 159, 13211 Henry Avenue
 Summerland BC., V0H 1Z0
- l. **"Proponent"** means a party submitting a Proposal to this RFP.
- m. **"Proposal"** shall mean the Proponent's submission to the RFP.
- n. **"Proposal Review Committee"** means the team of qualified staff appointed by the CAO to review and assess Proposals.
- o. **"RFP"** means this Request for Proposal.
- p. **"Request for Proposal"** includes the documents listed in the index of the Request for Proposal and any modifications thereof or additions thereto incorporated by addenda before the close of the RFP.

- q. **“should” or “desirable”** means a requirement having a significant degree of importance to the objectives of the Request for Proposals.
- r. **“Successful Proponent”** means the Proponent submitting the most advantageous RFP as determined by the District of Summerland.
- s. **“Work” or “Services”** means the task and deliverables the Successful Proponent agrees to provide in the Contract.

3.0 CONTENT OF PROPOSAL

Two (2) complete original printed copies and one (1) complete electronic copy in PDF format must be submitted. The following documents must be included in the submission:

a. Proposal Submission Form (signed and dated)

b. Proponent Profile

Proposals should include a description of the firm’s capabilities and background that makes it well suited to this project; methodology for design of the survey and methodology for execution of the Assessment. The profile will also include:

- the manager who the Proponent has appointed to lead the Proponent’s project team and who will be the sole source of contact for the District;
- the professional designation, responsibilities, qualifications, and relevant experience of each of the Proponent’s project team members;

c. Approach and Methodology

Proposals should include a detailed work plan outlining all relevant tasks and the personnel, estimated hours, hourly rates and total estimated costs for each task as well as:

- detailed breakdown of anticipated disbursements including, but not limited to, vehicle costs, mileage, travel, meals, lodging, and administrative support;
- a detailed outline clearly describing the methodology anticipated to complete this consulting assignment;
- a list of all relevant tasks, meetings, milestones, and deliverables required to complete this consulting assignment.

It is the expectation of the District that proposals will include detailed “Approach and Methodology” which clearly outlines the approach that the Successful Proponent will plan to take to develop the Master Plan.

d. Fee

Proposals must include fees (as listed in “c”) and a list of and fee for any services included in the Proponent’s proposal that are not required in the Scope of Services;

- GST shall not be included in the Contract Fee. GST will be added to the Contract Fee at the time of payment by the District. All other applicable taxes are to be included in the Contract Fee;

- Proposals should include a budget as well as a rate per hour for additional consulting upon request. Proposals should include a budget that identifies expenses associated with the proposal, including, but not limited to, consulting, reporting, presentations, community and stakeholder consultation, travel and ancillary expenses.

e. References

Proposals must include three (3) references who the proponent has done similar work for.

- f. Value Add:** Proposals may include ideas beyond the scope of the proposal that further assist in achieving the goal of the research. Additional ideas should result in more comprehensive findings, leading to more actionable and effective recommendations. Rates for any value add content which may fall out of proposal scope work should be included.

4.0 INSTRUCTIONS TO PROPONENTS

4.1. APPLICABLE LAWS

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

In carrying out its obligations hereunder, the Proponent shall familiarize itself and comply with all applicable laws, bylaws, regulations, ordinances, codes, specifications, and requirements of all regulatory authorities, and shall obtain all necessary licenses, permits and registrations as may be required by law. Where there are two or more laws, ordinances, rules, regulations or codes applicable to the Works, the more restrictive shall apply. All references in the RFP to statutes and regulations thereto and District bylaws shall be deemed to be the most recent amendments thereto or replacements thereof.

4.2. COPYRIGHT

All designs, drawings, concept drawings, specifications, digital, hard copies, web pages, internet pages, maps and plans commissioned by the District of Summerland, shall remain the property of the District of Summerland.

4.3. INCONSISTENCY BETWEEN PROVISIONS

In the case of any inconsistency or conflict between the provisions of the RFP, the provisions of such documents and addenda thereto will take precedence in governing in the following order: (1) addenda; (2) RFP; (3) Special Conditions; (4) Specifications; (5) Drawings; (6) Executed Form of RFP; (7) all other documents.

4.4. HEADINGS

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

4.5. PAYMENT

Method of payment is governed by District policy as well as applicable federal and provincial law.

4.6. ENTIRE AGREEMENT

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

5.0 REQUEST FOR RFP PROCESS

5.1 NOT A TENDER CALL

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

5.2 NO OBLIGATION TO PROCEED

Though the District fully intends at this time to proceed through the RFP, the District is under no obligation to proceed to the purchase, or any other stage. The receipt by the District of any information (including any submissions, ideas, plans, drawing, models or other materials communicated or exhibited by any intended Proponent or on its behalf), shall not impose any obligations on the District. There is no guarantee by the District, its officers, employees or agents, 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 District.

5.3 ADDENDA AND SUBSEQUENT INFORMATION

Proponents are advised that all subsequent information regarding this RFP including any addendum will be posted on the District's website. Addenda may be issued up to 48 hours prior to the Closing Date and Closing Time. After this time the RFP will be considered complete and no further addenda will be issued.

5.4 ELIGIBILITY

Proposals will not be evaluated if the Proponent's current or past corporate or other interest may, in the District's opinion, give rise to a conflict of interest in connection with the RFP.

5.5 CONFLICT OF INTEREST

Any potential or perceived conflict of interest must be disclosed to the District in writing together with the proposal documents. Any conflict of interest identified will be considered and evaluated by the District. The District has the sole discretion to take the steps they deem necessary to resolve the conflict. If during the term of the Contract, a conflict or risk of conflict of interest arises, the

Proponent will notify the District immediately, in writing, of that conflict or risk and take any steps that the District reasonably requires to resolve the conflict.

