



REQUEST FOR PROPOSAL

RFP NO. ENG 20-01

I&I Control Plan

**DATE OF ISSUE:
July 6, 2020**

1 INTRODUCTION

- 1.1 The Township of Esquimalt (The Township) is seeking the services of a qualified Consultant to provide consulting services to establish an inflow and infiltration (I&I) master plan.

This document describes the scope of work. We are requesting that you provide us with a cost estimate and a project schedule to carry out that scope of work. Please also include resumes for the proposed project team, and descriptions of 3-5 similar projects that your firm has undertaken.

2 BACKGROUND INFORMATION

- 2.1 The Township's sanitary sewer system comprises approximately:

- 1,000 pipe segments (56 km)
- 2,200 service laterals
- 11 pump stations with associated force mains.

The collection system flows into the Capital Regional District trunk system, or in certain areas into the City of Victoria's sanitary system. The vast majority of the sewer system is mapped and is spatially accurate.

The Township has SCADA data for the existing pump stations, and will provide all available raw data to the Consultant in a digital format. The data consists of the number of pump runs per hour. In addition, the CRD's Core Area I&I Program has converted the SCADA data into sewer flow data for 10 of Esquimalt's PS's, developed GIS catchment maps and calculated I&I rates for each.

- 2.2 The CRD has a number of installations that measure flows from the Township into their system. The sites currently being monitored by the CRD are: Devonshire RD, Kinver ST, Lyall ST, Craigflower RD, and Head ST. CRD bylaws define the allocated "average dry weather flow" and "peak 24 flows" for each of these sites. The CRD has flow reports summarizing how current compare to the allocations.
- 2.3 The Township is part of the CRD Core Area Inflow and Infiltration Management Plan. Part of the plan involves a commitment that, by 2030, average wet daily flow (AWDF) will be no more than 4 times the average dry daily flow. An update to the Core Area I&I Management Plan was published in 2017. At that time, Esquimalt was identified as having AWDF values of between 5 to 9 times higher than average dry daily flow (depending on the sewer catchment.) The 2017 update also identified that Esquimalt would likely have challenges reaching the 4x daily dry flow threshold, if the current expenditures remain constant.
- 2.4 The Township has undertaken significant investigations into the state of the sanitary sewer system, including a program of smoke testing and CCTV inspection of mainlines. Approximately 25% of the sanitary mainlines have been inspected in the past two years, with additional inspections scheduled for 2020. Esquimalt also camera inspected its entire sewer system in the early 2000's and informally smoke tested the entire system using municipal staff around 2010.

The results of the testing, including the CCTV footage, can be made available to the Consultant.

3 PROPOSAL ENQUIRIES AND SUBMISSION

All enquiries are to be in writing. Proposal enquiries, and submission of proposals, are to be addressed to:

Stephen Rennick, P.Eng.
Manager of Engineering
Email: Stephen.Rennick@esquimalt.ca
Telephone: 250-414-7130
Fax: 250-414-7160

Email is the preferable form of communication. Deadline for proposals is **Friday, July 24, 2020, 2 pm Pacific Daylight Time.**

4 SCOPE OF WORK

The following scope of work is contemplated for this study. However, if the Consultant would like to propose an alternative method of delivering an I&I Master Plan, they can do so in their submission.

4.1 Data Review

- Review the results of the Township's smoke testing program
- Correlate any potential cross-connections with the Township's CCTV inspections (where possible)
- Review the Township and CRD sanitary models, CRD sewer allocations for Esquimalt, and identify a sewer catchment to focus the study on.

4.2 Master Plan

- Provide the Township with a list of maintenance activities to be undertaken in the chosen catchment (re-lining of pipes, replacing pipes, installing inspection chambers, etc.) Maintenance activities should be limited to the public realm.
- The plan is to contain a recommended time span for carrying out each activity – which activities are annual, or for activities like pipe replacements or re-lining, what the anticipated lifespan of the activity is.
- Undertake a class C cost estimate for the proposed maintenance activities.
- Provide a methodology for estimating the effectiveness of the maintenance activities.

