



Request for Proposals

For

Multi Function Devices

Request for Proposals No.: **R2020-048**

Issued: **23 June 2020**

Submission Deadline: **July 9, 2020 @ 2 p.m. local time**

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[List of annexes or additional appendices**]**

PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS

1.1 Invitation to Proponents

This Request for Proposals (the “RFP”) is an invitation by the District of Squamish (the “District”) to prospective proponents to submit proposals for **Multi Function Devices**, as further described in Section A of the RFP Particulars (Appendix D) (the “Deliverables”).

1.2 RFP Contact

For the purposes of this procurement process, the “RFP Contact” will be:

Anthony Jeffery Email: procurement@squamish.ca

Proponents and their representatives are not permitted to contact any employees, officers, agents, elected or appointed officials, or other representatives of the District, other than the RFP Contact, concerning matters regarding this RFP. Failure to adhere to this rule may result in the disqualification of the proponent and the rejection of the proponent’s proposal.

1.3 Contract for Deliverables

1.3.1 Type of Contract

The selected proponent will be requested to enter into direct contract negotiations to finalize an agreement with the District for the provision of the Deliverables. The terms and conditions found in the Form of Agreement (Appendix A) are to form the basis for commencing negotiations between the District and the selected proponent. It is the District’s intention to enter into an agreement with only one (1) legal entity.

1.3.2 Term of Contract

The term of the agreement is to be for a period of five years, with an option in favour of the District to extend the agreement on the same terms and conditions for an additional term of up to five years.

1.4 RFP Timetable

1.4.1 Key Dates

Issue Date of RFP	June 23, 2020
Deadline for Questions	July 3, 2020
Deadline for Issuing Addenda	July 6, 2020 @ 4 p.m. local time
Submission Deadline	July 9, 2020 @ 2 p.m. local time
Rectification Period	3 business days
Contract Negotiation Period	10 calendar days

The RFP timetable is tentative only, and may be changed by the District at any time. For greater clarity, business days means all days that the District is open for business.

1.4.2 Site Visit / Pre-Bid Meeting (if applicable)

N/A

1.5 Submission of Proposals

1.5.1 Proposals to be Submitted at Prescribed Location

Proposals must be submitted at: procurement@squamish.ca

1.5.2 Proposals to be Submitted on Time

Proposals must be submitted at the location set out above on or before the Submission Deadline. Proposals submitted after the Submission Deadline will be rejected.

1.5.3 Proposals to be Submitted in Prescribed Format

Proponents should submit one electronic copy of their proposal to the email address noted in 1.5.1. The email should indicate the RFP title and number (see RFP cover page) in the subject line and the full legal name of the proponent in the body of the email.

Proponents should note that the maximum acceptable email size is 8MB. If greater than 8MB, proponents should email proposals in multiple emails. If sending in multiple emails, each email should indicate the total number of emails that are being sent. All emails must be received prior to the Submission Deadline.

1.5.4 Amendment of Proposals

Proponents may amend their proposals prior to the Submission Deadline by submitting the amendment in a sealed package prominently marked with the RFP title and number and the full legal name and return address of the proponent to the location set out above. Any amendment should clearly indicate which part of the proposal the amendment is intended to amend or replace.

1.5.5 Withdrawal of Proposals

At any time throughout the RFP process until the execution of a written agreement for provision of the Deliverables, a proponent may withdraw a submitted proposal. To withdraw a proposal, a notice of withdrawal must be sent to the RFP Contact and must be signed by an authorized representative of the proponent. The District is under no obligation to return withdrawn proposals.

[End of Part 1]

PART 2 – EVALUATION, NEGOTIATION AND AWARD

2.1 Stages of Evaluation and Negotiation

The District will conduct the evaluation of proposals and negotiations in the following stages:

2.2 Stage I – Mandatory Submission Requirements

Stage I will consist of a review to determine which proposals comply with all of the mandatory submission requirements. If a proposal fails to satisfy all of the mandatory submission requirements, the District will issue the proponent a rectification notice identifying the deficiencies and providing the proponent an opportunity to rectify the deficiencies. If the proponent fails to satisfy the mandatory submission requirements within the Rectification Period, its proposal will be rejected. The Rectification Period will begin to run from the date and time that the District issues a rectification notice to the proponent. The mandatory submission requirements are set out in Section C of the RFP Particulars (Appendix D).

2.3 Stage II – Evaluation

Stage II will consist of the following two sub-stages:

2.3.1 Mandatory Technical Requirements

The District will review the proposals to determine whether the mandatory technical requirements as set out in Section D of the RFP Particulars (Appendix D) have been met. Questions or queries on the part of the District as to whether a proposal has met the mandatory technical requirements will be subject to the verification and clarification process set out in Part 3.

2.3.2 Rated Criteria

The District will evaluate each qualified proposal on the basis of the non-price rated criteria as set out in Section F of the RFP Particulars (Appendix D).

2.4 Stage III – Pricing

Stage III will consist of a scoring of the submitted pricing of each qualified proposal in accordance with the price evaluation method set out in Pricing (Appendix C). The evaluation of price will be undertaken after the evaluation of mandatory requirements and rated criteria has been completed.

2.5 Stage IV – Ranking and Contract Negotiations

2.5.1 Ranking of Proponents

After the completion of Stage III, all scores from Stage II and Stage III will be added together and the proponents will be ranked based on their total scores. The top-ranked proponent will receive a written invitation to enter into direct contract negotiations to finalize the agreement with the District. In the event of a tie, the selected proponent will be the proponent selected by way of coin toss.

2.5.2 Contract Negotiation Process

Any negotiations will be subject to the process rules contained in the Terms and Conditions of the RFP Process (Part 3) and will not constitute a legally binding offer to enter into a contract on the part of the District or the proponent, and there will be no legally binding relationship created with any proponent prior to the execution of a written agreement. The terms and conditions found in the Form of Agreement (Appendix A) are to form the basis for commencing negotiations between the District and the selected proponent. Negotiations may include requests by the District for supplementary information from the proponent to verify, clarify, or supplement the information provided in its proposal or to confirm the conclusions reached in the evaluation, and may include requests by the District for improved pricing or performance terms from the proponent.

2.5.3 Time Period for Negotiations

The District intends to conclude negotiations and finalize the agreement with the top-ranked proponent during the Contract Negotiation Period, commencing from the date the District invites the top-ranked proponent to enter negotiations. A proponent invited to enter into direct contract negotiations should therefore be prepared to satisfy the pre-conditions of award listed in Section E of the RFP Particulars (Appendix D), provide requested information in a timely fashion and conduct its negotiations expeditiously.

2.5.4 Failure to Enter into Agreement

If the pre-conditions of award listed in Section E of the RFP Particulars (Appendix D) are not satisfied or if the parties cannot conclude negotiations and finalize the agreement for the Deliverables within the Contract Negotiation Period, the District may discontinue negotiations with the top-ranked proponent and may invite the next-best-ranked proponent to enter into negotiations. This process will continue until an agreement is finalized, until there are no more proponents remaining that are eligible for negotiations, or until the District elects to cancel the RFP process.

2.5.5 Notification of Negotiation Status

Other proponents that may become eligible for contract negotiations may be notified at the commencement of the negotiation process with the top-ranked proponent.

[End of Part 2]

PART 3 – TERMS AND CONDITIONS OF THE RFP PROCESS

3.1 General Information and Instructions

3.1.1 Proponents to Follow Instructions

Proponents should structure their proposals in accordance with the instructions in this RFP. Where information is requested in this RFP, any response made in a proposal should reference the applicable section numbers of this RFP.