6.0 PRE-RFP INFORMATION

6.1 COST OF PREPARATION

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

6.2 INTENTION OF THE DISTRICT

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

6.3 REJECTION OF PROPOSALS

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

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

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

6.4 EVALUATION CRITERIA

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

MANDATORY CRITERIA
<ul style="list-style-type: none"> Proposals received by closing date and time (two printed copies & one PDF electronic) in a sealed envelope consisting of components outlined in Section 3. Proposal Submission Form – signed and dated Proponent Profile, Approach/Methodology, Fee, & References

SCORED EVALUATION CRITERIA
Proposals meeting the mandatory requirements will be further evaluated based on predetermined criteria and weighting as detailed below:
EXPERIENCE/PROJECT TEAM AND REFERENCES – 35%
<ul style="list-style-type: none"> Experience and education of the Project Team as it relates to the work outlined in the RFP. Experience (type and number of similar projects) of the firm. References – comments from clients utilizing the Proponent’s services for similar projects.
APPROACH AND METHODOLOGY – 30%
<ul style="list-style-type: none"> The approach and philosophy applied to complete the Services as outlined in the RFP. Demonstrated clear understanding of the scope of work, identification of key issues and initiatives. Creative approach to the Master Plan
BUDGET & FEE – 15%
<ul style="list-style-type: none"> Value for Proposed services, within budget Explanation/breakdown of proposed budget
PUBLIC CONSULTATION PROCESS – 10%
<ul style="list-style-type: none"> Public engagement process outlines how input will be obtained from user groups, visitors, developers, the public, and traditionally unheard sector.
PROJECT SCHEDULE -10%
<ul style="list-style-type: none"> Proposed schedule fits with District’s schedule.

Following evaluation, a short list may be developed and shortlisted proponents may be invited to make a presentation on their Proposal to the District representatives before a final selection is made.

6.5 EVALUATION COMMITTEE

Evaluation of Proposals may be made by an Evaluation Committee formed by the District.

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

Awards will be made based on the best value offered, and the best value will be determined by the District. The quality of the service to be supplied, the conformity with the specifications, the

suitability to requirements, guarantee clauses, and references shall all be taken into consideration.

6.6 CONFIDENTIALITY OF PROPOSALS

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

6.7 CONFIDENTIALITY OF DISTRICT'S INFORMATION

All Proponents and any other persons who, through this RFP process, gains access to the District's confidential financial information, are required to keep strictly confidential all information which in any way reveals confidential business, financial or investment details, programs, strategies or plans learned through this RFP process. This requirement will continue with respect to such information learned by the Successful Proponent, if any, over the course of any contract for service which arises out this RFP process. Information pertaining to the District obtained by the Proponent as a result of participation in this process is confidential and must not be disclosed without written authorization of the District.

6.8 CLARIFICATION

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

The District reserves the right to:

- consider and analyze Proposal submissions;
- reject any Proposal it considers not in its best interest;
- to meet with the Proponents, either individually or collectively, to discuss the RFP and their submissions;
- after identifying the preferred Proponent, to negotiate any changes, amendments or modifications with the preferred Proponent, without offering the other Proponents the right to amend their Proposals;
- to cancel the RFP at any time without incurring liability to any Proponent;
- to reject any or all Proposals;
- to accept any Proposal whether complete or not;
- not to accept the Proposal with the lowest fee;
- to alter any aspects of the RFP in its sole discretion.

It is the nature of the RFP process that the RFP and/or the Proposal in response to the RFP will not constitute a binding Contract, but will only form the basis for the Consulting Services Contract, and does not mean that the Proposal is necessarily acceptable in the form submitted.

6.09 ACCEPTANCE OF PROPOSAL

The District shall not be obligated in any manner to any Proponent whatsoever until a written agreement has been duly executed relating to an approved Proposal. No act of the District other than written notice signed by the District's Corporate Officer shall constitute an acceptance of a Proposal. Such acceptance shall bind the Successful Proponent to execute in a manner satisfactory to the District.

6.10 NEGOTIATION DELAY

If a written Contract cannot be negotiated within 30 days of notification to the Successful Proponent, the District may, at its sole discretion at any time thereafter, terminate negotiations with that Proponent and either negotiate a Contract with the next qualified Proponent or choose to terminate the RFP process and not enter into a Contract with any of the Proponents.

6.11 INQUIRIES AND CONTACT DURING THE RFP PROCESS

General inquiries related to this RFP are to be directed to:

Joanne Malar, Acting Recreation Manager
District of Summerland
Box 159, 13211 Henry Avenue
Summerland, BC V0H 1Z0
Phone: 250-404-4084
JMalar@summerland.ca

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

Proponents finding discrepancies or omissions in the Contract or RFP, or having any doubts as to the meaning or intent of any provision should immediately notify the above-noted project contact.

If there are any changes, additions, deletions to the Proposal scope, conditions or closing date, an Addendum issued by the District will be posted on the District website (www.summerland.ca). All Addenda are to become part of the Proposal documents. Verbal discussion with District staff shall not become part of the RFP or modify the RFP unless confirmed by written Addendum.

Proponents may also contact staff to request specific information related to this project; the District retains the right to determine whether the information is relevant and suitable for release.

Inquiries and responses will be recorded and may be distributed to all Proponents at the District's option. Questions will not be accepted or answered within 48 hours of the Closing date and time.

6.13 SUBMITTAL DEADLINE AND INSTRUCTIONS

Delivery of Proposals to the District of Summerland municipal hall prior to the specified date and time is solely and strictly the responsibility of the Proponent. The District shall not, under any circumstances, be responsible for delays caused by any delivery service, or for delays caused by any other occurrence. All Proposals must be manually and duly signed by an authorized corporate officer or principal(s) of the organization with the authority to bind said Proponent.

Proposals must be received by 2:00 p.m. (local Summerland time) on Tuesday, February 28, 2017 at:

Municipal Hall
District of Summerland
Box 159, 13211 Henry Avenue
Summerland, BC V0H 1Z0

Proposals and their envelopes should be clearly marked with the name and address of the Proponent and the RFP program title.