4.3 Global Cost Estimate

- Based on the detailed, catchment-specific master plan described in section 4.2, extrapolate the costs to produce a Class D estimate to carry out a similar level of maintenance activities throughout the entire Township.
- Township staff will provide the current funding level for carrying out repairs and upgrades. The Consultant will assess how much of the Township can be repaired in a given year based on this funding level, and provide a recommendation for what budget would be required to address all repairs/upgrades within a 10 year period.

4.4 Value Added Services

- Include in your proposal any value added services that are beyond the scope of work that you feel should be included in this project. Please provide a separate price for carrying out the value added services. They may not necessarily form part of the final report, but they will form part of the evaluation process.

5 AVAILABLE INFORMATION

The following information is available from the Township:

- SQL database containing all available attributes for the sanitary segments and manholes including:
 - Pipe length
 - Pipe diameter
 - Pipe material
 - Invert elevations
 - Rim elevations
- Pump station information as follows:
 - Schematic drawings
 - Wet well configurations
 - Pump types
 - Pump curves
 - SCADA data including pump run times
 - Existing flow data as calculated by the CRD I&I Program using SCADA wet well level data and pump start/stop data.
- CRD flow data from monitoring stations at:
 - Devonshire Road
 - Kinver Street
 - Lyall Street
 - Criagflower Road
 - Head Street
- ArcGIS maps and apps containing the attribute data and the spatial data.
- Aerial photographs.
- Zoning and parcel information in map or database
- Partial topographic survey data

- Municipal wide contour lines
- Historic data where available.
- CAD drawing containing all line work for all utilities in the Township.
- There may be additional information available upon request as well.

6 EVALUATION CRITERIA

Proposals will be evaluated as per the following criteria:

Criterion	Weighting
Fee Proposal	40%
Project Team Experience and Capacity	25%
Relevant Project Experience	20%
Project Schedule	10%
References	5%

7 GENERAL INSTRUCTIONS FOR THE PROPONENTS

The following instructions, terms and conditions apply to all Proposals related to this Request for Proposal.

- 7.1 The Corporation of The Township of Esquimalt expressly reserves rights to the following:
- 7.1.1 To accept any Proposal;
 - 7.1.2 To reject any and/or all irregularities in the Proposal submitted;
 - 7.1.3 To reject any and/or all Proposals;
 - 7.1.4 To accept a Proposal that is not the lowest cost;
 - 7.1.5 To make decisions with due regard to quality of service and experience, compliance with requirements and any other such factors as may be necessary in the circumstances;
 - 7.1.6 To work with any Participant who's Proposal, in the opinion of the Management, is in the best interest of The Township;
 - 7.1.7 To cancel or re-issue the RFP.
- 7.2 All Proposals must be submitted to the Engineering Department, by email to the following:

Stephen Rennick, P.Eng.
Engineering Manager
Corporation of the Township of Esquimalt
Stephen.rennick@esquimalt.ca

The Proposal is to be saved as an email attachment in .PDF File format. The body of the email must reference the title of the proposal. Do not include your fee in the body of the email, as the attachments will not be opened until the Proposal closing time:

July 24, 2020 2:00 P.M. local time

- 7.3 A Proposal will not be considered if it is deemed to be incomplete in any fashion or unsigned by the appropriate authority.
- 7.4 Any Proposal received after the hour and date specified will not be considered and will be returned unopened.
- 7.5 Modification of a Proposal after RFP closing date will result in the return of the Proposal.
- 7.6 Any contract that may be entered into as a result of this Proposal will be subject to the laws of the Province of British Columbia.
- 7.7 It is the responsibility of the Proponent to thoroughly examine these documents and satisfy itself as to the full requirements of this RFP.
- 7.8 While The Township has used considerable effort to ensure an accurate representation of information in this RFP, the information contained herein is supplied solely as a guideline for Proponents. The information is not guaranteed to be accurate, nor is it necessarily comprehensive or exhaustive. The Township will assume no responsibility for any oral information or suggestion(s).
- 7.9 Proponents are solely responsible for their own expenses in preparing a response and for subsequent negotiations, if any. If The Township elects to reject all responses, The Township will not be liable to any Proponent for any claims, whether for costs or damages incurred by the Proponent in preparing the response, loss of any anticipated profit in connection with any final contract, or any other matter whatsoever.
- 7.10 All documents, reports, proposal submissions, working papers or other materials submitted to The Township shall become the sole and exclusive property of The Township and as such, are subject to Freedom of Information Legislation. To request documentation confidentiality, proponents must submit a covering letter, with their proposal, detailing the specifics of their request.
- 7.11 Except as expressly and specifically permitted in these General Instructions to Proponents, no Proponent shall have any claim for any compensation of any kind whatsoever, as a result of participating in the RFP, and by submitting a proposal each Proponent shall be deemed to have agreed that it has no claim.
- 7.12 The Proponent warrants that the Proponent is not employed by The Township, nor is an immediate relative of such an employee, if the goods or services to be supplied under this Proposal are intended to be supplied to the department in which such employee works.
- 7.13 If the Proponent is a company, the Proponent warrants that none of its officers, directors or employees with authority to bind the company is an immediate relative of employees of The Township, if the goods or services to be supplied under this proposal are intended to be supplied to the department in which such employee works.

