



## **REQUEST FOR PROPOSALS No. 20-055**

### **Little Qualicum River Flood Hazard Mapping**

**ISSUED:** September 17, 2020

#### **CLOSING DATE AND TIME:**

Submissions must be received at the Closing Location on or before:  
**3:00 PM (15:00 hrs) Local Time on October 1, 2020**

#### **Regional District of Nanaimo (RDN) Contact for Questions:**

Kim Fowler, Manager, Long Term Planning

Telephone: (250) 390-6531

Email: [kfowler@rdn.bc.ca](mailto:kfowler@rdn.bc.ca)

Questions are requested at least five (5) business days before the closing date.

Proposals will not be opened in public



## **Instructions to Proponents**

### **Closing Date/Time/Location**

Submissions must be received at the closing location on or before 3:00 PM (15:00 hrs), Local Time, on October 1, 2020.

### **Submission Method:**

By Email: In PDF format with "20-055 LQR Flood Mapping" as the subject line at this electronic address: [planning@rdn.bc.ca](mailto:planning@rdn.bc.ca)

Please note: Maximum email file size limit is 20MB, or less. The RDN will not be liable for any technological delays of submissions.

### **Proposal Length**

The proposal will not exceed 10 pages (single sided, single lined, minimum 10-point font). Supplemental information may be provided in appendices to a maximum of 20 additional single sided pages.

### **Agreement Amount**

The budget for the requested services is \$150,000 \$Cdn dollars, exclusive of applicable taxes.

### **Amendment to Proposals**

Proposals may be amended in writing and sent via email at [planning@rdn.bc.ca](mailto:planning@rdn.bc.ca) on or before the closing. Such amendments should be signed by the authorized signatory of the Proponent.

### **Addenda**

If the RDN determines that an amendment is required to this RFP, the RDN will post the Addendum on the RDN ([www.rdn.bc.ca](http://www.rdn.bc.ca)) and BC Bid ([www.bcbid.gov.bc.ca](http://www.bcbid.gov.bc.ca)) websites. Each addendum will be incorporated into and become part of the RFP. No amendment of any kind to the RFP is effective unless it is contained in a written addendum issued by the RDN. It is the sole responsibility of the Proponent to check and ensure all amendments are included prior to submitting their final Proposal submission.

### **Withdrawal of Proposals**

The Proponent may withdraw their Proposal at any time by submitting a written withdrawal email to [planning@rdn.bc.ca](mailto:planning@rdn.bc.ca) on or before the closing.

### **Unsuccessful Vendors**

The District will offer debriefings to unsuccessful Proponents, on request, at a mutually agreeable time.



## **1. INTRODUCTION**

In 2010 –12 and 2018 the Province of BC released various publications to dealing with sea level rise, sea dike design and climate change. The Regional District of Nanaimo (RDN) has established a *Sea Level Rise and Climate Adaption Program* that considers this guidance and the potential climate change impacts on future flood levels to their coastal and riverine systems. [www.rdn.bc.ca/sea-level-rise-adaptation-program](http://www.rdn.bc.ca/sea-level-rise-adaptation-program)

Recognizing that accurate and applicable information is essential to reducing flood risks, the purpose of this Request for Proposal is to solicit submissions from qualified firms to develop new flood hazard modelling and mapping for the Little Qualicum River located in the RDN to support land use and emergency planning and infrastructure management.

The final deliver must be submitted no later than July 29, 2021.

This Proposal is conditional and subject to the approval of the Senior Management of the Regional District of Nanaimo or its Board of Directors.

## **2. BACKGROUND**

The Little Qualicum River is part of the Georgia Basin drainage network located on central Vancouver Island. The Little Qualicum River watershed ranges from Mt. Arrowsmith to sea level, draining through Cameron Lake into the Strait of Georgia just north of Qualicum Beach. The Little Qualicum River is primarily a rain-driven hydrologic system, influenced by heavy fall and winter rain or snow. The majority of the flow occurs in the fall and winter with low discharge in the summer period. Flooding is not uncommon along the Little Qualicum River. In December 2014, the Little Qualicum River flooded Cedar Grove Campground near Riverbend Road following the failure of an earthen berm (Regional District of Nanaimo, 2015). The floodwater impacted transportation routes and required the Regional District of Nanaimo to declare a state of local emergency and issue an evacuation order. More historically, in October of 1921, the Little Qualicum River breached its banks following intense rains. The flood caused damage to nearby roads and led to a travel advisory for the public.

The current floodplain map for the Little Qualicum River was prepared by the Province of BC in September 1997. These maps are considered outdated because the hydrologic model used to create the map does not consider regional climate change and sea level rise on the floodplain of the Little Qualicum River and estuary area.