3.1.2 Proposals in English

All proposals are to be in English only.

3.1.3 No Incorporation by Reference

The entire content of the proponent's proposal should be submitted in a fixed format, and the content of websites or other external documents referred to in the proponent's proposal but not attached will not be considered to form part of its proposal.

3.1.4 Past Performance

In the evaluation process, the District may consider the proponent's past performance or conduct on previous contracts with the District or other institutions.

3.1.5 Information in RFP Only an Estimate

The District and its advisers make no representation, warranty, or guarantee as to the accuracy of the information contained in this RFP or issued by way of addenda. Any quantities shown or data contained in this RFP or provided by way of addenda are estimates only, and are for the sole purpose of indicating to proponents the general scale and scope of the Deliverables. It is the proponent's responsibility to obtain all the information necessary to prepare a proposal in response to this RFP.

3.1.6 Proponents to Bear Their Own Costs

The proponent will bear all costs associated with or incurred in the preparation and presentation of its proposal, including, if applicable, costs incurred for interviews or demonstrations.

3.1.7 Proposal to be Retained by the District

The District will not return the proposal or any accompanying documentation submitted by a proponent.

3.1.8 No Guarantee of Volume of Work or Exclusivity of Contract

The District makes no guarantee of the value or volume of work to be assigned to the successful proponent. The agreement to be negotiated with the selected proponent will not be an exclusive contract for the provision of the described Deliverables. The District may contract with others for goods and services the same as or similar to the Deliverables or may obtain such goods and services internally.

3.2 Communication after Issuance of RFP

3.2.1 Proponents to Review RFP

Proponents should promptly examine all of the documents comprising this RFP and may direct questions or seek additional information in writing by email to the RFP Contact on or before the Deadline for Questions. No such communications are to be directed to anyone other than the RFP Contact. The District is under no obligation to provide additional information, and the District is not responsible for any information provided by or obtained from any source other than the RFP Contact. It is the responsibility of the proponent to seek clarification from the RFP Contact on any matter it considers to be unclear. The District is not responsible for any misunderstanding on the part of the proponent concerning this RFP or its process.

3.2.2 All New Information to Proponents by Way of Addenda

This RFP may be amended only by addendum in accordance with this section. If the District, for any reason, determines that it is necessary to provide additional information relating to this RFP, such information will be communicated to all proponents by addendum. Each addendum forms an integral part of this RFP and may contain important information, including significant changes to this RFP. Proponents are responsible for obtaining all addenda issued by the District.

3.2.3 Post-Deadline Addenda and Extension of Submission Deadline

If the District determines that it is necessary to issue an addendum after the Deadline for Issuing Addenda, the District may extend the Submission Deadline for a reasonable period of time.

3.2.4 Verify, Clarify, and Supplement

When evaluating proposals, the District may request further information from the proponent or third parties in order to verify, clarify, or supplement the information provided in the proponent's proposal, including but not limited to clarification with respect to whether a proposal meets the mandatory technical requirements set out in Section D of the RFP Particulars (Appendix D). The District may revisit, re-evaluate, and rescore the proponent's response or ranking on the basis of any such information.

3.3 Notification and Debriefing

3.3.1 Notification to Other Proponents

Once an agreement is executed by the District and a proponent, the other proponents may be notified directly in writing and will be notified by public posting of the outcome of the procurement process.

3.3.2 Debriefing

Proponents may request a debriefing after receipt of a notification of the outcome of the procurement process. All requests must be in writing to the RFP Contact and must be made within sixty (60) days of such notification.

3.3.3 Procurement Protest Procedure

If a proponent wishes to challenge the RFP process, it should provide written notice to the RFP Contact in accordance with applicable procurement protest procedures.

3.4 Conflict of Interest and Prohibited Conduct

3.4.1 Conflict of Interest

For the purposes of this RFP, the term “Conflict of Interest” includes, but is not limited to, any situation or circumstance where:

- (a) in relation to the RFP process, the proponent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to (i) having, or having access to, confidential information of the District in the preparation of its proposal that is not available to other proponents; (ii) having been involved in the development of the RFP, including having provided advice or assistance in the development of the RFP; (iii) receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the RFP; (iv) communicating with any person with a view to influencing preferred treatment in the RFP process (including but not limited to the lobbying of decision makers involved in the RFP process); or (v) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive RFP process or render that process non-competitive or unfair; or
- (b) in relation to the performance of its contractual obligations under a contract for the Deliverables, the proponent's other commitments, relationships, or financial interests (i) could, or could be seen to, exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement; or (ii) could, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.

3.4.2 Disqualification for Conflict of Interest

The District may disqualify a proponent for any conduct, situation, or circumstances, determined by the District, in its sole and absolute discretion, to constitute a Conflict of Interest as defined above.

3.4.3 Disqualification for Prohibited Conduct

The District may disqualify a proponent, rescind an invitation to negotiate or terminate a contract subsequently entered into if the District determines that the proponent has engaged in any conduct prohibited by this RFP.

3.4.4 Prohibited Proponent Communications

Proponents must not engage in any communications that could constitute a Conflict of Interest and should take note of the Conflict of Interest declaration set out in the Submission Form (Appendix B).

3.4.5 Proponent Not to Communicate with Media

Proponents must not at any time directly or indirectly communicate with the media in relation to this RFP or any agreement entered into pursuant to this RFP without first obtaining the written permission of the RFP Contact.

3.4.6 No Lobbying

Proponents must not, in relation to this RFP or the evaluation and selection process, engage directly or indirectly in any form of political or other lobbying whatsoever to influence the selection of the successful proponent(s).

3.4.7 Illegal or Unethical Conduct

Proponents must not engage in any illegal business practices, including activities such as bid-rigging, price-fixing, bribery, fraud, coercion, or collusion. Proponents must not engage in any unethical conduct, including lobbying, as described above, or other inappropriate communications; offering gifts to any employees, officers, agents, elected or appointed officials, or other representatives of the District; deceitfulness; submitting proposals containing misrepresentations or other misleading or inaccurate information; or any other conduct that compromises or may be seen to compromise the competitive process provided for in this RFP.

3.4.8 Past Performance or Past Conduct

The District may prohibit a supplier from participating in a procurement process based on past performance or based on inappropriate conduct in a prior procurement process, including but not limited to the following:

- (a) illegal or unethical conduct as described above;
- (b) the refusal of the supplier to honour its submitted pricing or other commitments; or
- (c) any conduct, situation or circumstance determined by the District, in its sole and absolute discretion, to have constituted an undisclosed Conflict of Interest.

3.5 Confidential Information

3.5.1 Confidential Information of the District

All information provided by or obtained from the District in any form in connection with this RFP either before or after the issuance of this RFP

- (a) is the sole property of the District and must be treated as confidential;
- (b) is not to be used for any purpose other than replying to this RFP and the performance of any subsequent contract for the Deliverables;
- (c) must not be disclosed without prior written authorization from the District; and
- (d) must be returned by the proponent to the District immediately upon the request of the District.

3.5.2 Confidential Information of Proponent

A proponent should identify any information in its proposal or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by the District. The confidentiality of such information will be maintained by the District, except as otherwise required by law or by order of a court or tribunal. Proponents are advised that their proposals will, as necessary, be disclosed, on a confidential basis, to advisers retained by the District to advise or assist with the RFP process, including the evaluation of proposals. If a proponent has any questions about the collection and use of personal information pursuant to this RFP, questions are to be submitted to the RFP Contact.

