



REQUEST FOR QUOTATIONS

RFQ – 2019 - 01

PEACH ORCHARD CAMPGROUND FENCING

RFQ ISSUE DATE: **Tuesday, April 16, 2019**

Two (2) complete original printed copies and one (1) complete digital copy on a USB drive in PDF format of the Quotation in a sealed envelope clearly and plainly marked “**RFQ-2019-01 PEACH ORCHARD CAMPGROUND FENCING**” may be hand delivered, couriered or mailed and must be received prior to the Closing Date and Time. Faxed or emailed copies will not be accepted.

Quotes received after the Closing Date and Time will not be considered. Quotations will not be opened in public.

RFQ CLOSING DATE: **Wednesday, May 1, 2019**

RFQ CLOSING TIME: **2:00 PM PST**

Delivered to: **Wendy Rose, Manager of Procurement and Contract Administration**
DISTRICT OF SUMMERLAND
MUNICIPAL HALL
PO BOX 159, 13211 HENRY AVENUE
SUMMERLAND, BC V0H 1Z0

Summary, Contents & Instructions:

Summary:

Through this Request for Quotations, the District of Summerland is seeking Quotations from qualified and experienced contractors to provide and install a chain link fence around portions of the Peach Orchard Campground.

Procurement Documents are available for download at:

- District of Summerland website at [Bid Opportunities](#)
- BC Bid website at [BC Bid](#)

Procurement Opportunity can also be viewed at:

- Civic Info BC website at [Civic Info BC](#)

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Part A: The Services

1. Background:

1.1. The District of Summerland:

The District of Summerland (the “District”) is a municipality of 11,615 residents located in the Okanagan Valley in southern British Columbia, with an unparalleled blend of rural, agricultural and urban living.

Further details on the District of Summerland can be found at www.summerland.ca

1.2. The Peach Orchard Campground Fencing Installation:

The District of Summerland is seeking Quotations from qualified and experienced contractors to provide and install a chain link fence around portions of the Peach Orchard Campground.

2. Scope of Work:

The following details the work, requirements and deliverables that the District wishes the Contractor to complete:

2.1. Scope of Work:

The Scope of Work shall consist of the following:

- The contractor must supply all labour, equipment, materials and supplies to complete the construction of the installation of the chain link fence around portions of the Peach Orchard Campground;
- The work consists of installing approximately 340 metres of 1.5 metre-high (5') black chain link fence, including one pedestrian gate;
- All posts, top rails and fittings are to be powder coated black in colour;
- All posts are to be set in the ground in concrete; and,
- **Specification to MMCD, Chain Link Fences and Gates, Section 32 31 13.**

The District will clear and grub the immediate area prior to the scheduled installation start date.

2.2. Deliverables:

Proponents must specify a proposed schedule of work, including proposed timelines as required for the Installation of a black chain link fence around portions of the Peach Orchard Campground as defined in 2.1 above, to the satisfaction of the District.

2.3. Budget:

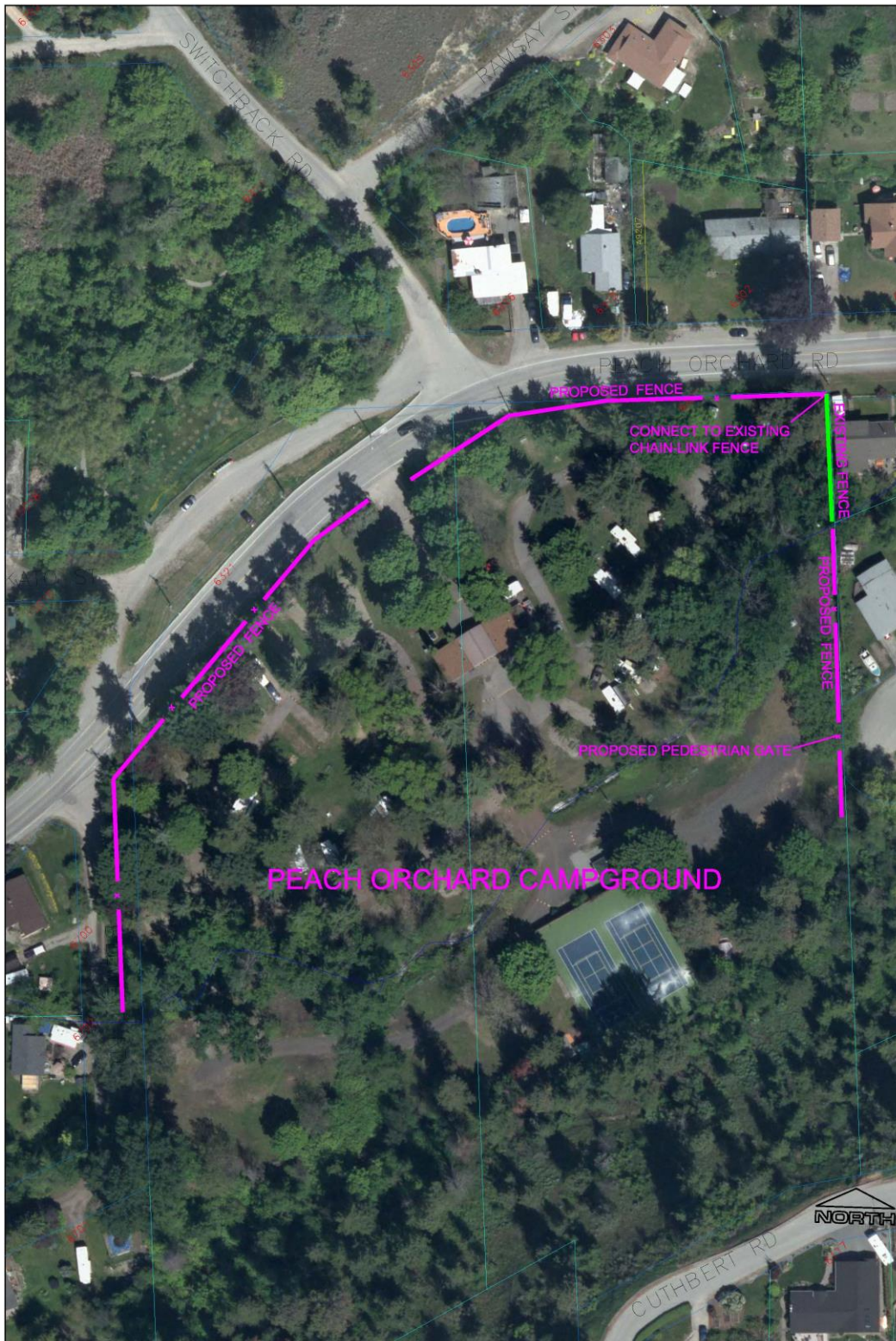
The District is not disclosing a budget for Services as part of this RFQ process.

Proponents must provide their required remuneration in their Quotation Submission as required in Part C – Quotation Submission Forms and Instructions, separating materials and labour costs.

2.4. Timeline:

The District’s estimated completion date for the scope of work, including all deliverables is **Friday, May 24, 2019**, or a date as agreed upon by the District and the Contractor.

2.5. Photograph - Peach Orchard Campground



3. Pre-Requisites for the Contractor:

The Contractor must obtain and provide the following:

- Business License
- Permits – the Contractor shall, at their own expense, obtain all required permits, certificates, and licenses required by law for the execution of the Work
- WorkSafeBC Clearance Letter - The Contractor and any Sub-Contractor(s) must provide the District with a WorkSafe BC Clearance Letter with evidence of certifying registration, compliance and in good standing with WorkSafe BC. This must include coverage for all employees/team members proposed and proof of Personal Optional Protection. The Contractor will be responsible for all costs, fines or levies resulting from a breach of WorkSafe BC regulations by the Contractor or Sub-Contractor(s).
- Warranty
- Healthy and Safety Program - The Contractor and any Sub-Contractors will maintain a health and safety program as required by Section 115 of the *Workers' Compensation Act*. The Contractor will immediately report verbally and in writing to the District and District Representative of any workplace injury or occupational illness specified under Section 172 of the *Workers' Compensation Act* - [WorkSafeBC Act](#)
- Commercial General Liability Insurance \$2,000,000 per occurrence as per the requirements detailed in Part D – General Services Contract, Schedule A – Terms and Conditions:
 - naming the District as additional insured; and,
 - including All Risk Property Insurance for the Contractors Equipment.
- Automobile Liability 3rd party Insurance \$5,000,000 as per the requirements detailed in Part D – General Services Contract, Schedule A – Terms and Conditions.

Part B: The RFQ Process

1. Key Details:

1.1. RFQ Process:

Not a Tender Call

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

By this RFQ, the District reserves itself the absolute and unfettered discretion to invite Quotation Submissions, consider and analyze submissions, select short-listed Proponents or attempt to negotiate a contract with the successful Proponent as the District considers desirable. Quotation submission by a Proponent and its subsequent receipt by the District does not represent a commitment on the part of the District to proceed further with any Proponent or Project.