**Attachment: RDN Map with Study Area**

## **3. SCOPE OF SERVICES**

The proposal must provide a clear and concise information on the approach and methodology demonstrating how it aligns with the Guidelines for Flood Mapping in BC (EGBC, 2017) and with reference to the Flood Hazard Area Land Use Management Guidelines (MFLNRO, 2016). Based on this

guidance, an updated hydraulic model(s) for both the coastal and riverine flood hazard areas will be developed. It's worth noting the RDN has recently completed coastal flood hazard modelling and mapping; the applicable information is to be incorporate into the analysis of this project to reduce duplication and to integrate the findings into the flow model to determine flood extent under combined influences. The study area is the extent of the Provincial flood maps.

The scope may include, but not necessarily limited to the following tasks:

- review existing materials and utilize existing data wherever possible, such as the RDN's LiDAR ground elevation data prepared to provincial standards in 2016;
- acquire new data as needed, such as riverine bathymetry and mapping;
- conduct hydrologic analysis, including climate change forecasting (such as a future precipitation projections) and subsequent hydraulic modelling of several design flood scenarios to calculate new flood construction levels, extents, hazards and risks (as applicable);
- conduct geospatial mapping activities to produce maps of forecasted design flood extents, hazards, risks and flood construction elevations (as applicable);
- prepare draft maps and project report(s), have reviewed by senior reviewers with expertise in area of study and submit draft documents to client for review; and
- prepare final project reports and share findings with applicable stakeholders.

#### ***Project Schedule/ Timelines***

<b>Milestone / Task</b>	<b>Schedule</b>
Post request for RFPs	September 17, 2020
RFP closing date	October 1, 2020
RDN Award Contract	October 27, 2020
Investigation, analysis and floodplain mapping	November to May 2021
Final deliverables to RDN	July 30, 2021

#### **4. DELIVERABLES AND OUTCOMES**

- a. Design brief to document the riverine investigation conducted to develop the modelling and mapping. The report should outline study specific factors leading to the choice of approach and models, identify data/ information gaps and provide recommendations for future work.
- b. An overview report designed to easily communicate the purpose of the project, basic approach and use of flood hazards maps to the general public.

- c. Digital mapping information and printable (pdf format) riverine flood hazard maps that define the flood extent and FCLs.

In addition, the procured services shall include:

- Data must be compatible with ESRI ArcGIS10.7
- Vertical Datum: CGVD2013
- Horizontal datum: NAD 83
- Map projection: UTM Zone10N

- d. A summary report of any stakeholder/ public process undertaken as a result of this project.

*Note: any deliverables not identified in this RFP that the Contractor will also provide to the RDN should be listed in the proposal.*

## 5. REFERENCE/BACKGROUND INFORMATION

This is not an exhaustive list. Other information may be identified through the scoping/inception process.

- a. Province of BC Flood Hazard Area Land Use Management Guidelines, May 2004  
[http://www.env.gov.bc.ca/wsd/public\\_safety/flood/pdfs\\_word/guidelines-2011.pdf](http://www.env.gov.bc.ca/wsd/public_safety/flood/pdfs_word/guidelines-2011.pdf)
- b. APEGBC Flood Mapping in BC: Professional Practice guidelines  
<https://www.egbc.ca/getmedia/8748e1cf-3a80-458d-8f73-94d6460f310f/APEGBC-Guidelines-for-Flood-Mapping-in-BC.pdf.aspx>
- c. Provincial Floodplain Maps, Region 1 – Vancouver Island, specifically: Little Qualicum River Design Brief a floodplain map sheet  
[http://www.env.gov.bc.ca/wsd/data\\_searches/fpm/reports/keyplans-html/little-qualicum-river.html](http://www.env.gov.bc.ca/wsd/data_searches/fpm/reports/keyplans-html/little-qualicum-river.html)
- d. Historic and real-time hydrometric data is provided by the Government of Canada.
- e. Regional District of Nanaimo Flood Management Bylaw No. 1469, 2006
- f. RDN Flood Risk Assessment Report, 2019  
[https://www.rdn.bc.ca/sites/default/files/inline-files/RDN%20Flood%20Report%20FINAL\\_0.pdf](https://www.rdn.bc.ca/sites/default/files/inline-files/RDN%20Flood%20Report%20FINAL_0.pdf)

## **6. PROPOSAL SUBMISSION AND EVALUATION**

To assist in receiving similar and relevant information, and to ensure your Proposal receives fair evaluation, the RDN asks Proponents to provide the following information. *Please be clear and concise in your response.*