- 7.14 In this section “Immediate Relative” means a spouse, parent, child, brother, sister, brother-in-law, or sister-in-law or a municipal employee.
- 7.15 If any director, officer, employee, agent or other representative of a Proponent makes any representation or solicitation to any Mayor, Councillor, officer or employee of The Township with respect to the Proposal, whether before or after the submission of the Proposal, The Township shall be entitled to reject or not accept the Proposal.
- 7.16 The key personnel named in the Proponents RFP response, shall remain in these key positions throughout the project. In the event that key personnel leave the firm, or for any unknown reason are unable to continue fulfilling their role, the Proponent must propose a suitable replacement, and obtain written consent from The Township. Acceptance of the proposed replacement is at the sole discretion of The Township.
- 7.17 Any and all addendums to this RFP opportunity will be forwarded to all prospective Proponents. It is the sole responsibility of participants to ensure they have provided accurate contact information to receive all addendums prior to RFP closing.
- 7.18 Proponents responding to this competitive process agree to the terms and conditions of the Proposal opportunity as issued by The Township. Submissions shall not contain any alterations to the posted document other than entering data in the spaces provided or including attachments as necessary. Participants who alter the document as issued may be disqualified from this competition.
- 7.19 The Proponent shall indemnify and save harmless The Township and its officials, officers, employees and agents from any claim, lawsuit, liability, debt, demand, loss or judgment (including costs, defence expense and interest) whatsoever and howsoever arising either directly or indirectly as a result of the granting of this contract or the use of The Township’s property or facilities.
- 7.20 The Proponent shall waive all rights or subrogation or recourse against The Township as a result of the granting of this contract or the use of The Township’s property or facilities.
- 7.21 The Proponent shall indemnify and pay The Township promptly, on demand for any loss or damage to The Township’s property and facilities arising either directly or indirectly as a result of the use of the property or facilities under the terms of this contract.
- 7.22 The successful proponent must possess an inter-municipal or non-resident business licence and will be required to provide evidence of same.
- 7.23 The Proponent must be registered and remain in good standing, throughout the terms of this contract with the WorkSafe BC and will be required to provide evidence of same.

7.24 INSURANCE

- 7.24.1 The Proponent shall, at their own expense, provide and maintain until the completion of the Project the following insurance in a form acceptable to The Township with an insurer licensed in British Columbia:

- | | |
|--|----------------|
| 7.24.1.1 Comprehensive General Liability Insurance | \$2,000,000.00 |
| 7.24.1.2 Professional Liability | \$1,000,000.00 |
- 7.24.2 The Proponent shall provide and maintain Comprehensive General Liability Insurance with a minimum limit of \$2,000,000 and Professional Liability with a minimum limit of \$1,000,000 inclusive per occurrence, for bodily injury, death and property damage. Such policy shall include:
- 7.24.2.1 The Township and its officers, employees, officials, agents, representatives and volunteers as Additional Insured
 - 7.24.2.2 Cross liability and a waiver of subrogation or recourse against The Township
 - 7.24.2.3 Thirty (30) days prior written notice of cancellation or reduction in coverage in favour of The Township, to be delivered by registered mail to the attention of the Risk Manager at the address of Municipal Hall.
- 7.24.3 The Proponent shall be responsible for any deductibles or reimbursement clauses within the policy.
- 7.24.4 The Proponent shall provide The Township with a Certificate of Insurance prior to the commencement of the Proponent programs and within two weeks of the expiry date of the policy to evidence renewal of the policy and continuous coverage.
- 7.24.5 The Township shall be under no obligation to verify that the coverage outlined in Clause 9.25.2 is adequate for the needs of the Proponent.
- 7.25 The successful Proponent will enter into a contract in the format as in the attached in Appendix B, including all conditions included in the RFP.
- 7.26 All Proposals shall be irrevocable to remain open for acceptance for at least (60) sixty days after closing time, whether or not another Proposal has been accepted.