1.2. No Obligation to Proceed:

Though the District fully intends, at this time, to proceed through the RFQ, the District is under no obligation to award a contract as a result of this RFQ. 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 RFQ will continue, or that this RFQ process or any RFQ process will result in a Contract with the District.

1.3. RFQ Contact Person:

The RFQ contact at the District of Summerland for any queries or questions related to this RFQ is:

Jake McAstocker, Civil Engineering Technologist

Email: jmcastocker@summerland.ca

Phone: (250) 404-4073

Proponents shall carefully review the RFQ documents. The Proponent is solely responsible for seeking any clarification as to the meaning or intent of any provision by notifying the RFQ Contact Person, not less than five (5) business days prior to the Closing Date. This will allow the District, at its discretion, to issue addendum prior to Closing Date. Questions received after the Deadline for Questions will be addressed if time permits.

Verbal discussion between District staff and a Proponent shall not become a part of the RFQ unless confirmed by a written Addendum. The District shall not be held responsible for any misunderstanding by the Proponent.

1.4. RFQ Timetable:

This RFQ process will follow the timetable noted below and may be amended at the District's discretion through the issuance of an addendum to this RFQ.

Event:	Date:
Issue Date of this RFQ	Tuesday, April 16, 2019
Deadline for Questions	Friday, April 26, 2019 at 2:00 PM PST
Last Day for Issue of Addendum	Monday, April 29, 2019 at 2:00 PM PST
RFQ Closing Date and Time:	Wednesday, May 1, 2019 at 2:00 PM PST
Contract Execution Date (estimated)	May 6, 2019

1.5. Site Meeting Details:

No site meeting will be held for this RFQ. Proponents may contact the RFQ Contact Person with any questions they may have.

1.6. Submission of Quotations Instructions:

Quotation submissions to this RFQ are to be addressed and submitted to the following address:

- a) **Closing Location:**
 District of Summerland
 Municipal Hall
 PO Box 159 (for Canada Post)
 13211 Henry Avenue (for hand delivered and courier deliveries)
 Summerland, BC. V0H 1Z0
Attention: Wendy Rose, Manager of Procurement and Contract Administration
- b) **RFQ Closing Date and Time:** Quotations must be received no later than the RFQ Closing Date and Time detailed in Section 1.4 above.
- c) **Quotation Format:** Two (2) paper originals and one (1) electronic copy on a USB drive in PDF format, in a sealed envelope or package containing all the information required in the forms listed under Part C – Quotation Submission Forms. The envelope must be clearly marked with the name and address of the Proponent, as well as the words “**RFQ-2019-01 PEACH ORCHARD CAMPGROUND FENCING**”.
- d) **Quotation Submission Form (signed and dated):** Quotations to include a completed, signed and dated Quotation Submission Form. A copy of this form is included in **Part C**.
- e) **Proponent Profile:** Quotations must include:
 - The project manager who the Proponent has appointed to lead the Proponent's project team and who will be the main contact for the District; and,
 - A description of the individual or firm's qualifications and relevant experience of each of the Proponent's project team members to carry out the work.
- f) **Project Schedule and Work Plan:** Quotations must include a detailed work plan outlining all relevant tasks along with the materials, labour, estimated hours, hourly rates for each personnel and total estimated costs for each task as well as:

- Detailed breakdown of price per lineal meter for fencing, price for pedestrian gate, price for post caps, anticipated disbursements including, but not limited to, vehicle costs, mileage, travel, meals, lodging, and administrative support;
- A detailed outline clearly defining the work schedule timelines; and,

It is the expectation of the District that the Quotation will include a detailed “Project Schedule and Work Plan” section which clearly outlines the timeline that the Successful Proponent will plan to take to complete the Project.

- g) **Quotations Submissions** may be delivered by hand, mail or courier to the District address as detailed above in Section 1.6. The District office is open Monday through Friday from 8:30 am to 4:00 pm and is closed on weekends and statutory holidays.
- h) It is the Proponent’s sole responsibility to ensure that the Quotation is received before the RFQ Closing Date and Time.
- i) Quotations sent by facsimile or email will not be accepted.
- j) In the event that only one Quotation Submission is received, the District reserves the right to:
 - return the Quotation Submission unopened;
 - open the Quotation Submission. If the Quotation Submission is opened and does not meet the criteria or is in excess of the District’s budget, the District reserves the right to re-issue the RFQ Documents for re-bid without revising the existing RFQ Documents.
- k) **Quotations Submissions** must be executed by an authorized signatory of the Proponent.
- l) **Quotation Submissions** remain valid, and may not be withdrawn, for a period of sixty (60) days following the Closing Date and Time of this RFQ.
- m) This RFQ and the successful Proponent’s Submission may form part of any Contract entered into with the District of Summerland.

1.7. Fee:

Quotations must include the fee breakdown as required in Section 1.6, and a list of any additional fees for services included in the Proponent’s Quotation that are not required in the Scope of Services;

- a) 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; and,
- b) Quotations must include a total fee amount as well as a rate per hour for additional contracting services upon request. Quotations must include a total fee amount that identifies expenses associated with the Quotation, including, but not limited to, contracting, supplies and labour expenses.
- c) Proponent’s 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 a non-resident Proponent provides the District with an official letter from Canada Revenue Agency waiving the withholding requirements,

the District will withhold the taxes it determines are required under the *Income Tax Act (Canada)*.

1.8. References:

Quotations must include three (3) references who the Proponent has done similar work for.

1.9. Eligibility:

Quotations 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 RFQ.

2. Definitions used in this RFQ:

- 2.1. **"Addendum" "Addenda"** means additional information or amendments to this RFQ, issued by the District.
- 2.2. **"Best Value"** means the highest total ranked score of evaluation and closest alignment with project goals as determined by the District.
- 2.3. **"CAO"** means the Chief Administrative Officer of the District of Summerland.
- 2.4. **"Contract"** means a written Contract for the provision of the Services that may result from this RFQ, executed between the District of Summerland and the successful Proponent to this RFQ.
- 2.5. **"Contractor"** means the successful Proponent to this RFQ who enters into a Contract with the District.
- 2.6. **"Closing Date and Time"** means the date and time that Quotations to this RFQ must be received.
- 2.7. **"District"** means The District of Summerland.
- 2.8. **"Must", "Mandatory", or "Required"** means a requirement that must be met in order for a Quotation to receive consideration.
- 2.9. **"Project Manager"** means the District personnel assigned to the Project.
- 2.10. **"Proponent"** means a person or entity that submits a Quotation to this RFQ.
- 2.11. **"Proponent Submission"** means a response submitted to this RFQ.
- 2.12. **"Quotation"** means a Quotation submitted by a Proponent in response to this RFQ.
- 2.13. **"Quotation Evaluation Committee"** means the team of qualified staff appointed by the CAO to review and assess Quotations.
- 2.14. **"Request for Quotation" or "RFQ"** means this Request for Quotations #RFQ-2019-01 and includes the documents listed in the index and any modifications thereof or additions thereto incorporated by addendum before the Closing Date and Time.
- 2.15. **"Section"** means the numbered section of the referenced part of this RFQ.
- 2.16. **"Services"** means the Contracting Services which the District seeks to be provided by the Contractor.
- 2.17. **"Should" or "Desirable"** means a requirement having a significant degree of importance to the objectives of the RFQ.
- 2.18. **"Sub-Contractor"** means a person, partnership, firm or corporation that the Proponent proposes to contract with to deliver part of the Services, in a subordinate relationship to the Proponent.
- 2.19. **"Successful Proponent"** means the Proponent submitting the RFQ with the Best Value as determined by the District.
- 2.20. **"Work"** means the task and deliverables the Successful Proponent agrees to provide to complete the Scope of Work in the Contract.

3. **Qualifications:**

By submitting a Quotation Submission, the Proponent is representing that it has the competence, qualifications and relevant experience to carry out the work and will employ the same experienced staff to efficiently and safely perform the requirements of the Project.

4. **Value-Added Services:**

Given the District's objectives and the Proponent's best practices experience, the Proponent may have additional project offerings that will ensure the overall success of the Districts project as defined in this RFQ.

The Proponent may include ideas beyond the scope of the RFQ that provide added benefit to the District not specifically asked for in this RFQ and what the Proponent is prepared to supply and provide as part of the Contract. Unless otherwise stated, it is understood that there will be no extra costs for these services, however, if the Proponent identifies any additional costs pertaining hereto, the summary and explanation of the value-added costs must be included and identified in the Fee Schedule.

5. **Amendment of a Quotation by Proponent:**

A Proponent may amend a Quotation at any time up until the RFQ Closing Date and Time. Amendments must be submitted in the same format as the original Quotation, as detailed in Section 1.6 of this Part B. Amendments to a Quotation must be clearly labelled as such, must contain the RFQ reference number and title, and the full legal name and legal address of the Proponent. Amendments must clearly detail which part(s) of the Quotation is being amended or replaced.

Amendments to a Proposal may be sent by fax to (250) 494-1415. If a Proposal Amendment is sent by fax, the Proponent assumes the entire risk that the District will properly receive the fax before the Closing Date and Time. The District shall not be liable to any Proponent for any reason a fax is not properly received.