Please include with your proposal:

- a. Corporate background, history, and areas of expertise;
- b. Curriculum vitae of key project team members, reasons why they were selected for this project and demonstrate how they will add value to the project;
- c. Approach and Methodology;
- d. Identify challenges, constraints and obstacles in the project and advise strategy to minimize;
- e. What suggestions does your firm have to add value to the project;
- f. Layout the plan to accomplish the project including timelines and key milestones;
- g. Describe how your firm will monitor the project progression and provide regular status reports;
- h. Describe your project management and quality management process and any certifications;
- i. Comprehensive proposed tasks and associated fees, in Canadian Dollars, in a Schedule of Effort Table, identifying all project contributors, their per hour charge out rates, individual tasks, hours and all disbursements including travel; and
- j. A summary section summarizing all of the information noted above that does not exceed 10 pages. Additional information may be provided in appendices not exceeding 20 pages.

Proposals will be evaluated on the following basis 60% Technical, 40% Financial.

The lowest price proposal will receive full marks. Other proposals will receive reduced scores based on the proportion higher than the lowest price. i.e.  $\text{Score} = \text{Min Cost} / \text{Cost} \times \text{Fee Points}$ .

Proposals submitted should be in enough detail to allow the RDN to determine the Proponent's qualifications and capabilities from the documents received. The selection committee, formed at the RDN's sole discretion, will score the Proposals in accordance with the criteria provided.

The RDN may evaluate proposals on a comparative basis by comparing one proponent's proposal to another proponent's proposal. The RDN reserves the right to not complete a detailed evaluation if the RDN concludes the proposal is materially incomplete or, irregular or contain any financial or commercial terms that are unacceptable to the RDN.

The selection committee may proceed with an award recommendation or the RDN may proceed to enter negotiations with the highest evaluated proponent with the intent of developing an agreement. If the parties after having bargained in good faith are unable to conclude a formal agreement, the RDN and the Proponent will be released without penalty or further obligations other than any surviving obligations regarding confidentiality and the RDN may, at its discretion, contact the Proponent of the next best rated Proposal and attempt to conclude a formal agreement with it, and so on until a contract is concluded or the proposal process is cancelled.



The RDN reserves the right to award the assignment in whole or in part or to add or delete any portion of the work. Throughout the evaluation process, the evaluation committee may seek additional clarification on any aspect of the Proposal to verify or clarify the information provided and conduct any background investigation and/or seek any additional information it considers necessary.

## **7. GENERAL CONDITIONS**

### **7.1 No Contract**

By submitting a Request for Proposal and participating in the process as outlined in this RFP, proponents expressly agree that no contract of any kind is formed until a fully executed contract is in place.

### **7.2 Privilege Clause**

The lowest or any proposal may not necessarily be accepted.

### **7.3 Acceptance and Rejection of Submissions**

This RFP does not commit the RDN, in any way to select a preferred Proponent, or to proceed to negotiate a contract, or to award any contract. The RDN reserves the right in its sole discretion cancel this RFP, up until award, for any reason whatsoever

The RDN may accept or waive a minor and inconsequential irregularity, or where applicable to do so, the RDN may, as a condition of acceptance of the Submission, request a Proponent to correct a minor or inconsequential irregularity with no change in the Submission.

### **7.4 Conflict of Interest**

Proponents shall disclose in their Proposals any actual or potential Conflict of Interest and existing business relationships it may have with the RDN, its elected officials, appointed officials or employees.

### **7.5 Solicitation of Board Members and RDN Staff**

Proponents and their agents will not contact any member of the RDN Board or RDN Staff with respect to this RFP, other than the RDN Contact named in this document.

### **7.6 Litigation Clause**

The RDN may, in its absolute discretion, reject a Proposal submitted by Proponent, if the Proponent, or any officer or director of the Proponent is or has been engaged either directly or indirectly through another corporation in legal action against the RDN, its elected or appointed officers and employees in relation to:

- (a) any other contract for works or services; or
- (b) any matter arising from the RDN's exercise of its powers, duties, or functions under the Local Government Act, Community Charter or another enactment within five years of the date of this Call for Proposals.

In determining whether to reject a Proposal under this clause, the RDN will consider whether the litigation is likely to affect the Proponent's ability to work with the RDN, its consultants and



representatives and whether the RDN's experience with the Proponent indicates that the RDN is likely to incur increased staff and legal costs in the administration of this Contract if it is awarded to the Proponent.