3.6 Procurement Process Non-Binding

3.6.1 No Contract A and No Claims

This procurement process is not intended to create and will not create a formal, legally binding bidding process and will instead be governed by the law applicable to direct commercial negotiations. For greater certainty and without limitation:

- (a) this RFP will not give rise to any Contract A–based tendering law duties or any other legal obligations arising out of any process contract or collateral contract; and
- (b) neither the proponent nor the District will have the right to make any claims (in contract, tort, or otherwise) against the other with respect to the award of a contract, failure to award a contract, or failure to honour a proposal submitted in response to this RFP.

3.6.2 No Contract until Execution of Written Agreement

This RFP process is intended to identify prospective suppliers for the purposes of negotiating potential agreements. No legal relationship or obligation regarding the procurement of any good or service will be created between the proponent and the District by this RFP process until the successful negotiation and execution of a written agreement for the acquisition of such goods and/or services.

3.6.3 Non-Binding Price Estimates

While the pricing information provided in proposals will be non-binding prior to the execution of a written agreement, such information will be assessed during the evaluation of the proposals and the ranking of the proponents. Any inaccurate, misleading, or incomplete information, including withdrawn or altered pricing, could adversely impact any such evaluation or ranking or the decision of the District to enter into an agreement for the Deliverables.

3.6.4 Cancellation

The District may cancel or amend the RFP process without liability at any time.

3.7 Governing Law and Interpretation

These Terms and Conditions of the RFP Process (Part 3):

- (a) are intended to be interpreted broadly and independently (with no particular provision intended to limit the scope of any other provision);
- (b) are non-exhaustive and will not be construed as intending to limit the pre-existing rights of the parties to engage in pre-contractual discussions in accordance with the common law governing direct commercial negotiations; and
- (c) are to be governed by and construed in accordance with the laws of the province of British Columbia and the federal laws of Canada applicable therein.

[End of Part 3]

APPENDIX A – FORM OF AGREEMENT

The Districts standard form of agreement is at the end of the competition document.

APPENDIX B – SUBMISSION FORM

1. Proponent Information

Please fill out the following form, naming one person to be the proponent's contact for the RFP process and for any clarifications or communication that might be necessary.	
Full Legal Name of Proponent:	
Any Other Relevant Name under which Proponent Carries on Business:	
Street Address:	
City, Province/State:	
Postal Code:	
Phone Number:	
Company Website (if any):	
Proponent Contact Name and Title:	
Proponent Contact Phone:	
Proponent Contact Email:	

2. Acknowledgment of Non-Binding Procurement Process

The proponent acknowledges that the RFP process will be governed by the terms and conditions of the RFP, and that, among other things, such terms and conditions confirm that this procurement process does not constitute a formal, legally binding bidding process (and for greater certainty, does not give rise to a Contract-A bidding process contract), and that no legal relationship or obligation regarding the procurement of any good or service will be created between the District and the proponent unless and until the District and the proponent execute a written agreement for the Deliverables.

3. Ability to Provide Deliverables

The proponent has carefully examined the RFP documents and has a clear and comprehensive knowledge of the Deliverables required. The proponent represents and warrants its ability to provide the Deliverables in accordance with the requirements of the RFP for the rates set out in its proposal.

4. Non-Binding Pricing

The proponent has submitted its pricing in accordance with the instructions in the RFP and in Pricing (Appendix C) in particular. The proponent confirms that the pricing information provided is accurate. The proponent acknowledges that any inaccurate, misleading, or incomplete information, including withdrawn or altered pricing, could adversely impact the acceptance of its proposal or its eligibility for future work.

5. Addenda

The proponent is deemed to have read and taken into account all addenda issued by the District prior to the Deadline for Issuing Addenda.

6. No Prohibited Conduct

The proponent declares that it has not engaged in any conduct prohibited by this RFP.

7. Conflict of Interest

The proponent must declare all potential Conflicts of Interest, as defined in section 3.4.1 of the RFP. This includes disclosing the names and all pertinent details of all individuals (employees, advisers, or individuals acting in any other capacity) who (a) participated in the preparation of the proposal; **AND** (b) were employees of the District within twelve (12) months prior to the Submission Deadline.

If the box below is left blank, the proponent will be deemed to declare that (a) there was no Conflict of Interest in preparing its proposal; and (b) there is no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the RFP.

Otherwise, if the statement below applies, check the box.

- ☐ The proponent declares that there is an actual or potential Conflict of Interest relating to the preparation of its proposal, and/or the proponent foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the RFP.

If the proponent declares an actual or potential Conflict of Interest by marking the box above, the proponent must set out below details of the actual or potential Conflict of Interest:

8. Disclosure of Information

The proponent hereby agrees that any information provided in this proposal, even if it is identified as being supplied in confidence, may be disclosed where required by law or by order of a court or tribunal. The proponent hereby consents to the disclosure, on a confidential basis, of this proposal by the District to the advisers retained by the District to advise or assist with the RFP process, including with respect to the evaluation of this proposal.

Signature of Proponent Representative

Name of Proponent Representative

Title of Proponent Representative

Date

I have the authority to bind the proponent.

APPENDIX C – PRICING

1. Instructions on How to Provide Pricing

- (a) Proponents should provide the information requested under section 3 below (“Required Pricing Information”) by reproducing and completing the table below in their proposals, or, if there is no table below, by completing the attached form and including it in their proposals.
- (b) Rates must be provided in Canadian funds, inclusive of all applicable duties and taxes except for GST and PST, which should be itemized separately.
- (c) Rates quoted by the proponent must be all-inclusive and must include all labour and material costs, all travel and carriage costs, all insurance costs, all costs of delivery, all costs of installation and set-up, including any pre-delivery inspection charges, and all other overhead, including any fees or other charges required by law.

2. Evaluation of Pricing

Pricing is worth 40 points of the total score.

Pricing will be scored based on a relative pricing formula using the rates set out in the pricing form. Each proponent will receive a percentage of the total possible points allocated to price for the particular category it has submitted a proposal for, which will be calculated in accordance with the following formula:

$$\text{lowest price} \div \text{proponent's price} \times \text{weighting} = \text{proponent's pricing points}$$

3. Required Pricing Information

Each proposal shall include the following minimum price information & breakdown:

- 1. Lease price (based on 5 years) billed monthly for all equipment and components. Show all pricing for main unit and components separately.
- 2. Maintenance, service and consumables costs based on a cost per impression.
- 3. Indicate the cost per impression for Black & White and Color (if applicable).
- 4. Delivery costs.
- 5. Removal costs at the end of the agreement.
- 6. Installation costs.
- 7. Training costs.
- 8. Cost to remove our current MFD.
- 9. Any additional costs, both one-time and recurring, for which we will be charged that the supplier does not include as part of the purchase cost of equipment and/or service. Note any volume discounts (if applicable)

APPENDIX D – RFP PARTICULARS

A. THE DELIVERABLES

The District is accepting proposals from qualified suppliers to supply, deliver, install, service and finance Multi-Function devices. Multi-function device (MFD) capability will include photocopy with print, network scan, walk-up, ORC and LAN/PC fax.

The District currently has a fleet of approximately 13 MFD over several locations with the following approximate volumes:

			Ratio
Fleet	Total Volume	1081657	100%
	Total Black	510933	47.24%
	Total Colour	570724	52.76%
	Total Duplex	371085	34.31%

We are looking to proponents to suggest ways to best optimise our fleet given the volumes we have.

The District will also require the successful proponent to remove our current MFD and recycle and dispose of appropriately.