The Proponent will not change the wording of its Quotation after the RFQ Closing Date and Time, and no words or comments will be added to the Quotation unless requested by the District for clarification. The District reserves the right to disqualify a Proponent if, in the opinion of the CAO or appointed District Representative, an amendment expressly, or by inference, discloses the Proponent's Fees or other material elements of the Quotation such that the confidentiality may have been breached.

6. **Withdrawal of a Quotation by Proponent:**

A Proponent may withdraw a Quotation that is already submitted at any time throughout the RFQ process prior to the Closing Date and Time. After the RFQ Closing Date and Time, all Quotations become irrevocable.

By submission of a Quotation, the Proponent agrees that should its Quotation be successful, the Proponent will enter into a Contract with the District.

7. **Addendum Issued by District:**

This RFQ may only be amended by way of an Addendum issued in accordance with this Section. At any time up until the Closing Date and Time, the District may issue an Addendum in order to amend, clarify, or answer questions to this RFQ. Each Addendum will be issued at the same location and in

the same manner as this RFQ document (at [Bid Opportunities](#) and [BC Bid](#) and [Civic Info BC](#)) All Addenda will form an integral part of this RFQ. Proponents are solely responsible for checking for Addendum up until the Closing Date and Time. If the District deems it necessary to issue an Addenda after the Last Day for Issue of Addendum, then the District may extend the Closing Date and Time in order to provide Proponents with additional time to complete their Quotation.

Proponents must confirm receipt of all Addendum in Part C, Appendix A – Certification Form, of their Quotation.

8. Evaluation of Quotations & Award of Contract:

The District will conduct the Evaluation of Quotations and selection of a successful Proponent in accordance with the process detailed in this Section. The District's intent is to enter into a Contract with the Proponent who has met all mandatory criteria and minimum scores, and who has the highest overall ranking based on this evaluation process.

8.1. Mandatory Criteria:

Quotations not clearly demonstrating that they meet the following mandatory criteria will be excluded from further consideration in the evaluation process. 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	
1	The Quotation must be received by the Closing Date and Time, in accordance with the requirements of Section 1.4
2	The Submission of Quotation must be in accordance with the requirements of Section 1.6
3	The Fee must be received in accordance with the requirements of Section 1.7 - Fee
4	The References must be received in accordance with the requirements of Section 1.8

8.2. Scored Criteria:

Quotations that meet all of the Mandatory Criteria will be further assessed against the following scored criteria.

Scored Evaluation Criteria	
Scored Evaluation Criteria	Weighting
Budget and Fee <ul style="list-style-type: none">• Best Value for proposed services• Explanation/breakdown of proposed budget	40%
Project Schedule <ul style="list-style-type: none">• A detailed Schedule of the proposed start and end date of the Project• Number of work days to complete the Work	40%
Experience/Project Team and References: <ul style="list-style-type: none">• Experience of the Project team as it relates to the work outlined in the RFQ.• Experience (type and number of similar projects) of the contractor• Reference – comments from clients utilizing the Proponent’s services for similar projects.	20%

Quotations that do not meet the minimum score within a scored criterion will not be evaluated further.

8.3. Evaluation Committee:

Quotation Submissions will be reviewed and evaluated by an evaluation committee established by the District and may include employees, or other individuals as the District deems suitable. Upon submitting a Quotation, Proponents agree that the District may disclose their company name; however, no prices, scores, weights or totals will be provided to any Proponents.

Award 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.

8.4. Rejection of Quotations:

The District reserves the right, at the District’s sole discretion, to reject any or all Quotations, without limited the foregoing, any Quotation which:

- a) Is incomplete, obscure, irregular or unrealistic;
- b) The District considers not in the District’s best interest;
- c) Incomplete, conditional, or non-compliant submission;
- d) Omitted or unbalance pricing;
- e) Insufficient or irregular guarantees; and,
- f) Insufficient evidence of qualifications, experience, financial stability, or capacity to perform the Work.

Quotations shall be based on the specifications. Equivalent alternatives to products specified may be considered if the full descriptive data on proposed alternatives is submitted with the Quotation. The District reserves the right to determine, at its sole discretion, whether alternatives are equal to products specified.

8.5. Clarifications & Remedy Period:

Notwithstanding the requirements for mandatory and scored criteria, the District reserves the right, at its sole discretion as follows:

- consider and analyze Quotation submissions;
- reject any Quotation it considers not in its best interest;
- to request further details or clarification from the Proponent on aspects of a Quotation;
- to provide written notification to a Proponent which identifies any of the mandatory requirements not met and provide the Proponent with 5 calendar days to remedy and supply the requirements. This option to remedy missing requirements shall not apply to Proposals not received by the Closing Date and Time;
- to meet with the Proponents, either individually or collectively, to discuss the RFQ 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 Quotations;
- to cancel the RFQ at any time without incurring liability to any Proponent;
- to reject any or all Quotations;
- not to accept the Quotation with the lowest fee; and/or,
- to alter any aspects of the RFQ in its sole discretion.

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

8.6. Confidentiality of Quotations:

The District will endeavour to keep all Quotations confidential. The material contained in the Quotation 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*.

8.7. Confidentiality of District's Information

Information pertaining to the District obtained by the Proponent as a result of participation in this RFQ process is confidential and must not be disclosed without written authorization from the District.

All Proponents and any other persons who, through this RFQ process, gains access to the District's confidential information, are required to keep all information strictly confidential, which in any way reveals confidential business, financial or investment details, programs, strategies or plans learned through this RFQ process. This requirement will continue with

respect to such information learned by the Successful Proponent, if any, over the course of any contract for Contracting Services, which arises out this RFQ process.

8.8. Conclusion and Execution of a Contract

Following an invitation to a Proponent, by the District, to conclude a Contract, it is expected that the District and that Proponent would enter into discussions which may include, among other things:

- Clarification or amendment to the scope of work, plus any resulting price adjustments, based on items submitted in the Quotation.

The District would seek to execute a General Services Contract within **10 days** of issuing an invitation to the Proponent to conclude a Contract. If the District and Proponent do not, for any reason, execute a Contract within this time-period, the District may discontinue the process with that Proponent and invite the Proponent with the next-highest-ranked Quotation to conclude a Contract. The District may then continue this process until a Contract is executed, or there are no further Proponents, or the District otherwise elects to cancel the RFQ process entirely.

For clarity, the District may discontinue discussions with a Proponent if at any time the District is of the view that it will not be able to conclude a Contract with that Proponent. The Proponent, by submitting a Quotation, waives any claim for loss of profits in no Contract is made with the Proponent.

9. Other Terms & Conditions of this RFQ Process:

The following terms and conditions shall also apply to this RFQ:

9.1. Quotations in English:

All Quotations must be in the English language only.

9.2. Only One Entity as Proponent:

The District will accept Quotations where more than one organization or individual is proposed to deliver the Services, so long as the Quotation identifies only one entity that will be the lead entity and will be the Proponent with the sole responsibility to perform the Contract if executed. The District will only enter into a Contract with that one Proponent. Any other entity involved in delivering the Service must be listed as a Sub-Contractor. The Proponent may include the Sub-Contractor and its resources as part of the Quotation and the District will accept this, as presented in the Quotation, in order to perform the evaluation. All Sub-Contractors to be used in the Service must be clearly identified in the Quotation.

9.3. Quotations to Contain All Content in Prescribed Forms:

All information that Proponents wish to be evaluated must be contained within the submitted Quotation. Quotations must not reference external content in other documents or websites. The District may not consider any information which is not submitted within the Quotation or within the pre-prescribed forms set-out in this RFQ.

9.4. References and Experience:

In evaluating a Proponent's experience, as per the scored criteria, the District may consider information provided by the Proponent's clients on the projects submitted in the Quotation and may also consider the District's own experience with the Proponent.

9.5. **RFQ Scope of Work is an Estimate Only:**

While the District has made every effort to ensure the accuracy of the Services described in this RFQ, the District makes no guarantees as to the accuracy of the information provided. Any quantities or measurements provided are estimates only and are provided to describe the general nature and scale of the Services. Proponents must obtain all information they deem necessary, including verification of quantities or measurements in order to complete a Quotation.

9.6. **Proponent's Expenses:**

Proponents are solely responsible for their own expenses in participating in this RFQ process, including costs in preparing a Quotation and for subsequent finalizations of a Contract with the District, if required. The District will not be liable to any Proponent for any claims, whether for costs, expenses, damages or losses incurred by the Proponent in preparing its Quotation, loss of anticipated profit in connection with any final Contract, or any matter whatsoever.

9.7. **Retention of Quotations and FOIPPA:**

All Quotations submitted to the District will not be returned and will be retained in accordance with the *Freedom of Information and Protection of Privacy Act* ("FOIPPA"). Proponents should note that in accordance with the provisions of FOIPPA, certain details of this RFQ and any executed Contract may be made public, including the Contractor's Name and total Contract price. Proponents should identify with their Quotation any information which is supplied in confidence, however, Proponents should be aware of and review the District's obligations under FOIPPA and the District's limited ability to refuse to disclose third party information pursuant to section 21 of FOIPPA.