#### ***7.7 Exclusion of Liability***

Proponents are solely responsible for their own expenses in preparing and submitting a Proposal and for any meetings, negotiations, or discussions with the RDN. The RDN will not be liable to any Proponent for any claims, whether for costs, expense, losses or damages, or loss of anticipated profits, or for any other matter whatsoever, incurred by the Proponent in preparing and submitting a Proposal, or participating in negotiations for a Contract, or other activity related to or arising out of this RFP. Except as expressly and specifically permitted in these Instructions to Proponents, no Proponent shall have any claim for compensation of any kind whatsoever, as a result of participating in this RFP, and by submitting a Proposal each Proponent shall be deemed to have agreed that it has no claim.

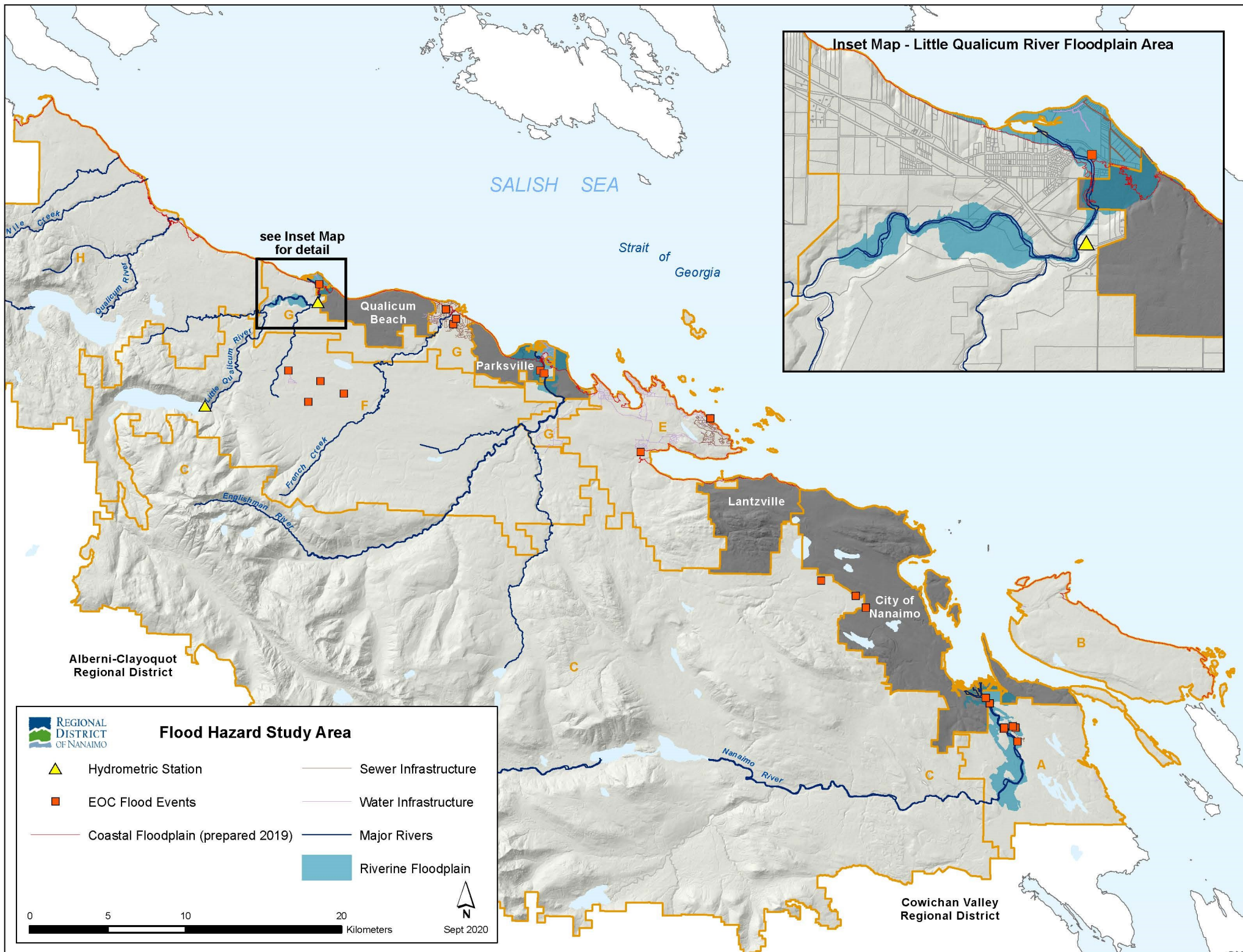
#### ***7.8 Ownership of Proposals***

All Proposals, including attachments and any documentation, submitted to and accepted by the RDN in response to this RFP become the property of the RDN.