7.27 BEST OFFER

7.27.1 The Township will notify the successful Proponent that its Proposal has been selected as the Best Offer.

7.27.2 A contract is formed only when the owner issues a purchase order to the selected Proponent who has submitted the Best Offer.

APPENDIX 1
PROFESSIONAL SERVICES AGREEMENT

PROFESSIONAL SERVICES AGREEMENT

Dated this [Click here to enter date.](#)th day of [Click here to enter month.](#), [Click here to enter year.](#)

BETWEEN:

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

1229 Esquimalt Road
Esquimalt, BC V9A 3P1

("The Township")

OF THE FIRST PART

AND:

[Click here to enter text.](#)
[Click here to enter text.](#)
[Click here to enter text.](#)
[Click here to enter text.](#)

("Consultant")

OF THE SECOND PART

- A. The Township wishes to retain services of the Consultant, for the [Click here to enter text.](#) as specified in the attached Schedules.
- B. The Consultant, in order to perform the services as described in the attached Schedule "A", has the skill, training, and technical knowledge expected of a properly qualified and experienced person in a work environment.
- C. The Consultant is willing to provide the services as described in Schedule "A" for the fees as outlined in Schedule "B".

The Parties agree as follows:

1.0 AGREEMENT

1.1 Attached hereto and forming part of this Agreement are:

- 1. Schedule A – Services
- 2. Schedule B – Terms of Payment
- 3. Schedule C – Certificates of Insurance

2.0 DEFINITIONS

In this Agreement:

- 2.1 “**Fees**” means the fees to be paid by The Township to the Consultant as set in the Terms of Payment, Schedule “B”.
- 2.2 “**Services**” means those services to be provided by the Consultant in accordance with Schedule “A”.
- 2.3 “**PSAB**” means Public Sector Accounting Board.

3.0 TERM

- 3.1 This Agreement commences on [Click here to enter text.](#) and ends upon completion of the Services to the full satisfaction of The Township, which completion shall not be later than [Click here to enter text.](#)

4.0 SERVICES

- 4.1 The Consultant shall provide the Services described in the attached Schedule “A” entitled [Click here to insert name of project.](#) (the “**Project**”).
- 4.2 The Consultant shall comply with all reasonable requirements established by The Township for the performance of the Services, including but not limited to value, security, safety, emergency procedures, and access.
- 4.3 The Consultant shall exercise the degree of care, skill, and diligence normally provided by professional consultants in the performance of services in respect of projects of a similar nature to those services required under this Agreement.
- 4.4 The Township and the Consultant, by agreement in writing, may from time to time, make changes to the Services by altering, adding to, or deducting from the scope of the Services. The time for completion of the Services shall be adjusted accordingly. All Services shall be executed under the conditions of this Agreement.

5.0 INVOICING

- 5.1 Invoices are to be addressed to the Financial Services Department, The Township of Esquimalt, 1229 Esquimalt Road, Esquimalt, B.C. V9A 3P1.
- 5.2 The purchase order number must be shown on all related invoices, shipping papers, transportation bills, packages, packing lists and correspondence.
- 5.3 **Taxes must be shown separately** on the invoice.
- 5.4 The invoices must conform to The Township’s *PSAB* requirements.

6.0 PAYMENT

- 6.1 The Township agrees to pay the Consultant in accordance with the provisions of Schedule “B”.
- 6.2 The Township shall not pay any amount exceeding [Click here to enter text.](#) (excluding applicable taxes) in Canadian funds, unless prior written authorization has been obtained by the Consultant from The Township.