9.8. **Notification and Feedback to Unsuccessful Proponents:**

At any time until or after the execution of a written Contract with the Contractor, the District may notify unsuccessful Proponents in writing that they have not been selected to conclude a Contract. Unsuccessful Proponents may then request a feedback email or telephone call with the District's Manager of Utilities in order to obtain feedback on how their Quotation fared in the evaluation. Such requests for feedback must be made within 30 days of notification of the RFQ results to the unsuccessful Proponent. Details of feedback provided will be at the District's sole discretion in order to protect the confidentiality of other Proponents and the District's commercial interest.

9.9. **Conflict of Interest:**

All Proponents must disclose an actual or potential conflict of interest, as set-out in Part C, Appendix A – Certification Form. The District may, at its sole discretion, disqualify any Proponent from this RFQ process, if it determines that the Proponent's conduct, situation, relationship (including relationships of the Proponent's employees and District employees) would create or could be perceived to create a conflict of interest.

The District may rescind or terminate a Contract entered into if it subsequently determines that the Proponent failed to declare an actual or potential conflict of interest during this RFQ process, as required under Part C, Appendix A – Certification Form.

9.10. **No Contract A and No Claims:**

This RFQ process is not intended to create an offer, and no contractual obligations whatsoever (including what is commonly referred to as 'Contract A') shall arise between the District and any Proponent upon the submission of a Quotation in response to this RFQ.

Without limiting the above paragraph, no Proponent shall have any claim whatsoever against the District for any damage or other loss resulting from a Proponent's participation in this RFQ, including where the District does not comply with any aspect of this RFQ and including any claim for loss of profits or Quotation preparation costs should the District not execute a Contract with the Proponent for any reason whatsoever.

9.11. **Right to Cancel RFQ:**

Although the District fully intends to conclude a Contract as a result of this RFQ, the District may at its sole discretion, cancel or amend this RFQ process at any time without any liability to any Proponent.

9.12. **Applicable Laws and Trade Agreements:**

This RFQ is governed by the laws of the Province of British Columbia and any other agreements which exist between the Province of British Columbia and other jurisdictions.

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 work, the more restrictive shall apply. All references in the RFQ to statutes and regulations thereto and District bylaws shall be deemed to be the most recent amendments thereto or replacements thereof.

Part C: Quotation Submission Forms and Instructions

Part C Contents:

This Part C contains the following forms to be completed:

- Appendix A – Quotation Submission Form
- Appendix B – Pricing and Schedule Form
- Appendix C - Contractor Team Form
- Appendix D – Work Reference and Experience Form

APPENDIX A – QUOTATION SUBMISSION FORM

Proponents to include the details requested in this Appendix A, as detailed in Part B, The RFQ Process.

1. Contractor Information:

Full Legal Name of Company or Contractor:	
Other "DBA" Names the Proponent Uses:	
Registered Address:	
Proponent Contact Person Name & Title:	
Key Contact Phone No.:	
Key Contact Email:	

2. Certification & Acknowledgement of RFQ Process:

By signing this Appendix A – Quotation Submission Form, we the Proponent, certify and acknowledge the following:

- a. We have carefully read and examined this RFQ document, including all Parts and Appendices, and have conducted such other investigations as were prudent and reasonable in preparing this Quotation. We are able to provide the Services detailed in Part A for the pricing submitted in this Quotation.
- b. We certify that the statements made in this Quotation are true and submitted in good faith.
- c. We acknowledge and understand that the RFQ process and the submission of this Quotation do not give rise to any contractual obligations whatsoever (including what is commonly referred to as 'Contract A') between the District and us, the Proponent, and that no contractual obligations shall arise between the District and us, the Proponent, until and unless we execute a written Contract with the District.
- d. We certify that in relation to this RFQ process, we have not engaged in any conduct which would constitute a conflict of interest and we understand that a conflict of interest would include the following situations:
 - i. The Proponent has an unfair advantage or engages in conduct which may give it an unfair advantage;
 - ii. The Proponent has had access to confidential information of the District which is not available to other Proponents to this RFQ.
 - iii. The Proponent has influence over an employee of the District who is a decision-maker involved in this RFQ process, which could reasonably be perceived as giving the Proponent an unfair advantage or preferential treatment.

3. Confirmation of Documents and Addendum Received:

We confirm that we have obtained and carefully examined all of the documents making up this Request for Quotation issued by the District of Summerland, and any and all addendum issued by the District in connection therewith as listed below up until the Closing Date and Time:

Addendum #	Issued on Date:

4. Execution of General Services Contract:

If the offer contained in this Quotation is accepted, upon being advised by the District that the General Services Contract is available, the Proponent will obtain the General Services Contract and will execute the Contract in a form and manner acceptable to the District of Summerland.

5. 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 services within the time specified in the Contract.

6. Confirmation of ability to obtain and provide:

The Proponent hereby certifies that it has the ability to obtain and provide the following as required in **Part A – The Services, 3. Pre-requisites for the Contractor:**

- Business License
- Permits
- WorkSafeBC Clearance Letter
- Warranty
- Health and Safety Program
- Insurance Requirements

7. Certification Signature:

The Proponent hereby certifies that the above statements are true and that the individual signing below has the authority to bind the Proponent:

Signature of Proponent Representative

Name of Proponent Representative

Title of Proponent Representative

Date

APPENDIX B – PRICING AND SCHEDULE FORM

1. Pricing Basis:

The Contractor must provide a Lump Sum Rate for the items specified. Pricing to be evaluated and will be awarded based on Price, Best Value, Proposed Schedule, and Number of Work Days the District deems most beneficial to its interest.

The Lump Sum rates shall be inclusive, but not limited to, all materials, labour equipment and all applicable taxes and levies, required to complete the Work.

2. Fixed Lump Sum Prices for the Services:

Item	Description	Unit	Unit Price	Proposed Quantity	Total Price
1	Fencing				
	• 1.5m high black chain link fence	lm		340 approx.	
	• Pedestrian gate	ea		1	
	• Fence Post caps	ea		120 approx.	
2	Labour	hrs			
	Other:				
	TOTAL QUOTE:				
	GST:				
	TOTAL INCLUDING GST:				

3. Schedule:

Describe the estimated schedule required to complete the Work:

Start Date: _____ Completion Date: _____

Number of Work days required to complete the Work: _____

 Contractor Name & Signature

 Date

APPENDIX C – CONTRACTOR TEAM FORM

Quotations to include, in a format of your choice, the details requested in this Appendix C –Team Form, as detailed under Part B – The RFQ Process.

Evaluation Factors:

Factors to be considered during the evaluation in assessing suitability of team and schedule will include:

- Experience and expertise of the proposed team.

1. Team:

Please provide details of the team members from your company, and from Sub-Contractors (if applicable), that will deliver the Services outlined in Part A.

Team Member Name:	Position:	Employee or Sub-Contractor:

APPENDIX D – WORK REFERENCE AND EXPERIENCE FORM

Quotations to provide, the details requested in this Appendix D – Work Reference and Experience Form, as detailed under Part B. Proponents to provide details on 3 projects completed in the last 5 years which are the most relevant and similar to the Services. Proponents should note that the District may contact the client to provide a reference on the experience listed (including amending scoring in the evaluation based on the client’s feedback).

Evaluation Factors:

Factors to be considered during the evaluation in assessing suitability of experience will include:

- Suitability of experience with similar work and projects;
- Feedback from Client references, if the District chooses to contact references; and,
- The District’s own experience.

Project Experience #1

Client Name:	
Project Name:	
Date Proponent Started Work on Project:	
Date Proponent Finished Work on Project:	
Brief Description of Project and Services Proponent Performed:	
Value of Proponent Contract on this Project (excluding GST):	

Project Experience #2

Client Name:	
Project Name:	
Date Proponent Started Work on Project:	
Date Proponent Finished Work on Project:	
Brief Description of Project and Services Proponent Performed:	
Value of Proponent Contract on this Project (excluding GST):	

Project Experience #3

Client Name:	
Project Name:	
Date Proponent Started Work on Project:	
Date Proponent Finished Work on Project:	
Brief Description of Project and Services Proponent Performed:	
Value of Proponent Contract on this Project (excluding GST):	

Part D: The Sample Contract

GENERAL SERVICES CONTRACT

CONTRACT NUMBER: RFQ-2019-01
OUR FILE: 2240-20xxx

THIS GENERAL SERVICES CONTRACT (the "Contract") is effective the ____ day of _____, 2019.

BETWEEN: **DISTRICT OF SUMMERLAND,**
a Municipal Corporation having its
Offices at:
PO Box 159, 13211 Henry Ave
Summerland, BC V0H 1Z0
(herein referred to as the "District")

AND: **THE COMPANY**

(herein referred to as the "Contractor")

WHEREAS the District wishes to retain the services of **THE COMPANY** to provide Contracting Services to the District.