#### ***7.9 Freedom of Information***

All submissions will be held in confidence by the RDN. The RDN is bound by the Freedom of Information and Protection of Privacy Act (British Columbia) and all documents submitted to the RDN will be subject to provisions of this legislation. The successful vendor and value of the award is routinely released.





## **AGREEMENT FOR SERVICES**

**THIS AGREEMENT** dated for reference this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BETWEEN:

### **REGIONAL DISTRICT OF NANAIMO**

6300 Hammond Bay Road  
Nanaimo, BC V9T 6N2

(the "**Regional District**")

OF THE FIRST PART

AND:

**<Company Name>**

**<Company Street Address>**

(the "**Consultant**")

OF THE SECOND PART

### **W H E R E A S:**

- A. The Regional District called for proposals for the provision of consulting services for **<insert project title>** (the "**Project**"), and the Consultant in reply submitted a proposal dated **<insert date>**. A copy of the request for proposals is attached as Schedule "C" to this Agreement, and a copy of the Consultant's proposal is attached as Schedule "D" to this Agreement.
- B. The Regional District has agreed to engage the Consultant and the Consultant has agreed to provide the services described in Schedule "A" to this Agreement (the "**Services**") to the Regional District in respect of the Project on the terms and conditions set out in this Agreement.

**NOW THEREFORE** the Regional District and the Consultant, in consideration of their mutual duties and responsibilities and in consideration of the payment to be made by the Regional District to the Consultant under this Agreement agree as follows:

## 1.0 DEFINITIONS

1.1 In this Agreement:

- (a) **"Agreement"** means this agreement and all attached schedules; and
- (b) **"Services"** means the services to be provided by the Consultant, as described in Schedule "A" to this Agreement.

## 2.0 TERM

2.1 The term of this Agreement is for the period commencing **<insert date>** and terminating on **<insert date>** (the **"Term"**), subject to earlier termination as provided in Part 7 of this Agreement.

## 3.0 CONSULTANT'S DUTIES AND RESPONSIBILITIES

3.1 The Consultant must:

- (a) provide the Regional District with the Services throughout the Term, in accordance with the specifications and requirements set out in Schedule "A" and the Consultant's proposal set out in Schedule "D" to this Agreement, and to the satisfaction of the Regional District;
- (b) supply all labour, equipment and material, and do all things necessary for the provision of the Services;
- (c) perform the Services for the Regional District with that degree of care, skill and diligence normally utilized by consultants having similar qualifications and performing duties similar to the Services;
- (d) charge only the fees that the Consultant is entitled to under this Agreement for the provision of the Services;
- (e) provide and maintain at the Consultant's expense any insurance that the Consultant is required to provide by law, or that is reasonably necessary to insure against any risks one may assume as a result of entering into this Agreement. Without limiting the foregoing, the Consultant must provide and maintain at the Consultant's expense any insurance specifically required in Schedule "B" to this Agreement. The Consultant must provide satisfactory proof of insurance coverage to the Regional District upon request;
- (f) be registered as an employer with WorkSafeBC, and maintain workers compensation coverage with WorkSafeBC for the Consultant and its employees;

- (g) provide satisfactory proof of the Consultant's WorkSafeBC coverage to the Regional District upon request;
- (h) not subcontract any of its obligations under this Agreement without the Regional District's prior written consent;
- (i) ensure that all of the Consultant's subcontractors, subconsultants and partners that operate an independent business are registered with WorkSafeBC and have Personal Optional Protection coverage;
- (j) not commit or purport to commit the Regional District to the payment of any money to any person, firm or corporation, without the Regional District's prior written consent;
- (k) keep proper and accurate books of account and records of any and all monies received and disbursed in the provision of the Services and make the books of account and records available for inspection and audit by the Regional District or its authorized representatives upon request;
- (l) comply with all laws applicable to the provision of the Services including all applicable health and safety standards, rules, regulations, requirements and codes of practice prescribed under any federal, provincial or local government statute, regulation, bylaw or permit relating in any respect to the Consultant's provision of the Services;
- (m) comply with the Consultant's obligations set out in Schedule "E" to this Agreement; and
- (n) during the Term, not perform a service for or provide advice to any person, firm or corporation which gives rise to a conflict of interest with the duties and obligations of the Consultant to the Regional District under this Agreement.

#### **4.0 CONSULTANT REPRESENTATIONS AND WARRANTIES**

##### **4.1 The Consultant represents and warrants to the Regional District that:**

- (a) if the Consultant is a corporation, it is duly organized, validly existing and legally entitled to carry on business in British Columbia and is in good standing with respect to filings of annual reports according to the records of the Registrar of Companies of British Columbia; and
- (b) the Consultant has sufficient trained staff, facilities, materials, and appropriate equipment in place and available to enable it to fully perform



the Services.