6.14 AMENDMENTS TO PROPOSALS

A Proponent may amend or revoke a Proposal by giving written notice to the District, delivered by hand, mail, fax, or e-mail to the Project Office. An amendment that is received after the Closing Date and Closing Time will not be considered and shall not affect a Proposal, as submitted. An amendment or revocation must be signed by an authorised signatory of the Proponent.

The District reserves the right to disqualify a Proponent if, in the opinion of the CAO amendment expressly, or by inference, discloses the Proponent's fees or other material element of the Proposal such that the confidentiality of the Proposal may have been breached.

If a Proposal amendment or revocation is sent by fax or email, the Proponent assumes the entire risk that the District will properly receive the fax or email before the Closing Date and Time. The District shall not be liable to any Proponent for any reason a fax or email is not properly received.

7.0 PROPOSAL PREPARATION

7.1 CHANGES TO PROPOSAL WORDING

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

7.2 IRREVOCABILITY OF PROPOSALS

By submission of a clear and detailed written notice, the Proponent may amend or withdraw its Proposal prior to the closing date and time. Upon closing time, all Proposals become irrevocable.

By submission of a Proposal, the Proponent agrees that should its Proposal be successful, the Proponent will enter into the District's Consulting Services Contract.

7.3 PROPONENT'S EXPENSE

Proponents are solely responsible for their own expenses in preparing a Proposal and for subsequent negotiations with the District, if any. If the District elects to reject all Proposals, the District will not be liable to any Proponent for any claims, whether for costs or damages incurred by the Proponent in preparing the Proposal, loss of anticipated profit in connection with any final Contract or any other matter whatsoever.

7.4 LIMITATION OF DAMAGES

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

7.5 FIRM PRICING

Proposals must be firm for at least 60 days after the RFP Closing Date. Prices will be firm for the entire **contract period**.

7.6 CURRENCY AND TAXES

Prices quoted are to be in Canadian dollars and excluding GST.

Proponents acknowledge that, if it is a non-resident company, payments to the Proponent, as a non-resident, may be subject to withholding taxes under the Income Tax Act (Canada). Further, unless the Proponent, as a non-resident, provides the District with an official letter from Canadian Customs and Revenue Agency waiving the withholding requirements, the District will withhold the taxes it determines are required under the Income Tax Act (Canada).

8.0 ADDITIONAL TERMS

8.1 SUB-CONTRACTING

- a. Using a Subcontractor (who must be clearly identified in the Proposal) is acceptable. This includes a joint submission by two (2) Proponents having no formal corporate links. However, in this case, one of these Proponents must be prepared to take overall responsibility for successful interconnection of the two (2) product or service lines and this must be defined in the Proposal.
- b. A Subcontractor individual or firm, whose current or past corporate or other interests may, in the District's opinion, give rise to a conflict of interest in connection with this

project will be subject to the terms set out in Section 5.5 of this RFP. This includes, but is not limited to, any firm or individual involved in the preparation of this Proposal.

- c. Any Sub-contracting of the service to any firm or individual after the award of a Contract must have prior written approval by the District.

8.2 LIABILITY FOR ERRORS

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

8.3 AGREEMENT WITH TERMS

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

8.4 USE OF REQUEST FOR PROPOSALS

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

8.5 DISTRICT REPRESENTATIVE

A District representative will be assigned by the District to oversee the compliance of the Proposal awarded to the Contractor. In addition, the Contractor will be expected to name a counterpart Project Manager.

8.6 PAYMENT HOLDBACK

The Contract may contain a provision whereby the District will hold back a portion of the total Contract price until the requirements of the RFP have been met.

8.7 SOFTWARE

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

8.8 ARBITRATION

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

9.0 CONDITIONS

- a. A qualified Proposal is one which meets the needs and specifications of the District in accordance with the terms and conditions contained in the RFP. The preferred Proposal is a qualified Proposal offering the Best Value, as determined by the District.
- b. The District will decide whether a Proposal is qualified by evaluating all of the Proposals based on the needs of the District, specifications, terms and conditions and price. The District Evaluation Committee will examine all Proposals and recommend which Proposal is in the District's best interest.
- c. A Proposal which is unqualified is one that exceeds the cost expectations of the District and/or does not meet the terms and conditions contained in the RFP and/or does not meet the needs and specifications of the District. The District reserves the right to reject any or all unqualified Proposals.
- d. The District reserves the right to cancel this RFP at any time.
- e. The District recognizes that best value is the essential part of purchasing a product and/or service and therefore the District may prefer a Proposal with a higher price, if it offers greater value and better serves the District's interests, as determined by the District, over a Proposal with a low price. The District's decision shall be final.
- f. The District reserves the right to negotiate with a preferred Proponent, or any Proponent, on any details, including changes to specifications and price. If specifications require significant modification, all Proponents shall have the opportunity to adjust their Proposals or re-submit altogether, as determined by the District.
- g. All equipment, goods and workmanship must conform to all Laws and Standards necessary for use in Canada and the Province of British Columbia.
- h. Where only one Proposal is received, the District reserves the right not to make public the amount of the Proposal. The amount of the Proposal will be made public if a contract is awarded. The District reserves the right to accept or reject a Proposal, where only one Proposal is received.
- i. The District reserves the right in its sole discretion to accept or reject all or part of any Proposal which is non-compliant with the requirements of this RFP.
- j. The District shall not be obligated either to accept or reject any non-compliance with the requirements of this RFP.

- k. Cancellation Clause: The District reserves the right to cancel the Contract for goods and/or services as outlined in this RFP, at any time, by providing 30 days written notice to the Contractor.

10.0 CONTRACTOR'S OBLIGATIONS

10.1 REGISTRATION WITH WORKSAFE BC (WCB)

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

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

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

10.2 GOVERNING REGULATIONS

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

11.0 INSURANCE PROTECTION AND DAMAGE

11.1 GENERAL INSURANCE

The contractor shall procure and maintain, at its own expense and cost, the insurance policies listed in Section 11.2, with limits no less than those shown in the respective items, unless in connection with the performance of some particular part of the Work or Services, the District advises in writing that it has determined that the exposure to liability justifies less limits.