6.3 Where changes have been made to the Services in accordance with Clause 4.4, The Township and the Consultant may adjust the payment schedules accordingly.

7.0 **CONSULTANT**

7.1 The Parties acknowledge that the Consultant is an independent contractor and is not the agent, servant, or employee of The Township. The Consultant shall pay for any required Workers' Compensation coverage for the Consultant and any employee employed by it in the performance of Services under this Agreement and shall be solely responsible to remit any amounts that may be owing to the Government of Canada for GST, Income Taxes, Employment Insurance and Canada Pension Plan contributions.

8.0 **SUB-CONSULTANTS**

8.1 The Consultant may not hire any Sub-consultant without the prior approval of The Township. The Township shall be entitled to inquire as to the credentials and qualifications of the Sub-consultant and satisfy itself that the Sub-consultant is a suitable party to provide services in connection with this Agreement.

8.2 The Consultant shall be responsible for all services under this Agreement even if the Sub-consultants are approved by The Township.

9.0 **INFORMATION AND PROPRIETARY RIGHTS**

9.1 The Township agrees to provide the Consultant with such information as may be reasonably required by the Consultant in the performance of the Services.

9.2 Any information collected or generated by the Consultant in the course of the performance of the Agreement is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), as well as all other regulations and legal requirements governing the management of personal information.

9.3 The Consultant agrees that all data, information, and material provided to the Consultant by The Township are and shall be confidential, both during and after the term of this Agreement. The Consultant acknowledges that this is a fundamental term of this Agreement and the Consultant and its officers, directors, and employees will not directly or indirectly disclose or use at any time any confidential information acquired in the course of performing this Agreement. All provided data, reports, and material shall be returned to The Township upon completion of the Project or termination of the Agreement.

9.4 All material prepared or assembled by the Consultant in connection with this Agreement and the Services shall be the property of The Township. This includes all reports, drawings, sketches, designs, plans, specifications, media copy, logos, questionnaires, tapes, computer applications, photographs, and other materials of any type whatsoever. Proprietary software supplied by the Consultant is excluded.

9.5 Copyright in all such material shall belong exclusively to The Township and, whenever requested by The Township, the Consultant shall execute any and all applications, assignments, and other instruments which The Township deems necessary in order to apply for and obtain the copyright to any part of the work produced by the Consultant and in order to assign to The Township the sole and exclusive copyright in such work.

10.0 LEGAL REQUIREMENTS

10.1 The Consultant shall ensure that the Services comply with all relevant legislation, including codes, bylaws, and regulations, as well as The Township's policies and procedures. Where there are two or more laws, bylaws, ordinances, rules, regulations or codes applicable to the services, the more restrictive shall apply.

11.0 INDEMNITY AND INSURANCE

11.1 The Consultant shall indemnify and save harmless The Township, its officials, officers, agents, and employees against all claims, demands, actions, losses, expenses, costs or damages of every nature and kind whatsoever, including legal fees and disbursements on a solicitor and own client basis, which they may incur or suffer arising directly or indirectly as a result of this Agreement, the use of the Township's property or facilities pursuant to this Agreement, the breach of this Agreement by the Consultant, or the negligence of the Consultant or its officers, agents, or employees in the performance of this Agreement.

11.2 The Consultant shall maintain, in full force and effect with insurers licensed in the Province of British Columbia the following insurance:

1. Commercial General Liability Insurance in respect to the services and operations of the Consultant for bodily injury, including death, and property damage with policy limits of not less than \$2,000,000 per occurrence. The Township, its officers, employees, officials, agents, representatives and volunteers shall be added as an additional insureds.
2. Professional Liability Insurance in respect to the services provided by the Consultant with policy limits of not less than \$1,000,000 per claim.

11.3 Certificates evidencing the existence of the policies required under clause 11.2 shall be provided to The Township by the Consultant prior to commencement of the Services and thereafter upon request and evidence of renewal shall be provided to The Township not less than thirty (30) days prior to the expiry dates of the policies.