## **5.0 FEES AND EXPENSES**

- 5.1 In consideration for the provision of the Services, the Regional District shall pay to the Consultant the fee for all Services rendered under this Agreement according to the amounts, method and times of payment set out in Part 26.0 and Schedule "A" to this Agreement, plus any Goods and Services Tax applicable.
- 5.2 Unless stated otherwise in this Agreement, all sums of money are in Canadian dollars.

## **6.0 INDEMNIFICATION**

- 6.1 The Consultant shall release, indemnify and save harmless the Regional District, its elected officials, officers, and employees of and from all claims, costs, losses, damages, actions, causes of action, expenses and costs arising from any error, omission or negligent act of the Consultant, or its officers, employees, agents or consultants, in the performance of the Services, or from the Consultant's breach of this Agreement.

## **7.0 TERMINATION**

- 7.1 If the Consultant is in default in the performance of any of its obligations under this Agreement, or if the Consultant becomes insolvent or is assigned into bankruptcy, then the Regional District may terminate this Agreement immediately by written notice to the Consultant.
- 7.2 The Regional District may terminate this Agreement, without cause, at any time by giving not less than forty-five (45) days written notice to the Consultant.
- 7.3 In the event that this Agreement is terminated, the Consultant shall be paid by the Regional District for Services performed to the date of termination and remaining unpaid, less any amounts necessary to compensate the Regional District for damages or costs incurred by the Regional District or any person employed by or on behalf of the Regional District arising from the Consultant's default.

## **8.0 CONFIDENTIALITY**

- 8.1 The Consultant shall not disclose any information, data or confidential information of the Regional District to any person, other than representatives of the Regional District duly designated for that purpose in writing by the Regional District, and shall not use for its own purposes or for any purpose other than for the purpose of providing the Services any such information, data or confidential information it may

acquire as a result of its engagement under this Agreement.

## **9.0 NOTICE**

9.1 Any notice required to be given under this Agreement will be deemed to be sufficiently given:

- (a) if hand/courier delivered, at the time of delivery;
- (b) if sent by email to the email addresses set out below, once it has been electronically transmitted; and
- (c) if mailed and accepted by any government post office and addressed as follows:

if to the Regional District    6300 Hammond Bay Road  
Nanaimo, BC V9T 6N2  
Attention: **<insert project manager name>**  
Email: **<insert email address>**  
Fax: **<insert fax or delete this line>**

if to the Consultant:    **<insert consultant address>**  
Email: **<insert email address>**  
Fax: **<insert fax or delete this line>**

9.2 The parties agree that any changes to the above contact information for notices under this Agreement will be provided to the other party in writing.

## **10.0 TIME**

10.1 Time is of the essence of this Agreement.

## **11.0 BINDING EFFECT**

11.1 This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees.

## **12.0 SURVIVAL OF CERTAIN COVENANTS**

12.1 The covenants and agreements contained in sections 3.1(I), 6.1, and 8.1 shall survive the expiry or earlier termination of this Agreement and those sections are severable for that purpose.

### **13.0 RELATIONSHIP**

- 13.1 The legal relationship between the Consultant and the Regional District is that of an independent consultant and purchaser of services, and, in particular and without limiting the generality of the foregoing, nothing in this Agreement shall be construed so as to render the relationship between the Consultant and the Regional District to be that of employee and employer.
- 13.2 The Consultant is not, and must not claim to be the Regional District's agent for any purpose unless the Regional District gives the Consultant authorization in writing to act as the Regional District's agent for specific purposes that are reasonably necessary to the Consultant's rendering of the Services pursuant to this Agreement.

### **14.0 NO ASSIGNMENT**

- 14.1 The Consultant shall not assign its interest in this Agreement or any right, benefit or obligation conferred or imposed hereunder, in whole or in part, whether by operation of law or otherwise, except with the prior written consent of the Regional District, which may be withheld for any reason.

### **15.0 WAIVER**

- 15.1 The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

### **16.0 ENTIRE AGREEMENT**

- 16.1 This Agreement constitutes the entire agreement between the parties with respect to the matters herein and may not be modified or amended except by subsequent agreement in writing.

### **17.0 LAW APPLICABLE**

- 17.1 This Agreement is to be construed in accordance with and governed by the laws applicable in the Regional District of Nanaimo of British Columbia.

### **18.0 CONFLICT**

- 18.1 In the event of a conflict between a provision in this Agreement and a provision in a schedule attached to this Agreement, the provision in this Agreement shall prevail.