11.2 INSURANCE

As a minimum, the Contractor shall, without limiting its obligations or liabilities under any other contract with the District, procure and maintain, at its own expense and cost, the following insurance policies:

Commercial General Liability Insurance

Providing for an inclusive limit of not less than \$2,000,000 for each occurrence or accident; providing for all sums which the Contractor shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to the Work or Services or any operations carried on in connection with this Contract; including coverage for Contractor's Protective, Personal Injury, Contingent Employer's Liability, Broad Form Property Damage, and Non-Owned Automobile Liability.

Cross Liability Coverage

Coverage must include a Cross Liability clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other Insured hereunder, in respect to any claim, demand, suit or judgment made against any other Insured.

Coverage must remain in force for the life of the Project and for a minimum of 12 months after substantial completion.

Professional Errors and Omissions Insurance

Coverage in the amount of \$1,000,000 per occurrence and in the aggregate, and must remain in force for the life of the Project and for 12 months after substantial completion.

Automobile Liability Insurance

Automobile Liability Insurance covering all motor vehicles, owned, operated and used or to be used by the Contractor directly or indirectly in the performance of the Work or Services. The Limit of Liability shall not be less than \$2,000,000 inclusive, for loss or damage including bodily injury, death or third party property damage resulting from any one accident or occurrence.

11.3 THE DISTRICT NAMED AS ADDITIONAL INSURED

The Commercial General Liability policy shall provide that the District is named as an Additional Insured thereunder and that said policy will be primary without any right of contribution from any insurance otherwise maintained by the District, with respect to claims arising out of the operations of the Contractor in any way related to the performance of the Works or Services.

11.4 CONTRACTOR'S SUBCONTRACTORS

The Contractor shall require each of its Subcontractors to provide comparable insurance to that set forth under Section 11.2 above.

11.5 CERTIFICATES OF INSURANCE

The Contractor agrees to submit Certificates of Insurance, for itself and for all of its subcontractors to the District prior to commencing the Work or providing the Services. Such Certificates shall provide that 30 days' written notice shall be given to the District prior to any cancellations of any such policy or policies. The Contractor agrees to notify the District of any material changes to such policy or policies.

11.6 OTHER INSURANCE

After reviewing the Contractor's Certificates of Insurance, the District may require other insurance or alterations to any applicable insurance policies in force during the period of this Contract and will give notifications of such requirement.

11.7 ADDITIONAL INSURANCE

The Contractor may take out such additional insurance, as it may consider necessary and desirable. All such additional insurance shall be at no expense to the District. The Contractor shall ensure that all of its Subcontractors are informed of and comply with the District's requirements.

11.8 INSURANCE COMPANIES

All insurance, which the Contractor is required to obtain with respect to this Contract, shall be with insurance companies registered in and licensed to underwrite such insurance in the Province of British Columbia.

11.9 FAILURE TO PROVIDE

If the Contractor fails to do all or anything which is required of it with regard to insurance, the District may do all that is necessary to effect and maintain such insurance, and any monies expended by the District shall be repayable by and recovered from the Contractor. The Contractor expressly authorizes the District to deduct from any monies owing the Contractor, any monies owing by the Contractor to the District.

11.10 NON-PAYMENT OF LOSSES

The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Contractor or any Subcontractor shall not be held to waive or release the Contractor or Subcontractor from any of the provisions of the Insurance Requirements or this Contract, with respect to the liability of the Contractor otherwise. Any insurance deductible maintained by the Contractor or any Subcontractor under any of the insurance policies is solely for their account and any such amount incurred by the District will be recovered from the Contractor.

11.11 INDEMNITY

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

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

Schedule A – PROJECT DETAILS

Purpose

The District of Summerland is seeking proposals from qualified individuals or firms to develop a progressive and comprehensive Master Plan for parks and recreation. The outcome must be a clear action plan to lead the District in the development of future facilities and services that are specific to Summerland.

Through extensive community consultation, the Master Plan will identify the values of the community in relation to Parks and Recreation. The Plan will provide a strategic and directional resource to guide policy development and decision making towards a District wide vision for parks and recreation services. The document will identify the parks and recreational needs of Summerland residents, prioritize projects and services, and develop a strategy to meet those needs based on available financial and human resources.

Background

The District of Summerland is located in the south Okanagan. A community of approximately 11,300 people. The District is proud to support and facilitate the active, healthy lifestyle of its residents and visitors through a wide variety of outdoor and indoor spaces, an assortment of recreational programs and high-quality special events. Like many municipalities, the District of Summerland faces the challenges of aging infrastructure, increased operational costs, and shifting demographics.

The District requires a Master Plan which will assist council and staff in making informed decisions on the future direction of recreation facilities, parks and open space for the community.

The Master Plan will look at the long term future of parks and recreation in the context of the needs and desires of our citizens, user groups, and visitors; comparisons to other municipalities, internal operations and financial realities. The Master Plan will serve as a guiding document providing the principles and direction for parks and recreation standards and service delivery over the next ten (10) years.

The Parks and Recreation Master Plan must consider and integrate with all other current high level District plans such as the Official Community Plan, Cultural Plan 2016, and the Summerland 2015-2019 Strategic Plan.

Expected Outcomes

The Parks and Recreation Master Plan must result in a program that can be followed confidently year over year to achieve clear objectives identified through the crafting of the plan. In this regards, the plan will need to be flexible and updated over time, forward thinking and fully reflect the information at hand and knowledge we possess at this time. The plan must be tailored to the District of Summerland and devoid of generic and non-essential material that does not serve to provide immediately relevant information.

The District seeks a collaborative proponent that will bring passion, enthusiasm and expertise to bear regarding both technical aspects and public engagement. The higher purpose of the plan is to help Summerland become amongst the best smaller municipalities in the world by creating a truly vibrant and healthy community.

The final report shall include ten (10) bound copies and a complete electronic copy in PDF.