WHEREAS the Contractor has the requisite expertise, ability and capacity to provide Contracting Services to the District and wishes to provide same.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth and other good and valuable consideration, the parties hereto mutually agree as follows:

1. Project Title

The contracting assignment to which this Contract pertains is titled "**Peach Orchard Campground Fencing**" and hereinafter shall be referred to as the "**Work**".

2. Definitions

In this Contract, in addition to the words defined above,

- (a) "**Contract**" means the written Contract between the District and the successful proponent resulting from this RFQ.
- (b) "**Contractor**" means the individual, firm, co-partnership, or corporation retained by the District to perform the Project in accordance with the General Services Contract.
- (c) "**Contractor's Quotation**" means the Contractor's written Quotation to the District for performance of the Services, dated Click or tap to enter a date., a copy of which is attached.

- (d) **“District Representative”** means Project Manager or such other person as the District may appoint in writing.
- (e) **“Governmental Approvals”** means any licenses, permits, consents, authorizations, certificates, operating certificates and other approvals of any kind from any Governmental Authority that are required for or in connection with the performance of the Services.
- (f) **“Governmental Authority”** means any federal, provincial, local or other government or governmental agency, authority, board, bureau or commission.
- (g) **“Personnel”** means any individuals identified by name in the Contractor’s Quotation and any individuals employed or otherwise engaged by the Contractor to perform the Services with the prior consent of the District;
- (h) **“RFQ”** means the Request for Quotations for the services issued by the District dated [Click or tap to enter a date..](#)

3. Contractor Services

The Contractor shall perform the Services and shall do so in accordance with the Specifications, all Standards and the terms of this Contract.

The Contractor shall:

- (a) The Contractor shall diligently and carefully perform the Work required hereunder in a manner consistent with prudent industry standards.
- (b) The Contractor shall furnish all skills, labor, supervision, materials, equipment and supplies necessary thereof and, if permitted to subcontract, shall be fully responsible for all work and services performed by subcontractors.
- (c) The Contractor must be prepared to submit a list of potential subcontractors for approval by the District prior to the commencement of any project. The Contractor is responsible for supervising and coordinating all Services delegated to the subcontractor(s) and for the proper execution of the Services.
- (d) The District may, in its sole discretion, require security clearances in a form satisfactory to the District from the Contractor (and the Contractor’s subcontractors). Any costs associated with obtaining such security clearances will be borne by the Contractor at no cost to the District.
- (e) The Contractor shall perform all Work in substantial compliance with Contractor’s safety procedures and those of the District site safety procedures the Contractor has been instructed to follow and been provided copies of in writing prior reasonably in advance of provision of Work to that site, where the same do not conflict with applicable law.
- (f) The Contractor shall interfere minimally with the District’s operations or that of other Contractors.
- (g) Upon completion of the Work, the Contractor shall leave the work site clear of all tools, equipment, and rubbish.
- (h) The Contractor shall not, without prior written authorization of the District, make any alterations or substitutions in the work, or perform extra work. The Contractor is not entitled to any payment for unauthorized work.

- (i) The Contractor shall comply with all the District of Summerland by-laws, ordinances, legal requirements, rules, regulations, codes and orders during the performance of the Work.

4. Project Scope Modifications

The Contractor is advised that the District may modify elements of the project scope where these modifications are in the best interests of the District. This may include deletion of certain tasks/deliverables, and/or cancellation of the project. The District will ensure the Contractor is paid all eligible fees for works completed to the date of any proposed modification. Where unanticipated delays occur (for any reason) that impact (delay) aspects of the Contractor's work program, the Contractor shall not seek compensation for said delays. Further, no additional works shall be undertaken in relation to this assignment without the prior written approval of District staff.

5. Contract Documents

The General Services Contract Documents, in order of precedence, to which this Contract pertains are:

- General Services Contract
- Schedule A: General Terms and Conditions
- Schedule B: Scope of Project
- Schedule C: Budget – Fees and Expenses
- Schedule D: RFQ-2019-01
- Schedule E: Proponents Quotation

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

6. Term

This Contract shall commence on _____ and expire on completion of the Services, which is to be no later than _____.

7. Contractor Personnel

The Contractor will perform the Services using only the Personnel named in the Contractor's Quotation, unless otherwise approved in writing by the District Representative.

8. Warranty as to Work

The Contractor represents and warrants to the District that the Contractor and the Personnel have the education, training, skill, experience and resources necessary to perform the Services in accordance with this Contract and the Contractor acknowledges and agrees that the District has entered into this Contract relying on the representations and warranties in this section.

9. Remuneration & Reimbursement

The District shall pay the Contractor for the performance of the Services as follows:

A Fixed Lump Sum Contract Price of _____ excluding GST. This shall include for all labour, materials, supplies, travel and visits to the project site, overheads

and profit, insurance, disbursements, expenses and all other costs and fees necessary to deliver the Services.

10. Taxes

The District shall be responsible for paying any goods and services taxes with respect to the provision of the services to the District.

11. Invoices & Payment

Not more than once each month, the Contractor may deliver an invoice to the District, in respect of the immediately preceding month, setting out a portion of the Fixed Lump Sum Contract Price claimed for Services performed in that preceding month, in accordance with the hour breakdown in the Contractor's Quotation. The District shall, to the extent the District is satisfied the Fixed Lump Sum Prices are for Services satisfactorily performed by the Contractor, pay the Contractor the Fixed Lump Sum Price(s) claimed in any invoice delivered in accordance with this section, within 30 days after delivery of such invoice to the District.

12. Hold Back or Set Off

Notwithstanding the invoicing process detailed in clause 8, the District may hold back payment or set off against payment if, in the opinion of the District acting reasonably, the Contractor has failed to comply with any requirements of the Contract, including adherence to the agreed milestones and schedule for the Services.

13. District's Representative

The District appoints the District Representative as the only person authorized by the District to communicate with the Contractor in respect of this Contract. The District shall not be bound to the Contractor by communication from any person other than the District Representative or their delegate.

14. Indemnity

The Contractor shall indemnify, and save harmless, the District, and its elected and appointed officials, employees, Contractors and agents, from and against all claims, losses, damages, costs, expenses (including legal fees and disbursements), liabilities, actions and proceedings, suffered, made, incurred, sustained, brought, prosecuted, threatened to be brought or prosecuted, in any manner caused by, based upon, occasioned by or attributable to, any willful or negligent act or omission, or other actionable wrong, on the part of the Contractor, its employees, subcontractors or agents, connected with the performance or breach of this Contract by the Contractor. The Contractor's obligations under this section shall survive the expiry or earlier termination of this Contract

15. Workers Compensation

The Contractor shall, at all times, in providing the Services and otherwise performing its obligations under this Contract, comply with the *Workers Compensation Act* (British Columbia) and all regulations and orders from time to time in force thereunder, including the Occupational Health and Safety Regulation, and, upon request from the District, provide evidence of any required registration under that Act and evidence of compliance with any requirement under that Act to make any payments or pay assessments.

16. Insurance Requirements

The Contractor shall obtain and maintain during the currency of this Contract, Commercial General Liability insurance providing coverage for death, bodily injury, property loss and damage and all other losses arising out of or in connection with the provision of the Services in an amount not less than \$2,000,000 per occurrence, or in such a greater amount as may be required by the District Representative from time to time, acting reasonably.

The Contractor shall cause all policies of insurance required to be taken out by it under this Contract to be with insurance companies satisfactory to the District and to:

- (a) name the District as additional insured;
- (b) include that the District is protected notwithstanding any act, neglect or misrepresentation by the Contractor which might otherwise result in the avoidance of a claim and that such policies are not affected or invalidated by any act, omission or negligence of any third party which is not within the knowledge or control of the insureds;
- (c) be issued by an insurance company entitled to carry on the business of insurance under the laws of British Columbia;
- (d) be primary and non-contributing with respect to any policies carried by the District and shall provide that any coverage carried by the District is in excess coverage;
- (e) not be cancelled or materially changed without the insurer providing the District with 30 days written notice stating when such cancellation or change is to be effective;
- (f) be maintained for a period of 12 months per occurrence;
- (g) not include a deductible greater than:
 - \$5,000 per occurrence for All Risk Property Insurance;
 - \$5,000 per occurrence for Commercial General Liability Insurance;
- (h) include a cross liability clause;
- (i) property insurance policies must contain a waiver of subrogation in favour of the District for any property loss or damage claims; and,
- (j) be on other terms acceptable to the District Representative, acting reasonably.

17. Errors and Omissions

N/A

18. Insurance Certificates

The Contractor shall provide the District with certificates of insurance confirming the placement and maintenance of the insurance, promptly after a request to do so from time to time by the District.

19. District May Insure

If the Contractor fails to insure as required, the District may affect the insurance in the name and at the expense of the Contractor and the Contractor shall promptly repay the District all costs incurred by the District in doing so. For clarity, the District has no obligation to affect such insurance.

20. Termination at District's Discretion

The District may, in its sole discretion and without reason, terminate this Contract upon notice to the Contractor. If the District terminates this Contract under this section, the Contractor shall be entitled to be paid for all Services satisfactorily performed by the Contractor up to the date of such termination in accordance with this Contract. The Contractor is not entitled to, and irrevocably waives and releases the District from any and all claims for, any damages or compensation for costs incurred, loss of profit or loss of opportunity, directly or indirectly arising out of termination of this Contract.