## **19.0 HEADINGS**

- 19.1 The captions or headings appearing in this Agreement are inserted for convenience of reference only and shall not affect the interpretation of it.

## **20.0 INTERPRETATION**

- 20.1 Whenever the singular or masculine is used in this Agreement, the same shall be deemed to include the plural or the feminine or the body politic or corporate where the context or the parties so require.

## **21.0 DISPUTE RESOLUTION**

- 21.1 If the parties to this Agreement are unable to agree on the interpretation or application of any provision in the Agreement, or are unable to resolve any other issue relating to this Agreement, the parties agree to the following process in the order it is set out:

(a) the party initiating the process will send written notice to the other party (the “**Dispute Notice**”); and

(b) the parties will promptly, diligently and in good faith, including the senior management of both parties, take all reasonable measures to negotiate an acceptable resolution to the disagreement or dispute.

- 21.2 If the parties are unable to negotiate a resolution within 30 days of the Dispute Notice, the parties may request the assistance of a mediator agreed to by the parties within 30 days written notice of a request to appoint a mediator by any party, failing which the mediator will be appointed by the B.C. International Commercial Arbitration Centre (BCICAC), and unless the parties agree otherwise, this mediation will follow BCICAC rules and will terminate 60 days after the appointment of the mediator.
- 21.3 The parties will be responsible for their own costs under the dispute resolution process set out in this part 21.0.

## **22.0 COUNTERPARTS**

- 22.1 This Agreement may be executed in counterparts with the same effect as if both parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.



## **23.0 DOCUMENTATION, PATENT AND COPYRIGHT**

- 23.1 **Title.** The title, property rights, moral rights and ownership in and to all present and future materials and information produced or prepared by the Consultant pursuant to this Agreement including but not limited to plans, drawings, specifications, computer discs, listings, computer software and any other material or physical item on which information is stored shall vest in the Regional District without any payment by the Regional District therefor.
- 23.2 **Patent and Copyright.** The title, property rights, moral rights and ownership in and to all copyright in all present and future literary or artistic works including, but not limited to, computer programs and software, plans, drawings and specifications and the title, property rights and ownership in and to all patent rights in any invention developed during the course of or out of providing the Services shall vest in the Regional District without any payment by the Regional District therefor.
- 23.3 **Further Assurances.** The Consultant shall upon request by the Regional District, do all such things and execute and deliver to the Regional District all such documents and instruments as the Regional District shall reasonably require in order to vest title, property rights and ownership in the Regional District and the Consultant shall execute and deliver all such assignments, documents and instruments as may, in the Regional District's opinion, be necessary or desirable for the application or the issuance of any patents, designs or the registration of any copyright.

## **24.0 DELAY IN PERFORMANCE**

- 24.1 Neither the Regional District nor the Consultant shall be deemed to be in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include, but are not limited to abnormal weather conditions, flood, earthquake, fire, epidemic, war, riot and other civil disturbance, strike, lockout, work slowdown and other labour disturbances, sabotage, judicial restraint and inability to procure permits, licenses or authorizations from any local, provincial or federal agency for any of the supplies, materials, accesses or services required to be provided by either the Regional District or the Consultant under this Agreement. If any such circumstances occur, the non-performing party shall, as soon as possible after being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

## **25.0 SEVERABILITY**

- 25.1 The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void portion or provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

## **26.0 PAYMENT**

- 26.1 The Consultant shall submit invoices to the Regional District for Services performed monthly (the "billing period") during which the Services are performed under this Agreement; such invoices to be submitted as soon as practicable after each billing period.
- 26.2 The invoice submitted for each billing period shall be clearly itemized to show the amount of work performed, the billing rates, the reimbursable expenses and the costs incurred to employ any subconsultants. The Consultant shall also provide to the Regional District upon written request such receipts, bills, invoices or other evidence in support of each invoice for a billing period as the Regional District shall request.
- 26.3 Except for the amounts which the Regional District in good faith is disputing and except for any set off which the Regional District may claim and except for invoices (or portions of invoices) in respect of which the Regional District has requested and not received supporting evidence, the Regional District shall pay invoices submitted to it for the Services within 30 days' receipt thereof.
- 26.4 The Consultant shall keep and shall cause any Subconsultants to keep books, records, documents and other evidence relevant to the provision of the Services in accordance with generally accepted accounting principles and practices consistently applied. The Regional District or any of its duly authorized representatives shall for the purpose of audit and examination have access to and be permitted to inspect such books, records, documents and any other evidence for inspection, copying and audit for a period of three years after the termination, for any reason, of this Agreement.