Scope of Work

The project scope will focus on parks and recreation infrastructure and amenities, and associated services. Recreation programming and cultural/social planning unrelated to parks and recreation infrastructure needs will generally be outside the scope of this assignment.

Services covered within the scope of this study include:

- Recreation services and facilities
- Provision of parks, open space, trails and environmental areas including programming related to outdoor space, interpretive programs
- Provision for not only competitive sports, but non-competitive and passive recreation.

Phase 1: Background Review and Project Familiarization

Proposal will outline the scope of the background review and the process that will be undertaken to develop the work plan.

Project familiarization phase will include development of a work plan by the consultant for review and approval from the District.

The background review should include review of existing documents (as listed in following section titled “Background Documents”). The proposal should clearly outline the Proponent’s proposed approach to the Background review.

Phase 2: Data Gathering and Analysis

Proposals must outline methodology and scope for collection and analysis of data and will address topics such as:

What do we have now?

What is our capacity right now?

Demographics analysis of the community and facilities/parks users;

User needs assessment

Has the Districts commitment to climate change/greenhouse gas reductions been taken into consideration in regards to parks/recreation and natural areas?

Definition of unique populations and their needs (eg. Seniors, youth, mental/physically challenged, low income, etc).

Have other topics such as future needs/recreation trends by demographics, service delivery, operation/maintenance needs for parks and facilities been considered?

Phase 3: Stakeholder and Public Consultation and Engagement

Community consultation and engagement is important to the District and this aspect of the project is a key item to achieving success. Proposals must include a plan to undertake a comprehensive community consultation process involving those who regularly use facilities or services, including (but not limited to) staff, the general public, community non-profit groups, council and surrounding communities.

Proposals must clearly outline how a successful community engagement process which engages all segments of the Summerland community will be implemented. Engagement may include surveys, interviews with District staff, public meetings/workshops, etc.

Phase 4: Regular Liaison with the Project Steering Committee

Proposals must include regular meetings with the Project Steering Committee (staff and Recreation Commission members). Proposals should specify a proposed schedule for regular meetings.

Phase 5: Key Findings, Strategic Direction and Recommendations

Based on analysis and community input, an action and implementation plan with suggested priorities, to address key findings and recommendations in the study. This should include a proposed capital spending program and measurement tools/metrics to gauge implementation/success of the Master Plan.

Phase 6: Reporting and Recommendations

A Draft Master plan will be completed and reviewed in detail with staff, the Recreation Commission, the broader community and stakeholders. The plan will be revised as necessary prior to the completion and presentation of the final report.

The Final Master Plan will be presented to staff, municipal council and the community. **The Final Report/Implementation Plan should be concise, user friendly, innovative and visionary.** It must be a useful document for future parks and recreation planning.

Delivery of the final Master Plan will include:

- an electronic copy of the Plan in PDF
- 10 printed and bound copies of the final Master Plan
- All data, maps, figures, charts, etc. will be provided in a format acceptable to the District. All originals of maps, plans, drawings, etc. will be the property of the District.

Project Timelines

The anticipated key milestone dates for the project are:

RFP issuance: February 1, 2017

RFP closing: Tuesday, February 28, 2017 2:00 pm PST

Submissions review: March 1-15, 2017

Contract award: March 20, 2017

Project completion deadline: October 31, 2017

The proponent will be required to submit a proposed project timeline which includes dates for key milestones.

Projected Budget

- The maximum budget for the development of the Summerland Parks and Recreation Master Plan 2017-2026 is \$70,000.

Additional Information

1. It is the District's expectation that the Proponent will develop a comprehensive proposal outlining their proposed methodology for provision all of the components required and detailing the deliverables which each component will include. The Successful proponent will propose methodology and deliverables that are unique to Summerland and which will reflect the values and needs of this community.
2. Proponents are required to include a separate section in their Proposal that outlines any services they will be providing that are not included in the Scope of Services but which the Proponent deems necessary to successfully complete this consulting assignment.

Additional Documents

There are a number of studies, plans and supporting documentation that have been completed which will provide background information in the development of the new Master Plan. Additionally, there are two projects currently underway that must be considered in the development of the Master Plan (Integrated Asset Management and Infrastructure Investment Plan and the Giant's Head Trails Master Plan).

Proponents are advised that the documents may be of interest and are available for viewing. These additional documents and any additional information made available to Proponents prior to the Closing Date and Time by the District do not form part of the RFP and are not part of the Contract Documents. These documents are made available to assist the Proponent in preparing their Proposal. The Proponent must make its own judgement about the relevance, reliability, accuracy, or completeness of this information. It will be the task of the successful proponent to review and assess the information results from these documents, identify gaps in information, and conduct additional research where necessary.

It is the Proponent's responsibility to determine if, as part of their evaluation of this consulting assignment and the preparation of their Proposal, they need to request access to any information not attached to but outlined in the RFP.

The following documents may be of interest to proponents:

1. The following reports are available on the Summerland website at www.summerland.ca/your-city-hall/reports-studies
 - District of Summerland Parks and Recreation Master Plan (1993, 2001)
 - Summerland Official Community Plan (2014), Bylaw #2014-002
 - District of Summerland 2015-2019 Strategic Plan
 - Cultural Plan 2016
 - Consolidated Fees and Charges Bylaw, November 12, 2015 Bylaw #98-001 (Section I-Recreation Department Fees)
 - Parks Regulation Bylaw, No. 95-013
 - Conkle Mountain Park Dedication Bylaw No. 2016-046
 - RDOS Regional Trails Master Plan, 2012

Schedule B



2017-RFP-02

District of Summerland Parks and Recreation Master Plan

PROPOSAL SUBMISSION FORM

Complete and return this Proposal Submission Form
(Proposals will be received on or before 2:00 PM PST on Tuesday, February 28, 2017)

PROPOSAL SUBMISSION INSTRUCTIONS

Two (2) printed original and one (1) electronic copy in PDF format of a Proposal in an envelope plainly marked "2017-RFP-02 District of Summerland Parks and Recreation Master Plan" may be hand delivered, couriered or mailed. Fax or e-mail submissions will NOT be accepted.