21. Termination for Default

The District may terminate all or any part of, the Services by giving notice of termination to the Contractor, which is effective upon delivery of the notice, if:

- (a) the Contractor breaches this Contract and the Contractor has not cured the breach, within five days after notice of the breach is given to the Contractor by the District; or
- (b) the Contractor becomes bankrupt or insolvent, a receiving order is made against the Contractor, an assignment is made for the benefit of its creditors, an order is made or resolution passed for the winding up or dissolution of the Contractor, or the Contractor takes the benefit of any enactment relating to bankrupt or insolvent debtors.

Without limiting any other right or remedy available to the District, if the District terminates part or all of the Services under this section, the District may arrange, upon such terms and conditions and in such manner as the District considers appropriate, for performance of all or any part of the Services remaining to be completed, and the Contractor shall be liable to the District for any expenses reasonably and necessarily incurred by the District in engaging the services of another person to perform those Services (including the amount by which the fees, disbursements and other costs payable by the District exceed those that would have been payable to the Contractor for completion of the Services under this Contract). The District may set off against, and withhold from amounts due to the Contractor, such amounts as the District estimates shall be required to cover the District's costs of correcting any breaches of the Contractor's obligations under this Contract and to be incurred by the District to complete all or any part of the Services.

22. Records

The Contractor:

- (a) shall keep proper accounts and records of its performance of the Services, including invoices, receipts and vouchers, which shall at all reasonable times be open to audit and inspection by the District, which may make copies and take extracts from the accounts and records;
- (b) shall keep reasonably detailed records of performance of the Services, which shall at all reasonable times be open to inspection by the District, which may make copies and take extracts from the records;
- (c) shall afford facilities and access to accounts and records for audit and inspection by the District and shall furnish the District with such information as the District may from time to time require regarding those documents; and
- (d) shall preserve, and keep available for audit and inspection, all records described in this section for at least two years after completion of the Services, expiry of this Contract or termination of this Contract, whichever applies.

23. Copyright & Intellectual Property

The Contractor irrevocably grants to the District the unrestricted license for the District to use and make copies of for the District's purposes and activities any work whatsoever generated by or on behalf of the Contractor in performing the Services in which copyright may exist. Without limiting the foregoing, the Contractor irrevocably grants to the District the unrestricted license for the District to use for the District's purposes and activities all technical information and intellectual property, including inventions, conceived or developed, or first actually reduced to practice, in performing the Services. For clarity, the licenses granted by this section shall survive the expiry or earlier termination of this Contract.

24. Contract for Services

This is a Contract for the performance of services and the Contractor is engaged under this Contract as an independent Contractor for the sole purpose of providing the Services. This Contract does not create a joint venture or partnership. Neither the Contractor nor any of its employees or Contractors is engaged by the District as an agent of the District or has any authority to bind the District in any way whatsoever.

25. Withholding Taxes

The Contractor will be pay and remit, and otherwise be responsible for, all withholding taxes, income taxes, Canada Pension Plan contributions, employment insurance deductions and any other deductions required by the applicable provincial or federal statutes for the Contractor and any of its employees. The Contractor agrees to indemnify and hold harmless the District should the District be required to pay any remittances described above.

26. Assignment

The Contractor shall not assign this Contract or the benefit hereof without the prior written consent of the District, at its sole discretion.

27. Time of the Essence

Time is of the essence of this Contract.

The Contractor must advise the District immediately of any shortage or delay of any kind. If delivery of goods and services is not completed by the delivery date, the District reserves the right to terminate this Contract in whole or in part and to purchase substitute goods and services elsewhere and charge the Contractor with any incidental or consequential damages that might be incurred.

28. Alternative Rights & Remedies

Exercise by a party to this Contract of any right or remedy of that party, whether granted in or under this Contract or at law or equity, does not limit or affect any other right or remedy of any kind, whatever its source, that the party may have against the other party and does not affect the right of the party exercising the right or remedy to exercise other rights or remedies against the other party.

29. Notice

Any notice, direction, demand, approval, certificate or waiver which may be or is required to be given under this Contract shall be in writing and delivered personally or by courier or sent by fax or e-mail, addressed as follows:

- (a) To the District:

District of Summerland
Municipal Hall
PO Box 159, 13211 Henry Ave
Summerland, BC. V0H 1Z0

Attention:
E-mail Address:

(b) To the Contractor:

E-mail Address: _____
Attention: _____

or to such other address or e-mail address of which notice has been given as provided in this section.

Any notice, direction, demand, approval or waiver delivered is to be considered given on the next business day after it is dispatched for delivery. Any notice, direction, demand, approval or waiver sent by fax or e-mail is to be considered given on the day it is sent, if that day is a business day and if that day is not a business day, it is to be considered given on the next business day after the date it is sent. In this section, business day means a day other than a Saturday, Sunday or B.C. statutory holiday.

30. Interpretation & Governing Law

In this Contract

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) reference to a particular numbered section or Schedule is a reference to the correspondingly numbered section or Schedule of this Contract;
- (c) the word "enactment" has the meaning given to it in the *Interpretation Act* (British Columbia) on the reference date of this Contract;
- (d) reference to any enactment is a reference to that enactment as amended, unless otherwise expressly provided;
- (e) reference to a month is a reference to a calendar month; and
- (f) section headings have been inserted for ease of reference only and are not to be used in interpreting this Contract.

This Contract is governed by, and is to be interpreted according to, the laws of British Columbia.

31. Binding on Successors

This Contract enures to the benefit of and is binding upon the parties and their respective successors, trustees, administrators and receivers, despite any rule of law or equity to the contrary.

32. Entire Contract

This Contract is the entire Contract between the parties and it terminates and supersedes all previous communications, representations, warranties, covenants and agreements, whether verbal or written, between the parties with respect to the subject matter of this Contract.

33. Waiver

The waiver by the District of any breach of this Contract by the Contractor, shall not require, nor be construed to require, the District to waive any subsequent breach of the same condition, covenant, or obligation. Failure by the District to take any action in respect of any breach of any obligation under this contract by the Contractor shall not be considered to be a waiver of such obligation.

Waiver of any breach by either party shall be expressed and in writing to be effective, and a waiver of a particular breach does not waive any other breaches of the Contract.

As evidence of their agreement to be bound by this Contract, the parties have executed this Contract below, on the respective dates written below.

DISTRICT OF SUMMERLAND

by its authorized signatories:

Signature

Name

Date

CONTRACTOR:

by its authorized signatories:

Signature

Name

Date

DISTRICT OF SUMMERLAND

by its authorized signatories:

Signature

Name

Date

CONTRACTOR:

by its authorized signatories:

Signature

Name

Date

SCHEDULE A

DISTRICT OF SUMMERLAND – GENERAL TERMS AND CONDITIONS

1.0 Application

The following Terms and Conditions shall govern this Contract unless otherwise agreed to in writing by the District.

2.0 Definitions

In the Contract Documents, unless the context requires otherwise,

- a. **“Agreement”** means the written Agreement between the District of Summerland and the successful Proponent resulting from this RFQ.
- b. **“CAO”** means the Corporate Administrative Officer or her designate.
- c. **“Contractor”** means the individual, firm, co-partnership, or corporation retained by the District to perform the Project or Work in accordance with the Contract Documents.
- d. **“Contract”** means the written Contract between the District of Summerland and the successful Proponent resulting from this RFQ.
- e. **“Contract Documents”** means the documents outlined in Section 5 – Contract Documents.
- f. **“Contract Fee”** means the lump sum rates as outlined in Schedule ‘B’ – Budget – Fees and Expenses.
- g. **“Contractor”** means the individual, firm, co-partnership, or corporation retained by the District to perform the Work in accordance with the Contract Documents.
- h. **“Director”** means the Director, as appointed by the Council of the District, and their duly appointed representative.
- i. **“District”** means The Corporation of the District of Summerland, and its appointed Representative as assigned by the CAO.
- j. **“District’s Representative”** means that person or persons appointed by the CAO or Director to manage and administer the Contract.
- k. **“Equipment”** means anything and everything, except persons and material, used by the Contractor in the performance of the Work.
- l. **“Person”** means an individual, a body corporate, a firm, partnership, association, or any other legal entity or an employee or agent thereof.
- m. **“Project”** means all materials, labour, equipment, transportation, traffic control or other ancillary items required by the Contractor to complete the Work, in accordance with the Contract Documents.
- n. **“Services”** means the services and work described in the RFQ, including all acts, services and work necessary to achieve the objectives set out in the RFQ.

- o. **“Specifications”** means the specification, scope of work and other requirements for the Services set out in the RFQ.
- p. **“Standards”** means any and all laws, enactments, bylaws, statutes, regulations, rules, orders, permits, licenses, codes, building codes, professional standards and specifications (including Canadian Standards Association standards) applicable to the provision of the Services, as they are in force from time to time or in the latest current version, as the case may be.
- q. **“Work”** means all materials, labour, equipment, transportation, traffic control or other ancillary items required by the Contractor to complete the Work, in accordance with the Contract Documents.