11.4 The Consultant shall be responsible for the payment of all premium and deductible amounts relating to the insurance policies required under clause 11.2 and the Consultant shall maintain the required insurance throughout the term of this Agreement.

11.5 The policies of insurance required under clause 11.2 shall contain a cross liability clause and a waiver of subrogation or recourse in favour of The Township, and a clause requiring not less than thirty (30) days prior written notice of cancellation or reduction in coverage, to be delivered by registered mail to the attention of the Director of Financial Services at Municipal Hall.

11.6 Nothing in this Agreement shall constitute a representation or warranty by the Township that the amounts or types of insurance coverage required are adequate for any purpose of the Consultant.

11.7 The Consultant must be registered and remain in good standing with WorkSafeBC throughout the term of this Agreement, and must provide proof of such registration prior to commencement of the Services and thereafter upon request by The Township.

11.8 The Consultant must possess a valid inter-municipal or non-resident business licence, and must provide proof of such business licence prior to commencement of the Services and thereafter at the request of The Township.

11.9 If The Township wishes, because of its particular circumstances, or otherwise to increase the amount of coverage of the aforementioned insurance policy, or to obtain other special insurance coverage, then the Consultant will cooperate with The Township to obtain increased or special coverage at The Township's expense.

12.0 **BREACH OF CONTRACT**

12.1 Where The Township determines that the performance by the Consultant of the obligations in this Agreement is not in accordance with this Agreement, The Township may require the Consultant by written notice to remedy such deficiency at the Consultant's sole expense and within seven (7) days of the giving of notice.

12.2 If such deficiency is not remedied to the satisfaction of The Township, The Township shall have the right, but shall be under no obligation, to remedy the deficiency to its satisfaction at the sole expense of the Consultant.

12.3 The Consultant shall be liable for all costs incurred by The Township to remedy such deficiency including, but not be limited to, all legal fees and disbursements on a solicitor and own client (full indemnity) basis.

13.0 **SUSPENSION OF AGREEMENT**

13.1 The Township may suspend the Consultant's services at any time upon seven (7) days written notice.

13.2 The Township shall pay all Fees due to the Consultant accrued to the time of suspension, but payment of all other Fees may at The Township's sole discretion be suspended.

13.3 The Township shall not be responsible to pay any fees incurred by the Consultant during the period of any suspension unless the Consultant satisfies The Township, before incurring any such fees, of the necessity for the same and provides The Township with such documentation as may be required by The Township in support of the claim for fees.

14.0 **TERMINATION OF AGREEMENT**

14.1 The Township may terminate this Agreement by giving seven (7) days notice in writing, if the Consultant:

1. fails to fully complete the Services within the time limited by the Agreement, or
2. fails to complete the Services to the satisfaction of The Township, or
3. becomes insolvent, or
4. commits an act of bankruptcy, or
5. abandons the Project, or
6. assigns the Agreement without the required written consent, or
7. has any conflict of interest that may, in the opinion of The Township, have an adverse effect on the Project, or
8. fails to correct a deficiency in performance following notice pursuant to clause 12.1.

- 14.2 The Township may terminate this Agreement upon seven (7) days written notice to the Consultant if funds are not available for completion of the Services or if The Township abandons the Project.
- 14.3 The Township shall, in the event of termination of this Agreement, pay to the Consultant all amounts for completed work due to the Consultant in accordance with this Agreement, as well as all reasonable fees incurred up to the date of termination. The Township shall have no further liability of any nature whatsoever to the Consultant for any loss of profit or any other losses suffered, either directly or indirectly, by the Consultant as a result of the termination of this Agreement.
- 14.4 The Consultant may terminate this Agreement upon seven (7) days written notice to The Township if any invoice payable by The Township to the Consultant for services in accordance with the terms of this Agreement remains unpaid for a period in excess of sixty (60) days upon receipt.
- 14.5 The Consultant agrees that termination or suspension of this Agreement or a change to the Services to be provided under this Agreement in accordance with clause 4.4 does not relieve or discharge the Consultant from any obligation under the Agreement or imposed upon it by law with respect to the Services or any portion of Services that it has completed.