All submissions must be received prior to the closing date and time, to:

District of Summerland
Box 159, 13211 Henry Avenue
Summerland, BC V0H 1Z0
Attn: Linda Tynan, CAO

Submitted by: _____

Company or Consultant name

Address

City

Postal Code

Company Contact Name: _____ Phone #: _____

Company Contact e-mail address: _____

(see over for terms and signature requirements)

The Proponent confirms it has obtained and carefully examined all of the documents making up the Request for Proposal issued by the District of Summerland and any addenda issued in connection therewith. The Proponent undertakes and agrees that:

1.0 EXECUTION OF CONTRACT

If the offer contained in this Proposal is accepted, upon being advised that the Contract is available, the Proponent will obtain the Contract and will execute and identify the Contract in a form and manner acceptable to the District of Summerland and will deliver the same within 10 days from the time when the same are available or are delivered or mailed to the Proponent.

2.0 COMMENCEMENT, PROSECUTION AND COMPLETION OF WORK

If awarded the contract, the Proponent shall supply these on the date set out in the Contract and shall complete the contract within the time specified in the Contract.

3.0 NO COLLUSION

Except as otherwise specified or as arising by reason of the provision of the Contract, 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 Proponent 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 party in connection with the making of the proposal.

4.0 ACCEPTANCE OF PROPOSAL

The acceptance of the Proposal by the District shall be made only by the notice in writing from the Corporate Officer of the District, and will be addressed to the Successful Proponent at the address given in this Form of Proposal; and if the Proposal Documents are so worded, the Proposal may be accepted in either whole or in part.

5.0 FAILURE OR DEFAULT OF PROPONENT

If the Proponent for any reason whatsoever fails or defaults in respect of any matter or thing which is an obligation of the Proponent under the terms of this Proposal, the District, at its option may consider the Proponent has abandoned the offer made or the contract if the offer has been accepted, whereupon the acceptance, if any, of the District shall be null and void and the District shall be free to select an alternate solution of its choosing.

Executed at _____, in the Province of BC this _____ day of _____, 2017
under the seal of the Proponent as a specialty instrument.

NOTE: If the Proponent is a corporation, in addition to signature, affix corporate seal, if available. If a natural person makes the Proposal, the Proponent must sign it with his/her name typed or clearly printed below the signature. If the Proponent is carrying on business under a firm name and NOT incorporated, the members of the firm must sign below the firm name and their names must be typed or clearly printed below the signature.

(Corporate Name if Proponent is a Corporation)

Per: _____

Per: _____



District of Summerland
Consulting Services Contract

THIS CONTRACT made the ____ day of March, 2017 is

BETWEEN:

THE CORPORATION OF THE DISTRICT OF SUMMERLAND, a municipal corporation having its offices at 13211 Henry Avenue, Summerland, British Columbia, V0H 1Z0

(hereinafter referred to as the “**District**”)

OF THE FIRST PART

AND:

CONTRACTOR

ADDRESS

ADDRESS

ADDRESS

(hereinafter referred to as the “**Consultant**”)

OF THE SECOND PART.

NOW THIS CONTRACT WITNESSES THAT IN consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto mutually covenant and agree as follows:

1. Project Title

- 1.1 The consulting assignment to which this Contract pertains is titled “District of Summerland Parks and Recreation Master Plan 2017-2026” and hereinafter shall be referred to as the “**Project**”.

2. Contract Documents

- 2.1 The Contract Documents, in order of precedence, to which this Contract pertains are:
- Consulting Services Contract including all Schedules
 - Instructions to Proponents (RFP) including all Schedules
 -
 -

Where there is a conflict between the wording or interpretation of the Contract Documents, wording or interpretation of the Contract Document with the highest precedence shall apply.

3. Project Schedule

- 3.1 The Consultant shall use its best efforts to perform the Scope of Services in accordance with the detailed baseline schedule (the “**Project Schedule**”), as outlined in schedule “A” of this contract and the Consultant’s Proposal.
- 3.2 The Project Schedule or specified timing may be adjusted during the course of the consulting assignment, without invalidating this Contract, upon mutual agreement between the District and the Consultant.

4. Scope of Services

- 4.1 The Scope of Services shall be as outlined in “Schedule ‘A’ – Project Details and Fees” of this contract and, where relevant as detailed in the RFP.
- 4.2 Where the District requests the Consultant to provide services that the Consultant considers additional to the Scope of Services, or as previously approved by a Change of Scope, the Consultant must notify the District that a Change of Scope will be required. The Consultant shall not render any services, for which it intends invoicing the District, which are not included within the scope of this Contract unless:
 - the Consultant submits a Change of Scope to the District pursuant to this Contract; and
 - the District approves the Change of Scope as submitted.The District shall not be required to pay for any services additional to those services required in this Contract unless the District approves a Change of Scope prior to the Consultant providing the service.

5. Change of Scope

- 5.1 The District and the Consultant may, through a Change of Scope submission, alter, add to, or deduct from the Scope of Services required in this Contract.
- 5.2 A Change of Scope shall be made in writing and shall include the following:
 - a detailed itemization of the services which will be or are requested to be provided; and
 - any adjustment to the consulting assignment Project Schedule; and
 - any adjustment to the Consultant’s Upset fee that currently has been approved by the District.
- 5.3 A Change of Scope does not invalidate this Contract and is not valid until such time as both parties have agreed to and signed the Change of Scope submission.

6. Consultant Responsibilities

- 6.1 The Consultant shall supply all professional expertise and services necessary for the proper performance of the Scope of Services. The Consultant shall, at all times, act in the best interests of the District and exercise the degree of professional care, skill, and diligence required by the body that governs and regulates the applicable professional designations.
- 6.2 The Consultant shall be responsible for determining the accuracy and completeness of all information and data furnished by or through the District.