Service and maintenance support will include on-site service, analytical support, parts, labor, supplies (excluding paper and staples), machine replacement if necessary and training.

B. MATERIAL DISCLOSURES

N/A

C. MANDATORY SUBMISSION REQUIREMENTS

1. Submission Form (Appendix B)

Each proposal must include a Submission Form (Appendix B) completed and signed by an authorized representative of the proponent.

2. Pricing (Appendix C)

Each proposal must include pricing information that complies with the instructions contained in Pricing (Appendix C).

3. Other Mandatory Submission Requirements

N/A

D. MANDATORY TECHNICAL REQUIREMENTS

N/A

E. PRE-CONDITIONS OF AWARD

N/A

F. RATED CRITERIA

The following sets out the categories, weightings, and descriptions of the rated criteria of the RFP. Proponents who do not meet a minimum threshold score for a category will not proceed to the next stage of the evaluation process.

Rated Criteria Category	Weighting (Points)
i. Experience and Qualifications	20
ii. GHG & Environmental Considerations	10
iii. Innovation & Value Adds	15
iv. Service Delivery	15
Pricing (See Appendix C for details)	40
Total Points	100

Suggested Proposal Content for Non-Price Criteria

i. Experience and Qualifications

Each proponent should provide the following in its proposal:

- (a) a brief description of the proponent;
- (b) a description of its knowledge, skills, and experience relevant to the Deliverables; and
- (c) the roles and responsibilities of the proponent and any of its agents, employees, and sub-contractors who will be involved in providing the Deliverables, together with the identity of those who will be performing those roles and their relevant respective expertise.

ii. GHG and Environmental Considerations

The District's Council recently passed a Climate Emergency Resolution: www.squamish.ca/climate-emergency-resolution

As part of our evaluation process we would like to hear from you as to what your organization is doing to address Greenhouse Gas Emissions (GHGe).

- Does your company have any policies or philosophies in place to address GHGe?
- What do you do on a practical level?
- What work practices do you employ to achieve reductions?

iii. Innovation and Value Adds

Describe an innovations or value adds that may be of interest to the District.

iii. Service Delivery

Provide details as to your service delivery module and how you plan on structuring that relationship with the District.

FORM OF AGREEMENT

BETWEEN:

District of Squamish
(referred to as the “District”)

AND:

[*INSERT FULL LEGAL NAME OF SUPPLIER*]

(referred to as the “Supplier”)

In consideration of their respective agreements set out herein, the parties covenant and agree as follows:

1. Contract Documents

The contract between the parties in respect of:

[Insert Name of Project or Brief Description of Deliverables – should match the description used as the title of the RFX document]

is comprised of the following documents, which are collectively referred to as the “Contract”:

- (a) this Agreement;
- (b) the Schedule of Deliverables, Rates and Specific Provisions, attached hereto as Schedule 1;
- (c) the Standard Terms and Conditions, attached hereto as Schedule 2;
- (d) the **[*Insert RFX Document Name and #*]**, including any addenda, (the “Solicitation Document”); and
- (e) all the documentation submitted by the Supplier in response to the Solicitation Document (the “Supplier’s Submission”).

2. Interpretive Value of Contract Documents

Any ambiguity, conflict or inconsistency between or among the documents comprising the Contract will be resolved by giving precedence to the express terms of the documents in the order

in which they appear above, so that a first mentioned document shall prevail notwithstanding any term or aspect of a later mentioned document.

3. Execution

This Agreement may be executed and (i) delivered by facsimile transmission or (ii) scanned and delivered by electronic transmission, and when so executed and delivered, will be deemed an original.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date written below.

District of Squamish

Signature:

Name:

Title:

Date of Signature:

I have the authority to bind the District.

[Insert Supplier's Full Legal Name**]**

Signature:

Name:

Title:

Date of Signature:

I have the authority to bind the Supplier.

Schedule 1 – Schedule of Deliverables, Rates and Specific Provisions

A. Description of Deliverables

[*Describe the Deliverables. Reference can be made to the Solicitation Document and/or Supplier Submission, as appropriate*]

B. Rates and Disbursements

B.1 Maximum Fee

Notwithstanding anything else in the Contract, the total amount payable by the District to the Supplier under the Contract shall not exceed [*insert maximum contract amount*] (\$xxx).

B.2 Personnel and Rates

The following individuals are responsible for the provision of the Deliverables. The Rates for these individuals are set out below and shall remain fixed during the Term of this Contract:

[*insert personnel and rate information or replace this section with other applicable form of rate breakdown*]

C. Payment Terms

The payment terms for the Contract are as follows: [*insert payment terms (i.e. monthly invoices, full payment upon acceptance, progress payments, etc.)*]

D. District and Supplier Representatives

The District Representative and contact information for the Contract is:

[*insert name and title of the District's representative in charge of the contract and contact details, including mailing address and email address*]

The Supplier Representative and contact information for the Contract is:

[*insert name and title of Supplier representative in charge of the contract and contact details, including mailing address and email address*]

E. Term of Contract

The Contract shall take effect on the [*insert date*] (the “Effective Date”) and shall be in effect for a period of [*insert # of years or months] from the Effective Date, with an option in favour of the District to extend the term for an additional period of [*insert

extension period, if applicable, or revise this language as necessary*], unless it is terminated earlier in accordance with the terms of the Contract or otherwise by operation of law.

F. Specific Provisions

[*Insert any additional contract performance terms or modifications to the Standard Terms and Conditions in Schedule 2 and note any express deletions from the Supplier's Submission or negotiated changes to the Solicitation Document, if applicable*]

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ARTICLE 1 – INTERPRETATION

1.01 Defined Terms

When used in the Contract, the following words or expressions have the following meanings:

“Authority” means any government authority, agency, body or department, whether federal, provincial or municipal, having or claiming jurisdiction over the Contract; and **“Authorities”** means all such authorities, agencies, bodies and departments;

“Business Day” means any working day, Monday to Friday inclusive, but excluding statutory holidays and other days on which the District has elected to be closed for business;

“Conflict of Interest” includes, but is not limited to, any situation or circumstance where (a) in relation to the procurement process, the Supplier had an unfair advantage or engaged in conduct, directly or indirectly, that may have given it an unfair advantage, including but not limited to (i) having access to information that is confidential to the District and not available to other bidders or proponents; (ii) communicating with any person with a view to influencing preferred treatment in the procurement process; or (iii) engaging in conduct that compromises or could be seen to compromise the integrity of the open and competitive procurement process; or (b) in relation to the performance of the Contract, the Supplier’s other commitments, relationships or financial interests (i) could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment; or (ii) could or could be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations;

“Deliverables” means everything developed for or provided to the District in the course of performing under the Contract or agreed to be provided to the District under the Contract by the Supplier or its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors, as further defined, but not limited by, Schedule 1, including but not limited to any goods or services or any and all Intellectual Property and any and all concepts, techniques, ideas, information, documentation and other materials, however recorded, developed or provided;