3.0 Performance of Work

- 3.1 The Contractor shall diligently and carefully perform the Work required hereunder in a manner consistent with prudent industry standards.
- 3.2 The Contractor shall furnish all skills, labor, supervision, materials, equipment and supplies necessary thereof and, if permitted to subcontract, shall be fully responsible for all Work and services performed by subcontractors.
- 3.3 The Contractor must be prepared to submit a list of potential subcontractors for approval by the District prior to the commencement of any work. The Contractor is responsible for supervising and coordinating all Services delegated to the subcontractor(s) and for the proper execution of the Services.
- 3.4 The District may, in its sole discretion, require security clearances in a form satisfactory to the District from the Contractor (and the Contractor's subcontractors). Any costs associated with obtaining such security clearances will be borne by the Contractor at no cost to the District.
- 3.5 The Contractor shall perform all Work in substantial compliance with Contractor's safety procedures and those of the District site safety procedures the Contractor has been instructed to follow and been provided copies of in writing prior reasonably in advance of provision of Work to that site, where the same do not conflict with applicable law.
- 3.6 The Contractor shall interfere minimally with the District's operations or that of other Contractors.
- 3.7 Upon completion of the Work, the Contractor shall leave the work site clear of all tools, equipment, and rubbish.
- 3.8 The Contractor shall not, without prior written authorization of the District, make any alterations or substitutions in the work, or perform extra work. The Contractor is not entitled to any payment for unauthorized work.
- 3.9 The Contractor shall comply with all the District of Summerland by-laws, ordinances, legal requirements, rules, regulations, codes and orders during the performance of the Work.

4.0 Notice to Proceed

- 4.1 The District will issue a formal Notice to Proceed.

- 4.2 The Contractor must commence the Work on the date specified in the Notice to Proceed.

5.0 Changes and/or Modifications to the Scope

- 5.1 The Contractor is advised that the District may modify elements of the Project Scope where these modifications are in the best interests of the District. This may include deletion or certain tasks/deliverables, and/or cancellation of the Project. The District will ensure that the Contractor is paid all eligible fees for works completed to the date of any proposed modification.
- 5.2 Where anticipated delays occur (for any reason) that impact (delay) aspects of the Contractor's work program, the Contractor shall not seek compensation for said delays.
- 5.3 Where the District requests the Contractor to provide Work that the Contractor considers is not included in the original Scope of Work, the Contractor must notify the District that a change order will be required.
- 5.4 The District shall not be required to pay for any Work not included in the Scope of Work unless the Director or District Representative approves a Change Order prior to the Contractor performing the Work.
- 5.5 Should the Contractor consider that any request or instruction from the District constitutes a change in the scope of the Work, the Contractor shall so advise the District within ten days in writing. Without said written advice within the time period specified, the District shall not be obligated to make any payments of additional fees to the Contractor.

6.0 Payment

- 6.1 The Contract Fee shall be firm, expressed in Canadian currency, and shall be all inclusive for the Work. Taxes shall be in addition to the Contract Fee.
- 6.2 The District will pay the Contractor within 30 days from the date the Contractor submits an invoice for payment.
- 6.3 The Director may request the Contractor 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 Contractor or against the District's property arising out of or in connection with the Work.
- 6.4 The Contractor shall submit detailed invoices. Each invoice will show the Contract Number, the Services provided, the percentage of the Services that are complete, where applicable, and the amount of GST applicable.

Invoices are to be submitted to:
District of Summerland
13211 Henry Avenue, Box 159
Summerland, BC V0H 1Z0

Attention:

7.0 Taxes, Tariffs, and Duties

7.1 The Contractor is responsible for all taxes, tariffs, and duties applicable to labour, work and equipment and these taxes, tariffs, and duties shall be included in the Contract Fee. Notwithstanding, GST and applicable PST shall be billed as a separate item.

8.0 Withholding Taxes

8.1 The Contractor will be pay and remit, and otherwise be responsible for, all withholding taxes, income taxes, Canada Pension Plan contributions, employment insurance deductions and any other deductions required by the applicable provincial or federal statutes for the Contractor and any of its employees. The Contractor agrees to indemnify and hold harmless the District should the District be required to pay any remittances described above.

9.0 Payment Withheld & Holdbacks

9.1 Notwithstanding the invoicing process, the District may withhold or nullify the whole or part of any payment or set off against payment to the extent necessary, if in the opinion of the District acting reasonably, to protect themselves from loss due to one or more of the following:

- (a) the Contractor is not performing the Work, has failed to comply with any requirements of the Contract, including adherence to the agreed milestones and Schedule for Services and Scope, to the satisfaction of the Director;
- (b) defective Work is not being remedied;
- (c) there is an affidavit, claim of lien, or lien filed against the equipment on which the Work is done or is being done, or reasonable evidence of the probable filing of an affidavit, claim of lien, or lien;
- (d) the Contractor is failing to make prompt payments to anyone employed by the Contractor in connection with the Work; or
- (e) an unsatisfied claim exists for damages caused by the Contractor in connection with the Work.

9.2 Where sub-Contractors or suppliers of material are not receiving prompt payment, the District may deduct the amount of such payments from amounts otherwise due to the Contractor and will, if deducted, hold these funds in trust until such time as the Contractor has resolved the issue to the satisfaction of the Director.

10.0 Inspection of Work

10.1 The District's Representative may, at any time, enter into any place or premises where the Contractor is undertaking Work to inspect the Work and to ensure the Work is being performed in accordance with the Contract Documents.

10.2 The District's Representative, upon written notice to the Contractor, has the authority to stop the Work or to order the Contractor to take remedial action where, the Contractor is not performing the Work in accordance with the Contract Documents; or he is of the opinion that there exists a danger to life or to property.

10.3 The Contractor shall immediately obey the provisions of the notice and will not be entitled to any extra payment unless approved by a Change Order.

10.4 The District is not required to make inspections. Inspections made by the District do not relieve or release the Contractor from being responsible for the supervision of its operations under this Contract, from making its own inspections, and for ensuring the Work is being performed in accordance with the Contract Documents.

11.0 Sub-Contractors

11.1 The Director has the right, without any liability to the District, to reject any proposed sub-Contractor and to require the Contractor to substitute another sub-Contractor that is acceptable to the Director.

11.2 Sub-Contractors approved by the Director shall not be changed without the written consent of the Director.

12.0 Warranty as to Work

12.1 Without limitation to any additional warranties provided by the Contractor, the Contractor warrants that:

- (a) all Work shall be of merchantable quality and free from defects in workmanship and materials;
- (b) all Work shall strictly conform to applicable samples, specifications and drawings;
- (c) all Work shall be fit for the purpose intended for the District;
- (d) all Work shall be free and clear of all liens, charges and encumbrances;
- (e) the Work must comply with the standards set forth by applicable federal, provincial, municipal and industry regulatory agencies;
- (f) the shipping and handling of any hazardous material will be made in accordance with all applicable laws and regulations; and,
- (g) the Work must comply with all applicable environmental protection laws and regulations.

12.2 Unless a longer warranty period is specified on the face of the purchase order or is otherwise provided, the foregoing warranty shall be valid for one year from the date of acceptance of the Work by the District. If at any time prior to the expiration of any applicable warranty period, any weakness, deficiency, failure, breakdown or deterioration in workmanship or material is discovered in the Work performed by the Contractor, or if the Work does not conform to the terms and conditions of this Agreement, the District may at its option:

- (a) require the Contractor to promptly replace, redesign or correct the defective or non-conforming Work at no expense to the District, or
- (b) the District may replace or correct the defective Work and charge the Contractor with the expenses incurred by the District.

12.3 The Contractor agrees to indemnify and save harmless the District, its members, officers, employees, assigns, agents, clients and the public from any liability, loss, cost and expense arising either directly or indirectly, from breach of any warranty given by the Contractor hereunder.

12.4 All costs for the repair of the Work during the warranty term of this Contract shall be paid for by the Contractor.

12.5 Warranty on all consignment inventory shall commence upon physical installation.

13.0 Indemnity

13.1 The Contractor shall indemnify, and save harmless, the District, and its elected and appointed officials, employees, Contractors, and agents, from and against all claims, losses, damages, costs, expenses (including legal fees and disbursements), liabilities, actions and proceedings, suffered, made, incurred, sustained, brought, prosecuted, threatened to be brought or prosecuted, in any manner caused by, based upon, occasioned by or attributable to, any wilful or negligent act or omission, or other actionable wrong, on the part of the Contractor, its employees, subcontractors, or agents, connected with the performance or breach of this Contract by the Contractor. The Contractor's obligations under this section shall survive the expiry or earlier termination of this General Services Contract.

14.0 Wages and WorkSafe BC

14.1 The Contractor shall, at times, in providing the Services and otherwise performing its obligations under this Contract, comply with the requirements of the British Columbia Employment Standards Act, the *Workers Compensation Act* (British Columbia), and all other applicable federal and provincial legislation regarding wages and labour regulations, including the Occupational Health and Safety Regulation, during performance of this Contract, and ensure compliance by its subcontractors, workers, and suppliers.