- 6.3 The Consultant is responsible for the complete co-ordination of all professional services rendered to the District by the Consultant or by the Consultant's sub-consultants.
- 6.4 The Consultant shall adhere to all Workers Compensation regulations and requirements.
- 6.5 The Consultant shall not authorize any Changes or Extra Work until such time as the Director has reviewed and approved the Change Order or the Extra Work Order.

7. District Responsibilities

- 7.1 The District will make available to the Consultant any relevant data pertinent to the Project which is requested by the Consultant and which is contained in the District's files. The suitability, accuracy, and completeness of this data are at the sole discretion of the Consultant.
- 7.2 The District shall not reimburse the Consultant for any legal, accounting, insurance, bonding, and other consulting advice the Consultant may require in order to provide the services outlined in this Contract, unless such expense has been approved in writing in advance by the Director.
- 7.3 The District shall consider all sketches, drawings, specifications, tenders, proposals, contracts, and other documents submitted by the Consultant and shall inform the Consultant of its decisions in such reasonable time so that the Consultant's services are not delayed.
- 7.4 The District shall pay the Consultant pursuant to the Contract.
- 7.5 The District shall promptly notify the Consultant of any defects or deficiencies it discovers in the works or the contract documents.

8. Delays

- 8.1 If the Consultant is delayed in the progress of this consulting assignment by:
- any act or omission of the District, anyone employed by the District, or anyone contracted to the District;
 - a stop work order issued by a court or other public authority providing that such order was not issued as the result of an act or fault of the Consultant or anyone employed or engaged by him directly or indirectly;
 - labour disputes, strikes, lock-outs, fire, unusual delay in transportation, adverse weather conditions not reasonably foreseeable, unavoidable casualties or, without limit to the foregoing, any cause beyond the Consultant's control;
- the Consultant may request that the Project Schedule be extended and the Contract Fee be adjusted in accordance with the Change of Scope process.
- 8.2 The Consultant will not be entitled to an extension to the Project Schedule or an adjustment to the Contract Fee if the Notice of Claim is submitted to the District more than ten (10) days after the occurrence of the event giving rise to the delay.

9. Contract Fee and Payment

- 9.1 The Contract Fee for this consulting assignment shall be in accordance with "Schedule 'A' – Contract Fees" of this Contract.
- 9.2 GST is in addition to the Contract Fee.
- 9.3 All computer hardware and software costs shall be included in the Consultant's Contract Fee and shall not be billed as a separate disbursement.

- 9.4 The District shall not be required to pay any fees or costs to the Consultant for any services, materials, or equipment beyond those identified in the Scope of Services unless a Change of Scope has been submitted to and approved by the District.
- 9.5 The Consultant shall submit, by the 15th day of each month, an invoice to the District for payment of the previous month's services. The invoice shall be in a format acceptable to the District.
- 9.6 Payment shall be prorated based on the services completed and shall include any reimbursable disbursements incurred during the preceding month.
- 9.7 The invoice total shall become due and payable approximately 30 days after the submission date.
- 9.8 Upon request from the District, the Consultant shall provide, at no cost to the District, documentation to substantiate any invoice. Where only a part of an invoice can be substantiated to the satisfaction of the District, the District shall only be required to pay that part of the invoice. Payment of the remainder of the invoice will be withheld until such time as the Consultant provides the District with the required documentation to substantiate the invoice, or portion of the invoice, in question.
- 9.9 Where the District has overpaid an invoice, the amount shall be deducted from the next invoice. If the Consultant has completed his responsibilities pursuant to this Contract, and no further invoices are forthcoming, the District may make written request for reimbursement of the overpayment from the Consultant, and the Consultant shall pay the amount to the District within 10 working days from the receipt of the request.
- 9.10 The District may request the Consultant to submit, at no cost to the District, with the final invoice, a Statutory Declaration or other proof, that there are no outstanding costs, assessments, liens, or claims against the Consultant or against the District's property arising out of or in connection with the Consultant's services rendered on the Project.

10. Sub-Consultants

- 10.1 The Consultant agrees that:
- any contracting with sub-consultants to supply the services pursuant to this Contract must be approved in writing by the District;
 - all contracts with sub-consultants shall be between the Consultant and the sub-consultants; and
 - all costs associated with any sub-consultants required to supply the services pursuant to this Contract are included in the approved Contract Fee.

11. Successors and Assigns

- 11.1 This Contract and the terms and conditions herein contained shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.
- 11.2 Neither party shall assign this Contract or any portion thereof without the prior written consent of the other, which consent shall not be unreasonably withheld.

12. Insurance

- 12.1 The Consultant shall obtain and maintain during the Project Schedule insurance in accordance with the requirements of the RFP.

13. Independence

- 13.1 Nothing in this Contract creates the relationship of principal and agent or of partnership, joint venture or business enterprise, or gives the Consultant any power or authority to bind the District in any way.

14. Applicable laws

- 14.1 This Contract shall be governed by the laws of the Province of British Columbia.

15. No Effect on Laws or Powers

- 15.1 Nothing contained or implied herein prejudices or affects the District's rights and powers in the exercise of its functions pursuant to the *Local Government Act* or the *Community Charter*, or their successor enactments, or its rights and powers under any enactment to the extent the same are applicable to the Project.

16. District's Remedies Cumulative

- 16.1 No reference to or exercise of any specific right or remedy by the District prejudices or precludes the District from any other remedy, whether allowed at law or in equity or expressly provided for in this Contract. No such remedy is exclusive or dependent upon any other such remedy, but the District may from time to time exercise any one or more of such remedies independently or in combination.

17. Waiver or Non-Action

- 17.1 Waiver by the District of any breach of this Contract by the Consultant must not be deemed to be a waiver of any subsequent breach by the Consultant. Failure by the District to take any action in respect of any breach of this Agreement by the Consultant must not be deemed to be a waiver of such breach. All waivers must be in writing.