“District Confidential Information” means all information of the District that is of a confidential nature, including all confidential information in the custody or control of the District, regardless of whether it is identified as confidential or not, and whether recorded or not, and however fixed, stored, expressed or embodied, which comes into the knowledge, possession or control of the Supplier in connection with the Contract. For greater certainty, District Confidential Information shall: (a) include: (i) all new information derived at any time from any such information whether created by the District, the Supplier or any third-party; (ii) all information (including Personal Information) that the District is obliged, or has the discretion, not to disclose under provincial or federal legislation or otherwise at law; but (b) not include information that: (i) is or becomes generally available to the public without fault or breach on the part of the Supplier of any duty of confidentiality owed by the Supplier to the District or to any third-party; (ii) the Supplier can demonstrate to have been rightfully obtained by the Supplier, without any obligation of confidence, from a third-party who had the right to transfer or disclose it to the Supplier free of any obligation of confidence; (iii) the Supplier can demonstrate to have been rightfully known to or in the possession of the Supplier at the time of disclosure, free of any obligation of confidence when disclosed; or (iv) is

independently developed by the Supplier; but the exclusions in this subparagraph shall in no way limit the meaning of Personal Information or the obligations attaching thereto under the Contract or at law;

“District Representative” is as set out in Schedule 1 (Schedule of Deliverables, Rates and Specific Provisions);

“Effective Date” is as set out in Schedule 1 (Schedule of Deliverables, Rates and Specific Provisions);

“FOIPPA” means the *Freedom of Information and Protection of Privacy Act*;

“Indemnified Parties” means the District and the District’s officials, directors, officers, agents, employees and volunteers;

“Industry Standards” include, but are not limited to (a) the provision of any and all labour, supplies, equipment and other goods or services that are necessary and can reasonably be understood or inferred to be included within the scope of the Contract or customarily furnished by Persons providing Deliverables of the type provided hereunder in similar situations in Canada and; (b) adherence to commonly accepted norms of ethical business practices, which shall include the Supplier establishing, and ensuring adherence to, precautions to prevent its employees or agents from providing or offering gifts or hospitality of greater than nominal value to any person acting on behalf of or employed by the District;

“Intellectual Property” means any intellectual, industrial or other proprietary right of any type in any form protected or protectable under the laws of Canada, any foreign country, or any political subdivision of any country, including, without limitation, any intellectual, industrial or proprietary rights protected or protectable by legislation, by common law or at equity;

“Newly Created Intellectual Property” means any Intellectual Property created by the Supplier in the course of performance of its obligations under the Contract;

“Person” if the context allows, includes any individuals, persons, firms, partnerships or corporations or any combination thereof;

“Personal Information” means recorded information about an identifiable individual or that may identify an individual;

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding;

“Rates” means the applicable price, in Canadian funds, to be charged for the applicable Deliverables, as set out in Schedule 1 (Schedule of Deliverables, Rates and Specific Provisions);

“Record” means any recorded information, including any Personal Information, in any form: (a) provided by the District to the Supplier, or provided by the Supplier to the District, for the purposes of the Contract; or (b) created by the Supplier in the performance of the Contract;

“Requirements of Law” mean all applicable requirements, laws, statutes, codes, acts, ordinances, orders, decrees, injunctions, by-laws, rules, regulations, official plans, permits, licenses, authorizations, directions, and agreements with all Authorities that now or at any time hereafter may be applicable to either the Contract or the Deliverables or any part of them;

“Supplier Representative” is as set out in Schedule 1 (Schedule of Deliverables, Rates and Specific Provisions);

“Supplier’s Intellectual Property” means Intellectual Property owned by the Supplier prior to its performance under the Contract or created by the Supplier during the Term of the Contract independently of the performance of its obligations under the Contract;

“Term” is as set out in Schedule 1 (Schedule of Deliverables, Rates and Specific Provisions); and

“Third-Party Intellectual Property” means any Intellectual Property owned by a party other than the District or the Supplier.

ARTICLE 2 – GENERAL TERMS

2.01 No Indemnities from the District

Notwithstanding anything else in the Contract, any express or implied reference to the District providing an indemnity or any other form of indebtedness or contingent liability that would directly or indirectly increase the indebtedness or contingent liabilities of the District beyond the obligation to pay the Rates in respect of Deliverables accepted by the District, whether at the time of entering into the Contract or at any time during the Term, shall be void and of no legal effect.

2.02 Entire Contract

The Contract embodies the entire agreement between the parties with regard to the provision of the Deliverables and supersedes any prior understanding or agreement, collateral, oral or otherwise with respect to the provision of the Deliverables, existing between the parties at the Effective Date of the Contract.

2.03 Severability

If any term or condition of the Contract, or the application thereof to the parties or to any Persons or circumstances, is to any extent invalid or unenforceable, the remainder of the Contract, and the application of such term or condition to the parties, Persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

2.04 Failure to Enforce Not a Waiver

Any failure by the District to insist in one or more instances upon strict performance by the Supplier of any of the terms or conditions of the Contract shall not be construed as a waiver by the District of its right to require strict performance of any such terms or conditions, and the obligations of the Supplier with respect to such performance shall continue in full force and effect.

2.05 Changes by Written Amendment Only

Any changes to the Contract shall be by written amendment signed by the parties. No changes shall be effective or shall be carried out in the absence of such an amendment. Any such written changes shall be included in the definition of Contract.

2.06 Force Majeure

Neither party shall be liable for damages caused by delay or failure to perform its obligations under the Contract where such delay or failure is caused by an event beyond its reasonable control. The parties

agree that an event shall not be considered beyond one's reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the Contract would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism but shall not include shortages or delays relating to supplies or services. If a party seeks to excuse itself from its obligations under the Contract due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) Business Days, the other party may immediately terminate the Contract by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under the Contract, at law or in equity.

2.07 Notices by Prescribed Means

Notices shall be in writing and shall be delivered by postage-prepaid envelope, personal delivery or email and shall be addressed to, respectively, the District Representative and the Supplier Representative. Notices shall be deemed to have been given: (a) in the case of postage-prepaid envelope, five (5) Business Days after such notice is mailed; or (b) in the case of personal delivery or email one (1) Business Day after such notice is received by the other party. In the event of a postal disruption, notices must be given by personal delivery or by email. Unless the parties expressly agree in writing to additional methods of notice, notices may only be provided by the methods contemplated in this paragraph.

2.08 Governing Law

The Contract shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.

ARTICLE 3 – NATURE OF RELATIONSHIP BETWEEN DISTRICT AND SUPPLIER

3.01 Supplier's Power to Contract

The Supplier represents and warrants that it has the full right and power to enter into the Contract and there is no agreement with any other Person which would in any way interfere with the rights of the District under the Contract.

3.02 Representatives May Bind the Parties

The parties represent that their respective representatives have the authority to legally bind them to the extent permissible by the Requirements of Law.

3.03 Supplier Not a Partner, Agent or Employee

The Supplier shall have no power or authority to bind the District or to assume or create any obligation or responsibility, express or implied, on behalf of the District. The Supplier shall not hold itself out as an agent, partner or employee of the District. Nothing in the Contract shall have the effect of creating an employment, partnership or agency relationship between the District and the Supplier or any of the Supplier's directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors.

3.04 Non-Exclusive Contract, Work Volumes

The Supplier acknowledges that it is providing the Deliverables to the District on a non-exclusive basis. The District makes no representation regarding the volume of goods and services required under the Contract. The District reserves the right to contract with other parties for the same or similar goods and

services as those provided by the Supplier and reserves the right to obtain the same or similar goods and services internally.

3.05 Responsibility of Supplier

The Supplier agrees that it is liable for the acts and omissions of its directors, officers, employees, agents, partners, affiliates, volunteers and subcontractors. This paragraph is in addition to any and all of the Supplier's liabilities under the Contract and under the general application of law. The Supplier shall advise these individuals and entities of their obligations under the Contract and shall ensure their compliance with the applicable terms of the Contract. In addition to any other liabilities of the Supplier pursuant to the Contract or otherwise at law or in equity, the Supplier shall be liable for all damages, costs, expenses, losses, claims or actions arising from any breach of the Contract resulting from the actions of the above-mentioned individuals and entities. This paragraph shall survive the termination or expiry of the Contract.