14.2 The Contractor shall, upon request from the District, provide evidence of any required registration under the Acts and evidence of compliance with any requirement under that Act to make any payments or pay assessment.

14.3 The Contractor shall, upon request by the District, provide proof of payment in good standing, by producing a clearance letter, with WorkSafe BC.

15.0 Insurance Certificates

15.1 The Contractor shall provide the District with Certificates of Insurance confirming placement and maintenance of the insurance, promptly after a request to do so from time to time by the District.

16.0 District May Insure

16.1 If the Contractor fails to insure as required, the District may affect the insurance in the name and at the expense of the Contractor and the Contractor shall promptly repay the District all costs incurred by the District in doing so. For clarity, the District has no obligation to affect such insurance.

17.0 Certificates of Insurance

17.1 The Contractor shall cause all policies of insurance required to be taken out by it under this Contract to be with insurance companies satisfactory to the District and to;

- (a) name the District as additional insured;
- (b) include that the District is protected notwithstanding any act, neglect or misrepresentation by the Contractor which might otherwise result in the avoidance of a claim and that such policies are not affected or invalidated

by any act, omission or negligence of any third party which is not within the knowledge or control of the insureds;

- (c) be issued by an insurance company entitled to carry on the business of insurance under the laws of British Columbia;
- (d) be primary and non-contributing with respect to any policies carried by the District and shall provide that any coverage carried by the District is in excess coverage;
- (e) not be cancelled or materially changed without the insurer providing the District with 30 days written notice stating when such cancellation or change is to be effective;
- (f) be maintained for a period of 12 months per occurrence;
- (g) not include a deductible greater than \$5,000.00 per occurrence;
- (h) include a cross liability clause; and,
- (i) be on other terms acceptable to the District Representative, acting reasonably.

17.2 The District is not responsible for any risks of loss or damage to equipment supplied until the equipment is finally accepted by the District and is registered in the name of the District of Summerland within the Province of British Columbia.

17.3 The Contractor shall provide, maintain, and pay for the following insurance policies with insurers licensed in British Columbia, providing coverage to the Contractor and any sub-Contractor performing Work provided by this General Services Contract:

- (a) Commercial General Liability Insurance, including All Risk Property Insurance for the Contractor's equipment;
- (b) Automobile Liability Insurance;

17.4 Commercial General Liability Insurance

- (a) The Contractor shall obtain and maintain a minimum of \$5,000,000 inclusive per occurrence Commercial General Liability Insurance covering death, bodily injury, property loss and damage and all other losses arising out of or in connection with the provision of the Services, or in such a greater amount as may be required by the District in the performance of this General Services Contract, including All Risk Property Insurance for the Contractor's equipment.

17.5 Automobile Liability Insurance

- (b) The Contractor shall provide and maintain a minimum of \$5,000,000 3rd party liability insurance inclusive per occurrence covering use or operation of all motor vehicles and trailers owned, non-owned, leased, rented, licensed, and unlicensed vehicles or equipment controlled or used in performance of this Agreement.

18.0 Errors and Omissions Insurance

18.1 N/A

19.0 Removal of Liens

19.1 The Contractor shall immediately remove, at their own expense, all liens filed or registered against the District's equipment or the District's property.

20.0 Permits

20.1 The Contractor shall, at their own expense, procure all permits, certificates, and licenses required by law and for the District for the execution of the Work.

21.0 Bankruptcy or Default by Contractor

21.1 If the Contractor:

- (a) is adjudged bankrupt; or
- (b) makes a general assignment for the benefit of creditors due to insolvency; or
- (c) has a receiver appointed because of his insolvency.

the District may, without prejudice to any other of the District's rights or remedies, give the Contractor, the receiver, or the trustee written notice and terminate the Contract.

21.2 If the Contractor fails to perform the Work in accordance with the Contract Documents, the District may provide written notice informing the Contractor that he is in default of his contractual obligations and instruct the Contractor to correct the default within five days, or such other longer specified time as outlined in the notice.

21.3 If the Contractor fails to correct the default within the time specified, the District may, without prejudice to any other of the District's rights or remedies,

- (a) correct the default and deduct the District's direct costs from any payment owing to the Contractor or any security held by the District; and/or
- (b) deduct any portion of the remaining Work from the Contract; or
- (c) terminate the Contract.

22.0 Dispute Resolution

22.1 The Director shall be the interpreter of the requirements of the Contract.

22.2 In the event of any Dispute, which shall be any disagreement or misunderstanding between the District and the Contractor after initial attempts at resolution, either party may provide the other with a written summary of the Contract question at issue and the redress sought.

22.3 Within fourteen calendar days of receipt of such communication the recipient shall acknowledge and respond in writing addressing all the issues raised in the initial communication or request a time extension.

22.4 If a party does not provide any written response to the written communication issued as per the foregoing, the communication will be deemed to have been accepted by the receiving party.

22.5 If there is an exchange of communication and issues remain unresolved, both parties shall:

- (a) make immediate bona fide efforts to resolve the outstanding issues by amicable negotiations involving the assistance of senior persons in both parties' organizations and;

- (b) provide frank, conditional, and timely disclosure of all relevant facts, information, and documents to facilitate those negotiations.

22.6 If the dispute cannot be settled within fourteen calendar days of the end of the above negotiations, or such other time period as agreed to by both parties, the dispute may be referred to and finally resolved by arbitration conducted by a single arbitrator, agreed to by both parties, and under the rules of the British Columbia International Commercial Arbitration Centre. The place of arbitration shall be in Summerland, BC unless otherwise agreed to by both parties. The findings of the arbitrator shall be final and binding upon both parties.

22.7 The Contractor shall not delay any of the Work on account of or during any dispute, negotiation, or arbitration proceedings. The parties shall each bear their own costs throughout the process and the costs of a mediator or arbitrator shall be divided equally between the parties.

23.0 Early Termination and Termination Notice at District's Discretion

23.1 Without prejudice to any right or remedy to which the District may be entitled, the District may at any time and in its sole discretion and without reason, terminate this Contract upon notice to the Contractor.

23.2 If the District terminates this Contract under this section, the Contractor shall be entitled to be paid for all Services satisfactorily performed by the Contractor up to the date of such termination in accordance with this General Services Contract. The Contractor is not entitled to, and irrevocably waives and releases the District from any and all claims for, any damages or compensation for costs incurred, loss of profit or loss of opportunity, directly or indirectly arising out of termination of this Contract.

24.0 Termination for Default

24.1 The District may terminate all or any part of, the Services by giving notice of termination to the Contractor, which is effective upon delivery of the notice, if:

- (b) the Contractor breaches this Contract and the Contractor has not cured the breach, within five days after notice of the breach is given to the Contractor by the District; or
- (c) the Contractor becomes bankrupt or insolvent, a received order is made against the Contractor, an assignment is made for the benefit of its creditors, an order is made or resolution passed for the winding up or dissolution of the Contractor, or the Contractor takes the benefit of any enactment relating to bankrupt or insolvent debtors.

24.2 Without limiting any other right or remedy available to the District, if the District terminates part or all of the Services under this section, the District may arrange, upon such terms and conditions and in such manner as the District considers appropriate, for performance of all or any part of the Services remaining to be completed, and the Contractor shall be liable to the District for any expenses reasonably and necessarily incurred by the District in engaging the services of another person to perform those Services (including the amount by which the fees, disbursements and other costs payable by the District exceed those that would have been payable to the Contractor for completion of the Services under this Contract). The District may set off against, and withhold from amounts due to the Contractor, such amounts as the District

estimates shall be required to cover the District's costs of correcting any breaches of the Contractor's obligations under this Contract and to be incurred by the District to complete all or any part of the Services.

25.0 Remedies

25.1 On any early termination of the Contract by the District:

- (a) The District shall pay to the Contractor the money owing to them under this Contract to the date of termination and upon such payment being made the District shall have no further obligation to the Contractor under this Contract; and
- (b) If the Contractor's right to perform the Work is terminated in accordance with the provisions of the Contract, the District shall not be liable to the Contractor for any damage or loss, including economic loss, sustained, or suffered by the Contractor as a result of any action taken by the District

26.0 Copyright & Intellectual Property

26.1 The Contractor irrevocably grants to the District the unrestricted license for the District to use and make copies of for the District's purposes and activities any work whatsoever generated by or on behalf of the Contractor in performing the Services in which copyright may exist. Without limiting the foregoing, the Contractor irrevocably grants to the District the unrestricted license for the District to use for the District's purposes and activities all technical information and intellectual property, including inventions, conceived or developed, or first actually reduced to practice, in performing the Services. For clarity, the licenses granted by this section shall survive the expiry or earlier termination of this Contract.

27.0 Freedom of Information and Protection of Privacy Act

27.1 The District is subject to the Province of British Columbia's *Freedom of Information and Protection of Privacy Act*. All documents shall be received and held, to the extent reasonable, in confidence by the District and the information shall not be disclosed except to the degree necessary for carrying out the District's purposes or required by law.