18. Confidentiality, Ownership and Use of Documents and Materials

- 18.1 The District is subject to the British Columbia Freedom of Information and Protection of Privacy Act. Any reports and or documents produced by or on behalf of the District may be subject to public review as provided for under the Act.
- 18.2 The Consultant shall keep confidential for an unlimited period of time all communications, plans, specifications, reports or other technical information used in connection with this consulting assignment except:
- those requiring disclosure by operation of law; or
 - any disclosure authorized in writing by the District.
- 18.3 The Consultant shall, by employing written Contracts, bind all employees, sub-consultants, and agents to the obligations required by this Article.
- 18.4 The Consultant agrees that the District owns all survey data, spatial data, cartographic data, studies, reports, software, drawings, plans, models, designs, photographs, specifications, tender documents, and other materials prepared or developed by, or on behalf of, the Consultant and which are employed in connection with this consulting assignment. The Consultant agrees, without limitation, that they will not use, sell, or distribute this information to others without the express written permission of the District.
- 18.5 The Consultant agrees to provide the District with copies of all concepts, methods, products, or processes produced by, or resulting from, the services rendered by

the Consultant in connection with this consulting assignment. The Consultant agrees without limitation that the District shall have the full and unrestricted right to use, distribute, and edit this information.

19. Arbitration

- 19.1 All matters in dispute under this Contract which cannot be settled by the District and the Consultant may, with the concurrence of both the District and the Consultant, be submitted to final and binding arbitration to a single arbitrator appointed jointly by them.
- 19.2 No person shall be nominated to act as arbitrator who is in any way financially interested in this consulting assignment or in the affairs of either the District or the Consultant.
- 19.3 In the event that the District and the Consultant cannot agree to an arbitrator, such arbitrator shall be chosen by reference to a Judge of the Supreme Court of British Columbia.

20. Records and Audit

- 20.1 The Consultant shall keep reasonable and proper records, accounts, statements, and other financial documents for a period of not less than 6 years after completion of the Project or for such extended period as may be required by law.
- 20.2 The Consultant shall permit the 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.

21. Indemnification

- 21.1 The Consultant shall indemnify and save harmless the District, its Council, officers, agents, contractors and employees from and against all claims, actions, damages, liabilities, costs, and expenses whatsoever and by whomever brought or made against the District, or its Council, officers, agents, and employees resulting directly or indirectly from errors, omissions, or negligent acts of the Consultant, the Consultant's agents or the Consultant's sub-consultants during performance of services under this Contract. This indemnity shall survive the expiry or earlier termination of this Agreement.

22. Entire Contract

- 22.1 This Contract, including all Contract Documents listed in Section 2.1, constitutes the sole and entire Contract between the District and the Consultant relating to this consulting assignment and completely supersedes and abrogates any prior Contracts existing between the District and the Consultant whether written or oral.

23. Modification of Contract

- 23.1 Any modification to this Contract must be in writing and signed by the parties or it will have no effect and will be void.

24. Headings

- 24.1 The headings used in this Contract are for convenience only and are not to be construed in any way as additions to or limitations of the covenants and agreements contained in it.

25. Contractor's Representations and Warranties

- 25.1 The Consultant represents and warrants that the Consultant has the power and capacity to enter into and carry out its obligations under this Contract.

26. Default by Consultant

- 26.1 Should the Consultant neglect to complete the services properly or to the provisions of this Contract, the District may notify the Consultant in writing that it is in default of its contractual obligations and instruct the Consultant to correct the default within 7 working days of receiving the notice.
- 26.2 Failure by the Consultant to comply with the default notification extends to the District the option, without limiting any other right or remedy the District may have, of immediately terminating this Contract.
- 26.3 Upon termination of the Contract, the District shall pay the Consultant for all services performed and all disbursements incurred pursuant to this Contract and remaining unpaid as of the effective date of such termination minus the costs of damages incurred by the District due to the default of the Contract by the Consultant.
- 26.4 Notwithstanding the above, the District may terminate this Contract for any reason by giving 30 days' written notice to the Consultant. Upon receipt of such notice, the Consultant shall perform no further services other than those reasonably necessary to close out this consulting assignment. In such event, the Consultant will be paid by the District pursuant to this Contract, for any services included within the scope of this Contract that have been completed and remain unpaid as of the effective date of such termination.

27. Default by District

- 27.1 Should the District fail to conform to the provisions of this Contract; the Consultant may notify the District in writing that it is in default of its contractual obligations and instruct it to correct the default within 7 working days of receiving the notice. Failure to comply with the default request extends to the Consultant the option, without limiting any other right or remedy the Consultant may have, of immediately terminating this Contract and requesting settlement for all services performed and all disbursements incurred pursuant to this Contract and remaining unpaid as of the effective date of such termination.
- 27.2 Should the Consultant's services be suspended by the District at any time for more than 30 calendar days in any calendar year through no fault of the Consultant, then the Consultant shall have the right until such suspension is lifted by the District, to terminate this Contract upon giving 3 working days' written notice thereof to the District. In such event, the Consultant will be paid by the District pursuant to this Contract, for any services included within the scope of this Contract that have been completed and remain unpaid as of the effective date of such termination.

28. Notices and Communications

- 28.1 All Notices must be in writing.
- 28.2 Notices and written communications between the parties shall be considered to have been received by the addressee as follows:
- on the date of delivery if delivered by hand to the Director;
 - on the next working day if emailed or faxed to the Director;
 - after 5 working days if sent by post when addressed as follows:

the District at

District of Summerland

Chief Administrative Officer
13211 Henry Avenue PO Box 159
Summerland BC V0H 1Z0
Ltynan@summerland.ca
Fax: 250-494-1415

the Consultant at

NAME
ADDRESS
ADDRESS
EMAIL

IN WITNESS WHEREOF the parties have executed this Contract on the day and year first above written by their officers or persons duly authorized to execute on their behalf.

DISTRICT OF SUMMERLAND

by its authorized signatories:

CONSULTANT by its authorized signatories:

Schedule 'A'

Project Details and Contract Fees

A.)

SAMPLE