3.06 No Subcontracting or Assignment

The Supplier shall not subcontract or assign the whole or any part of the Contract or any monies due under it without the prior written consent of the District. Such consent shall be in the sole discretion of the District and subject to the terms and conditions that may be imposed by the District. Without limiting the generality of the conditions which the District may require prior to consenting to the Supplier's use of a subcontractor, every contract entered into by the Supplier with a subcontractor shall adopt all of the terms and conditions of the Contract as far as applicable to those parts of the Deliverables provided by the subcontractor. Nothing contained in the Contract shall create a contractual relationship between any subcontractor or its directors, officers, employees, agents, partners, affiliates or volunteers and the District.

3.07 Duty to Disclose Change of Control

In the event that the Supplier undergoes a change in control the Supplier shall immediately disclose such change in control to the District and shall comply with any terms and conditions subsequently prescribed by the District resulting from the disclosure.

3.08 Conflict of Interest

The Supplier shall: (a) avoid any Conflict of Interest in the performance of its contractual obligations; (b) disclose to the District without delay any actual or potential Conflict of Interest that arises during the performance of its contractual obligations; and (c) comply with any requirements prescribed by the District to resolve any Conflict of Interest. In addition to all other contractual rights or rights available at law or in equity, the District may immediately terminate the Contract upon giving notice to the Supplier where: (a) the Supplier fails to disclose an actual or potential Conflict of Interest; (b) the Supplier fails to comply with any requirements prescribed by the District to resolve a Conflict of Interest; or (c) the Supplier's Conflict of Interest cannot be resolved to the satisfaction of the District. This paragraph shall survive any termination or expiry of the Contract.

3.09 Contract Binding

The Contract can be enforced by and is binding upon the parties and their successors, executors, administrators and their permitted assigns.

ARTICLE 4 – PERFORMANCE BY SUPPLIER

4.01 Commencement of Performance

The Supplier shall commence performance upon receipt of written instructions from the District.

4.02 Deliverables Warranty

The Supplier hereby represents and warrants that the Deliverables (i) shall be provided fully and diligently in a professional and competent manner by persons qualified and skilled in their occupations; and (ii) shall be free from defects in material, workmanship and design, suitable for the purposes intended, in compliance with all applicable specifications and free from liens or encumbrance on title; and furthermore that all Deliverables shall be provided in accordance with: (a) the Contract; (b) Industry Standards; and (c) Requirements of Law. If any of the Deliverables, in the opinion of the District, are inadequately provided or require corrections, the Supplier shall forthwith make the necessary corrections at its own expense as specified by the District in a rectification notice.

4.03 Health and Safety

Without limiting the generality of section 4.02, the Supplier warrants and agrees that it has complied with and will comply with, and ensure that any subcontractors comply with, all applicable occupational health and safety laws, regulations and standards in relation to the performance of the Supplier's obligations under the Contract. The Supplier shall provide the District with evidence of the Supplier's compliance with this section upon request by the District.

4.04 Shipment of Goods

To the extent that the Deliverables include the shipment of goods to the District, all such goods shall be delivered F.O.B. Destination, Freight Prepaid to the District's place of business or such other location as may be specified in the Contract. No transportation or delivery charges of any kind, including, without limitation, packing, boxing, storage, cartage or customs brokerage charges, shall be paid by the District, unless specifically agreed by the District in writing. The Deliverables will be suitably packed in such a manner as will ensure their safe transportation undamaged to their destination. The Deliverables will remain at the risk of the Supplier until the Deliverables are received by the District. Receipt of the Deliverables at the District's location does not constitute acceptance of the Deliverables by the District. The Deliverables are subject to the District's inspection and acceptance within a reasonable period of time after delivery. If any of the Deliverables, in the opinion of the District, are inadequately provided or require corrections, the Supplier shall make the necessary corrections at its own expense as specified by the District in a rectification notice.

4.05 Use and Access Restrictions

The Supplier acknowledges that unless it obtains specific written preauthorization from the District, any access to or use of the District property, technology or information that is not necessary for the performance of its contractual obligations with the District is strictly prohibited. The Supplier further acknowledges that the District may monitor the Supplier to ensure compliance with this paragraph. This paragraph is in addition to and shall not limit any other obligation or restriction placed upon the Supplier.

4.06 Notification by Supplier of Discrepancies

During the Term, the Supplier shall advise the District promptly of: (a) any contradictions, discrepancies or errors found or noted in the Contract; (b) supplementary details, instructions or directions that do not correspond with those contained in the Contract; and (c) any omissions or other faults that become evident and should be corrected in order to provide the Deliverables in accordance with the Contract and Requirements of Law.

4.07 Change Requests

The District may, in writing, request changes to the Contract, which may include altering, adding to, or deleting any of the Deliverables. The Supplier shall comply with all reasonable District change requests and the performance of such request shall be in accordance with the terms and conditions of the Contract. If the Supplier is unable to comply with the change request, it shall promptly notify the District and provide reasons for such non-compliance. In any event, any such change request shall not be effective until a written amendment reflecting the change has been executed by the parties.

4.08 Pricing for Requested Changes

Where a District change request includes an increase in the scope of the previously contemplated Deliverables, the District shall set out, in its change request, the proposed prices for the contemplated changes. Where the Rates in effect at the time of the change request (a) include pricing for the particular type of goods or services contemplated in the change request, the Supplier shall not unreasonably refuse to provide those goods or services at prices consistent with those Rates; or (b) are silent to the applicable price for the particular goods or services contemplated in the change request, the price shall be negotiated between the District and the Supplier within a reasonable period of time and in any event, such change request shall not become effective until a written amendment reflecting the change has been executed by the parties.

4.09 Performance by Specified Individuals Only

The Supplier agrees that to the extent that specific individuals are named in the Contract as being responsible for the provision of the Deliverables, only those individuals shall provide the Deliverables under the Contract. The Supplier shall not replace or substitute any of the individuals named in the Contract without the prior written approval of the District, which may not arbitrarily or unreasonably be withheld. Should the Supplier require the substitution or replacement of any of the individuals named in the Contract, it is understood and agreed that any proposed replacement must possess similar or greater qualifications than the individual named in the Contract. The Supplier shall not claim fees for any replacement individual greater than the Rates established under the Contract.

4.10 Time

Time is of the essence of the Contract.

4.11 Rights and Remedies Not Limited to Contract

The express rights and remedies of the District and obligations of the Supplier set out in the Contract are in addition to and shall not limit any other rights and remedies available to the District or any other obligations of the Supplier at law or in equity.

ARTICLE 5 – PAYMENT FOR PERFORMANCE AND AUDIT

5.01 Payment According to Contract Rates

The District shall, subject to the Supplier's compliance with the provisions of the Contract, pay the Supplier for the Deliverables provided at the Rates established under the Contract.

5.02 Hold Back or Set Off

The District may hold back payment or set off against payment if, in the opinion of the District acting reasonably, the Supplier has failed to comply with any requirements of the Contract.

5.03 No Expenses or Additional Charges

There shall be no other charges payable by the District under the Contract to the Supplier other than the Rates established under the Contract.

5.04 Payment of Taxes and Duties

Unless otherwise stated, the Supplier shall pay all applicable taxes, including excise taxes incurred by or on the Supplier's behalf with respect to the Contract.