15.0 **TERMINATION FOR CONVENIENCE**

- 15.1 The Township may terminate this Agreement at any time upon thirty (30) days written notice to the Consultant, whereupon The Township shall be liable for any Consultant's fees and expenses for satisfactorily completed work up to the date of termination and not thereafter.

16.0 **DISPUTE RESOLUTION**

- 16.1 All claims, disputes, and other matters arising out of this Agreement or relating to a breach may, upon the agreement of both parties, be referred to either:
1. Mediation – voluntary, no risk, non-binding process bringing the parties to a resolution. The mediator will be appointed upon the agreement of both parties;
- or
2. Arbitration – upon the agreement of both parties, be referred to a single arbitrator under the *Commercial Arbitration Act*, and if so referred, the decision of the arbitrator shall be final, conclusive and binding upon the parties. If the parties are not able to agree on an arbitrator, the choice shall be referred to the British Columbia Supreme Court for decision. All costs associated with the appointment of the arbitrator shall be shared equally unless the arbitrator determines otherwise in accordance with the *Commercial Arbitration Act* of British Columbia.

17.0 **FORCE MAJEURE**

- 17.1 Neither party shall be responsible for any delay or failure to perform its obligations under this Agreement where such delay or failure is due to fire, flood, explosion, war, embargo, governmental actions, act of public authority, Act of God, or to any other cause beyond its control except labour disruptions.

17.2 In the event force majeure occurs, the party who is delayed or fails to perform shall give prompt notice to the other party and shall take all reasonable steps to eliminate the cause.

17.3 Should force majeure event last longer than thirty (30) days either party may terminate this Agreement by notice in writing without further liability, expense or cost of any kind.

18.0 **NOTICES**

18.1 Any notices or other correspondence required to be given to an opposite party shall be deemed to be adequately given if sent by mail, fax or email, addressed as follows:

The Corporation of the Township of Esquimalt

Attention: [Click here to enter name.](#)

1229 Esquimalt Road

Esquimalt BC V9A 3P1

Phone: (250) [Click here to enter phone number.](#) Fax: (250) [Click here to enter fax number.](#)

Email: [Click here to enter email address.](#)@esquimalt.ca

To the Consultant at:

[Click here to enter text.](#)

[Click here to enter text.](#)

[Click here to enter text.](#)

[Click here to enter text.](#)

18.2 Such notice shall conclusively be deemed to have been given on the fifth business day following the date on which such notice is mailed, or the day following the day the notice is sent by fax or email.

18.3 Either party may, at any time, give notice in writing to the other of any change of address or other contact information.

GENERAL

19.0 ASSIGNMENT

19.1 The Consultant shall not, without the prior written consent of The Township, which consent may be withheld at the discretion of the Township, assign the benefit or in any way transfer the obligations of this Agreement.

20.0 TIME OF ESSENCE

20.1 The Services must be provided within the time limits as herein specified.

21.0 GOVERNING LAW

21.1 This Agreement shall be deemed to have been made in accordance with the laws of the Province of British Columbia. The Courts of British Columbia shall have sole and exclusive jurisdiction over any dispute or lawsuit between the parties.

22.0 PURCHASE ORDER

22.1 Purchase Order does not supersede and take precedence over the terms and conditions in this Agreement.

23.0 SEVERABILITY

23.1 Should any term or portion of this Agreement be found to be invalid or unenforceable the remainder shall continue to be valid and enforceable.

24.0 WAIVER

24.1 The Township may at any time insist upon strict compliance with this Agreement regardless of past conduct or practice with this or any other consultant.

25.0 EXECUTION

25.1 No work shall be performed by the Consultant until the Agreement has been executed by both parties hereto.

26.0 ENTIRE AGREEMENT

26.1 This Agreement is the whole agreement between the parties and may not be modified, changed, amended or waived except by signed written agreement of the parties.

The parties hereto have executed this Agreement as of the day, month and year first above written.

[Click here to enter consultant name.](#)

Corporation of the Township of Esquimalt

Per: _____

Per: _____

[Click here to enter name.](#)

[Click here to enter name.](#)

[Click here to enter title.](#)

[Click here to enter title & name of department.](#)

Per: _____

Corporate Officer

Schedule "A"

Services

Schedule "B"

Terms of Payment

Schedule "C"

Certificate of Insurance