## **27.0 SUBCONSULTANTS**

- 27.1 Subject to section 3.1(h) and 14.1, the Consultant may retain subconsultants to assist in the performance of the Services provided that the terms of this Agreement shall apply to the subconsultants and provided that the Consultant shall be wholly responsible for the professional standards, performance and all actions of the subconsultants. The Consultant shall only employ subconsultants having the appropriate standards, qualifications and experience in their respective areas of expertise.

## **28.0 WORK AND SERVICES OMITTED**

- 28.1 Upon receipt of written direction from the Regional District, the Consultant shall omit Services to be performed under the Agreement. The Consultant shall have no claim against the Regional District for loss associated with any omitted Services.

## **29.0 THIRD PARTY RIGHTS**

- 29.1 Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Regional District and the Consultant.

## **30.0 COLLECTION OF PERSONAL INFORMATION**

- 30.1 Unless the Agreement otherwise specifies or the Regional District otherwise directs in writing, the Consultant may only collect or create Personal Information that is necessary for the performance of the Consultant's obligations, or the exercise of the Consultant's rights, under the Agreement.

Unless the Agreement otherwise specifies or the Regional District otherwise directs in writing, the Contractor must collect personal information directly from the individual the information is about.

Unless the Agreement otherwise specifies or the Regional District otherwise directs in writing, the Contractor must tell an individual from whom the Contractor collects personal information:

- a) the purpose for collecting it;
- b) the legal authority for collecting it; and
- c) the title, business address and business telephone number of the person designated by the Regional District to answer questions about the Contractor's collection of personal information.



**IN WITNESS HEREOF** the Regional District and the Consultant have executed this Agreement as of the day, month and year first above written.

**REGIONAL DISTRICT OF NANAIMO**, by its  
authorized signatory:

Signature: \_\_\_\_\_

Printed Name:

**[NAME OF CONSULTANT (corporation)],** by  
its authorized signatory:

Signature: \_\_\_\_\_

---

Printed Name:

## **SCHEDULE "A"**

### **A.1 SERVICES**

**<Insert scope of services and timelines>**

### **A.2 DELIVERABLES**

**<Insert deliverables and outcomes>**

### **A.3 FEES**

1. The total fee to be paid to the Consultant by the Regional District shall not exceed a maximum of **<insert upset amount>**. This fee includes all expenses, disbursements and GST. Hourly rates outlined in the proposal, billed in quarter hour increments, subject to prior agreement by both parties, may be charged by the Consultant should the scope of the study be modified to include any supplemental work. Rates are firm for the initial term and any subsequent term extensions.
2. If the Contractor receives the Maximum Fee, but has yet to complete the Services, it shall continue to provide the Services until it has provided all of the Services.

## SCHEDULE "B"

### INSURANCE

<modify as required for the project at hand>

1. The Consultant shall, at its own expense, provide and maintain throughout the Term the following minimum insurance in a form acceptable to the Regional District and with an insurer licensed in British Columbia:
  - a. **Comprehensive General Liability** in an amount not less than two million dollars (\$2,000,000.00) inclusive per occurrence against bodily injury and property damage. The Regional District is to be added as an additional insured under this policy.
  - b. **Automobile Third Party Liability Insurance** on all owned or leased vehicles in an amount not less than two million dollars (\$2,000,000.00)
  - c. **Professional Liability Insurance** of \$250,000 per claim and \$1,000,000.00 aggregate.
2. All the foregoing insurance shall be primary and not require the sharing of any loss by any insurer of the Regional District.
3. The Consultant shall provide the Regional District with evidence of all required insurance prior to the commencement of the Services. Such evidence shall be in a form acceptable to the Regional District. When requested by the Regional District, the Consultant shall provide certified copies of required insurance policies.
4. All required insurance shall be endorsed to provide the Regional District with thirty days (30) advance written notice of cancellation or material change.
5. The Consultant hereby waives all rights of recourse against the Regional District with regard to damage to the Consultant's property.
6. The Consultant shall require and ensure that each subconsultant maintain liability insurance comparable to that required above.
7. Unless specified otherwise, the duration of each insurance policy shall be from the date of commencement of the Services until the date of the final payment.

Any deductible amounts in the foregoing insurance are payable by the policyholder and shall be in an amount acceptable to the Regional District.

**SCHEDULE “C”**

**RDN REQUEST FOR PROPOSALS**

**<insert project title>**

Attached

SAMPLE

**SCHEDULE “D”**

**PROPONENT’S PROPOSAL**

**<insert project title>**

Attached

SAMPLE