5.05 Withholding Tax

The District shall withhold any applicable withholding tax from amounts due and owing to the Supplier under the Contract and shall remit it to the appropriate government in accordance with applicable tax laws. This paragraph shall survive any termination or expiry of the Contract.

5.06 Interest on Late Payment

If a payment is in arrears through no fault of the Supplier, the interest charged by the Supplier, if any, for any late payment shall not exceed the Bank of Canada's prime rate, in effect on the date that the payment went into arrears.

5.07 Document Retention and Audit

For seven (7) years after the Expiry Date or any date of termination of the Contract, the Supplier shall maintain all necessary records to substantiate (a) all charges and payments under the Contract and (b) that the Deliverables were provided in accordance with the Contract and with Requirements of Law. During the Term, and for seven (7) years after the expiry or termination of the Contract, the Supplier shall permit and assist the District in conducting audits of the operations of the Supplier to verify (a) and (b) above. The District shall provide the Supplier with at least ten (10) Business Days prior notice of its requirement for such audit. The Supplier's obligations under this paragraph shall survive any termination or expiry of the Contract.

ARTICLE 6 – CONFIDENTIALITY

6.01 Confidentiality and Promotion Restrictions

Any publicity or publications related to the Contract shall be at the sole discretion of the District. The District may, in its sole discretion, acknowledge the Deliverables provided by the Supplier in any such publicity or publication. The Supplier shall not make use of its association with the District without the prior written consent of the District. Without limiting the generality of this paragraph, the Supplier shall not, among other things, at any time directly or indirectly communicate with the media in relation to the Contract unless it has first obtained the express written authorization to do so by the District.

6.02 District Confidential Information

During and following the Term, the Supplier shall: (a) keep all District Confidential Information confidential and secure; (b) limit the disclosure of District Confidential Information to only those of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors who have a need to know it for the purpose of providing the Deliverables and who have been specifically authorized to have such disclosure; (c) not directly or indirectly disclose, destroy, exploit or use any District Confidential Information (except for the purpose of providing the Deliverables, or except if required by order of a court or tribunal), without first obtaining: (i) the written consent of the District and (ii) in respect of any District Confidential Information about any third-party, the written consent of such third-party; (d) provide District Confidential Information to the District on demand; and (e) return all District Confidential

Information to the District on or before the expiry or termination of the Contract, with no copy or portion kept by the Supplier.

6.03 Restrictions on Copying

The Supplier shall not copy any District Confidential Information, in whole or in part, unless copying is essential for the provision of the Deliverables. On each copy made by the Supplier, the Supplier must reproduce all notices which appear on the original.

6.04 Notice of Breach

The Supplier shall notify the District promptly upon the discovery of loss, unauthorized disclosure, unauthorized access or unauthorized use of District Confidential Information.

6.05 Injunctive and Other Relief

The Supplier acknowledges that breach of any provisions of this Article may cause irreparable harm to the District or to any third-party to whom the District owes a duty of confidence, and that the injury to the District or to any third-party may be difficult to calculate and inadequately compensable in damages. The Supplier agrees that the District is entitled to obtain injunctive relief (without proving any damage sustained by it or by any third-party) or any other remedy against any actual or potential breach of the provisions of this Article.

6.06 Notice and Protective Order

If the Supplier or any of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors become legally compelled to disclose any District Confidential Information, the Supplier will provide the District with prompt notice to that effect in order to allow the District to seek one or more protective orders or other appropriate remedies to prevent or limit such disclosure, and it shall co-operate with the District and its legal counsel to the fullest extent. If such protective orders or other remedies are not obtained, the Supplier will disclose only that portion of District Confidential Information which the Supplier is legally compelled to disclose, only to such person or persons to which the Supplier is legally compelled to disclose, and the Supplier shall provide notice to each such recipient (in co-operation with legal counsel for the District) that such District Confidential Information is confidential and subject to non-disclosure on terms and conditions equal to those contained in the Contract and, if possible, shall obtain each recipient's written agreement to receive and use such District Confidential Information subject to those terms and conditions.

6.07 Records and Legislative Compliance

The Supplier and the District acknowledge and agree that FOIPPA applies to and governs all Records and may require the disclosure of such Records to third parties. Furthermore, the Supplier agrees (a) to keep Records secure; (b) to provide Records to the District within seven (7) calendar days of being directed to do so by the District for any reason including an access request or privacy issue; (c) not to access any Personal Information unless the District determines, in its sole discretion, that access is permitted under FOIPPA and is necessary in order to provide the Deliverables; (d) not to directly or indirectly use, collect, disclose or destroy any Personal Information for any purposes that are not authorized by the District; (e) to ensure the security and integrity of Personal Information and keep it in a physically secure and separate location safe from loss, alteration, destruction or intermingling with other records and databases and to implement, use and maintain the most appropriate products, tools, measures and procedures to do so; (f) to restrict access to Personal Information to those of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors who have a need to know it for the purpose of providing the

Deliverables and who have been specifically authorized by a District representative to have such access for the purpose of providing the Deliverables; (g) to implement other specific security measures that in the reasonable opinion of the District would improve the adequacy and effectiveness of the Supplier's measures to ensure the security and integrity of Personal Information and Records generally; and (h) that any confidential information supplied to the District may be disclosed by the District where it is obligated to do so under FOIPPA, by an order of a court or tribunal or pursuant to a legal proceeding and the provisions of this paragraph shall prevail over any inconsistent provisions in the Contract.

6.08 Survival

The provisions of this Article shall survive any termination or expiry of the Contract.

ARTICLE 7 – INTELLECTUAL PROPERTY

7.01 District Intellectual Property

The Supplier agrees that all Intellectual Property and every other right, title and interest in and to all concepts, techniques, ideas, information and materials, however recorded, (including images and data) provided by the District to the Supplier shall remain the sole property of the District at all times.

7.02 No Use of the District Insignia

The Supplier shall not use any insignia or logo of the District except where required to provide the Deliverables, and only if it has received the prior written permission of the District to do so.

7.03 Ownership of Intellectual Property

The District shall be the sole owner of any Newly Created Intellectual Property. The Supplier irrevocably assigns to and in favour of the District and the District accepts every right, title and interest in and to all Newly Created Intellectual Property in the Deliverables, immediately following the creation thereof, for all time and irrevocably waives in favour of the District all rights of integrity and other moral rights to all Newly Created Intellectual Property in the Deliverables, immediately following the creation thereof, for all time. To the extent that any of the Deliverables include, in whole or in part, the Supplier's Intellectual Property, the Supplier grants to the District a licence to use that Supplier Intellectual Property in the manner contemplated in this Article, the total consideration for which shall be payment of the Rates to the Supplier by the District.

7.04 Supplier's Grant of License

For those parts of the Deliverables that are Supplier Intellectual Property, the Supplier grants to the District a perpetual, world-wide, non-exclusive, irrevocable, transferable, royalty free, fully paid up right and license: (a) to use, modify, reproduce and distribute, in any form, those Deliverables; and (b) to authorize other Persons, including agents, contractors or sub-contractors, to do any of the former on behalf of the District.

7.05 No Restrictive Material in Deliverables

The Supplier shall not incorporate into any Deliverables anything that would restrict the right of the District to modify, further develop or otherwise use the Deliverables in any way that the District deems necessary, or that would prevent the District from entering into any contract with any contractor other than the Supplier for the modification, further development of or other use of the Deliverables.

7.06 Third-Party Intellectual Property

The Supplier represents and warrants that the provision of the Deliverables shall not infringe or induce the infringement of any Third-Party Intellectual Property rights. The Supplier further represents and warrants that it has obtained assurances with respect to any Supplier Intellectual Property and Third-Party Intellectual Property that any rights of integrity or any other moral rights associated therewith have been waived.

7.07 **Survival**

The obligations contained in this Article shall survive the termination or expiry of the Contract.

ARTICLE 8 – INDEMNITIES AND INSURANCE

8.01 **Supplier Indemnity**

The Supplier hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, (collectively, “Claims”), by whomever made, sustained, incurred, brought or prosecuted, including for breaches of confidentiality or privacy or Intellectual Property rights or for third party bodily injury (including death), personal injury and property damage, in any way based upon, occasioned by or attributable to anything done or omitted to be done by the Supplier, its subcontractors or their respective directors, officers, agents, employees, partners, affiliates, volunteers or independent contractors in the course of performance of the Supplier’s obligations under, or otherwise in connection with, the Contract. The Supplier further agrees to indemnify and hold harmless the Indemnified Parties for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, by any person, entity or organization, including, without limitation, the District, claimed or resulting from such Claims. The obligations contained in this paragraph shall survive the termination or expiry of the Contract.

8.02 **Insurance**

[NOTE: This Insurance provision is just a placeholder - the insurance requirements should be specified to fit the District’s business environment and should be discussed with the District’s risk management/insurance providers.**]**

The Supplier hereby agrees to put in effect and maintain insurance for the Term, at its own cost and expense, with insurers having a secure A.M. Best rating of B + or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person in the business of the Supplier would maintain including, but not limited to, the following:

- (a) commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury and property damage, to an inclusive limit of not less than **\$5,000,000** per occurrence and including products and completed operations liability. The policy is to include the following:
 - the District as an additional named insured with respect to liability arising in the course of performance of the Supplier’s obligations under, or otherwise in connection with, the Contract
 - contractual liability coverage
 - cross-liability and severability of interests clause
 - employers liability coverage
 - 30 day written notice of cancellation, termination or material change

- tenants legal liability coverage (if applicable and with suitable sub-limits)
- non-owned automobile coverage with blanket contractual coverage for hired automobiles

*****Note: Insert (b) only if warranted based on the type of work being performed*****

- (b) errors & omissions liability insurance, insuring liability for errors and omissions in the performance or failure to perform the services contemplated in the Contract, in the amount of not less than **[*Insert amount*]** per claim and in the annual aggregate.

8.03 **Proof of Insurance**

The Supplier shall provide the District with proof of the insurance required by the Contract in the form of valid certificates of insurance that reference the Contract and confirm the required coverage. The Supplier shall provide the District with renewal replacements on or before the expiry of any such insurance. Upon the request of the District, a copy of each insurance policy shall be made available to it. The Supplier shall ensure that each of its subcontractors obtains all the necessary and appropriate insurance that a prudent person in the business of the subcontractor would maintain and that the District and Indemnified Parties are named as additional insured with respect to any liability arising in the course of performance of the subcontractor's obligations under the subcontract for the provision of the Deliverables.

8.04 **Workplace Safety and Insurance**

The Supplier warrants and agrees that it has complied and will comply with all applicable workplace safety and insurance laws and regulations and, if applicable will provide proof of valid coverage by means of a current clearance certificate to the District upon request. The Supplier covenants and agrees to pay when due, and to ensure that each of its subcontractors pays when due, all amounts required to be paid by it and its subcontractors under all applicable workplace safety and insurance laws and regulations during the Term. The Supplier further agrees to indemnify the District for any and all liability, loss, costs, damages and expenses (including legal fees) or other charges in connection with the Supplier's failure to comply with any applicable workplace safety and insurance laws or related to the Supplier's status with any workplace safety and insurance board or body.

ARTICLE 9 – TERMINATION, EXPIRY AND EXTENSION

9.01 **Immediate Termination of Contract**

The District may immediately terminate the Contract upon giving notice to the Supplier where (a) the Supplier is adjudged bankrupt, makes a general assignment for the benefit of its creditors or a receiver is appointed on account of the Supplier's insolvency; (b) the Supplier breaches any provision in Article 6 (Confidentiality); (c) the Supplier breaches the Conflict of Interest paragraph in Article 3 (Nature of Relationship Between District and Supplier); (d) the Supplier, prior to or after entering into the Contract, makes a material misrepresentation or omission or provides materially inaccurate information to the District; (e) the Supplier undergoes a change in control which adversely affects the Supplier's ability to satisfy some or all of its obligations under the Contract; (f) the Supplier subcontracts for the provision of part or all of the Deliverables or assigns the Contract without first obtaining the written approval of the District; or (g) the Supplier's acts or omissions constitute a substantial failure of performance and the above rights of termination are in addition to all other rights of termination available at law, or events of termination by operation of law.

9.02 Dispute Resolution by Rectification Notice

Subject to the above paragraph, where the Supplier fails to comply with any of its obligations under the Contract, the District may issue a rectification notice to the Supplier setting out the manner and timeframe for rectification. Within seven (7) Business Days of receipt of that notice, the Supplier shall either: (a) comply with that rectification notice; or (b) provide a rectification plan satisfactory to the District. If the Supplier fails to either comply with that rectification notice or provide a satisfactory rectification plan, the District may immediately terminate the Contract. Where the Supplier has been given a prior rectification notice, the same subsequent type of non-compliance by the Supplier shall allow the District to immediately terminate the Contract.

9.03 Termination on Notice

The District reserves the right to terminate the Contract, without cause, upon thirty (30) calendar days prior notice to the Supplier.

9.04 Supplier's Obligations on Termination

On termination of the Contract, the Supplier shall, in addition to its other obligations under the Contract and at law (a) at the request of the District, provide the District with any completed or partially completed Deliverables; (b) provide the District with a report detailing: (i) the current state of the provision of Deliverables by the Supplier at the date of termination; and (ii) any other information requested by the District pertaining to the provision of the Deliverables and performance of the Contract; (c) execute such documentation as may be required by the District to give effect to the termination of the Contract; and (d) comply with any other instructions provided by the District, including but not limited to instructions for facilitating the transfer of its obligations to another Person. This paragraph shall survive any termination of the Contract.

9.05 Supplier's Payment Upon Termination

On termination of the Contract, the District shall only be responsible for the payment of the Deliverables provided under the Contract up to and including the effective date of any termination. Termination shall not relieve the Supplier of its warranties and other responsibilities relating to the Deliverables performed or money paid. In addition to its other rights of hold back or set off, the District may hold back payment or set off against any payments owed if the Supplier fails to comply with its obligations on termination.

9.06 Termination in Addition to Other Rights

The express rights of termination in the Contract are in addition to and shall in no way limit any rights or remedies of the District under the Contract, at law or in equity.

9.07 Expiry and Extension of Contract

The Contract shall expire on the original Expiry Date, unless the District exercises its option to extend the Contract, such extension to be upon the same terms (including the Rates in effect at the time of extension), conditions and covenants contained in the Contract. The option shall be exercisable by the District giving notice to the Supplier not less than thirty (30) days prior to the original Expiry Date. The notice shall set forth the precise duration of the extension.

9.08 Evaluation of Performance

The Supplier will be subject to a performance evaluation during the course of, and/or at the conclusion of the assignment.

In the event that the Supplier fails to perform its obligations under the Contract, the District may, in addition to any and all legal and equitable remedies available to it, place the Supplier on probation or suspend the Supplier from participating in future procurement opportunities.