



REQUEST FOR PROPOSALS

RFP NO. ENG 17-02

GEOTECHNICAL INVESTIGATION VARIOUS ESQUIMALT ROADWAYS

DATE OF ISSUE: APRIL 24, 2017

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1 INTRODUCTION

The Township of Esquimalt (the Township) is inviting qualified geotechnical engineering consultants to submit proposals to carry out geotechnical investigative works on the Township's road network.

2 BACKGROUND

The Corridor Management Program will see the development and implementation of surface and underground asset management plans for road segments. In order to develop these plans, information is required on the various types of infrastructure located within the corridor. The Township has determined through a pavement study, the condition of the asphalt surfaces, on the various road classifications within the Township. Information on the geotechnical condition of the road structure however is limited.

The intent of this project is to look at various locations to determine the geotechnical information necessary to carry out detail road design for the designated road sections (see Map A). This project will also utilize the Consultant's knowledge of the area, existing soil classification maps, etc. to extrapolate general assumptions of the probable geotechnical conditions on surrounding roads. This information will aid in the preliminary design activities as the Corridor Management Program proceeds.

Information from the geotechnical investigation will be used to develop asphalt asset management plans and as such the preference for the Township is to have the geotechnical results completed by mid summer.

3 SCHEDULE

The Proposed schedule for this Work is as follows:

- RFP issued on **April 24, 2017**;
- RFP closes on **May 08, 2017**;
- Professional Services Contract awarded on or before **May 17, 2017**;

4 PROPOSAL ENQUIRIES

All enquiries should be written and directed to:

Will Wieler, ASCT, PMP
Engineering Manager
Email: will.wieler@esquimalt.ca
Telephone: 250-414-7130
Fax: 250-414-7160

5 PROPOSAL REQUIREMENTS

The Proponent shall provide three proposal copies to The Township; proposals shall be clearly laid out to address the items listed below.

- **Title Page:**
 - Reference the RFP number and title, the firm's address, the name and number of the contact person and the date of the Proposal.
- **Transmittal Letter:**
 - A signed letter briefly stating the Proponent's understanding of the services required, benefits they bring to the Project, the commitment to perform the services as requested and confirmed receipt of all addenda, if applicable.
- **Table of Contents:**
- **Section 1 - Executive Summary**
- **Section 2 - Understanding of the Scope of Work:**
 - Develop a narrative demonstrating the Proponent's clear understanding of the objectives and expected deliverables of the Work.
 - Detail any assumptions the Proponent has made preparing the Proposal.
 - Include any other services not identified in the Scope of Work.
 - In the Proposal, the scope of work should be segregated into sections that are clearly linked to the tasks laid out in the Request for Proposal.
- **Section 3 - Work plan and Methodology:**
 - The Proposal should be clear and concise with a methodology and corresponding task list that details the steps to; fully understand all issues and concerns, secure adequate data to be used to carry out the various activities required and address how all aspects of the Scope of Work will be carried out.

- **Section 4 - Schedule:**
 - Provide a schedule that shows completion of the work based on the work plan and methodology provided.
 - The Proponent shall make use of the following assumptions when preparing the schedule:
 - That the Township will require a two week turnaround period when carrying out reviews of the work.

- **Section 5 – Qualifications and Experience:**
 - The Proponent shall provide information on key individuals that will be undertaking this Work. This information should highlight how the various individuals will be involved in the Project and their relevant experience.
 - Provide a minimum of 3 to maximum of 5, past project experience. Information should provide details on past projects the Proponent has completed that are similar to the project and demonstrate the Proponent's suitability.
 - If a sub-consultant/contract is to be utilized, this information should also be supplied.

- **Section 6 – References:**
 - Provide a minimum of 3 to maximum of 5, past project experience. Information should provide details on past projects the Proponent has completed that are similar to the project and demonstrate the Proponent's suitability.
 - Each reference shall contain the following:
 - Name of the contact person.
 - Position of contact person held in the previous project
 - Phone number and email address
 - Project name/description/cost of project

- **Section 7 - Cost Estimate:**
 - Provide the expected costs to complete the project. The costs should be broken down by person, hours for each task listed in the methodology.
 - Provide an upset level for the project.

▪ **Section 8 - Insurance:**

- Provide information that details the Proponent's ability to secure insurance that meet the requirements of the request for proposal.

6 SCOPE OF WORK

The following Major Tasks and their associated tasks need to be completed. These tasks are:

Kick off meeting

- Meet with the Township staff to review the scope of work, schedule and data collection methodology

Review of existing information

- supplement data and soil classifications
- If the applicable utilize soil classification information from the Province, CRD or other sources to make general assumptions on road structure strength along with base materials types.

Investigative Works

- Develop a program for the collection of road structure and base data collection
 - Program is include a logical lateral and longitudinal spacing of test holes or testing apparatus
 - depth of test holes (minimum depth of 1.5 metres or to the depth of native materials depending on which one is greater)
 - information on asphalt thickness
 - information on road structure
 - information on road structure material classification,
 - information on native soil depth
 - Information on native soil classification
- Develop and implement a work plan for the safe collection of information within the road corridor. The Consultant will be responsible for retaining any traffic control personnel necessary to carry out traffic control in order to implement the work plan.
- Detail how investigative test pits will be re-established within the road structure including compaction of material, asphalt depth and sealing to the existing asphalt surface
- List any requirements that the Consultant may need from the Township
- List any assumptions made in determining the scope of the investigative works
- Consultant/contractor is responsible to obtain the necessary permits i.e. road construction permit, BC One Call etc

Analysis

- Retain a qualified soil analysis firm (if required) to carry out testing on collected materials or insitu testing
- Based on the information collected, provide a design detail for each road segment outlined in the Street Inventory List
- Develop Class D cost estimates on a square metre cost for generic costing for implementation of the design detail as per the Street Inventory List

Reporting out

- Hold a minimum of three meetings with the Township at: Kickoff, investigative work and draft/final report preparation
- Provide a draft plan for review of the information collected, assumptions and designs
- Allow for a two week turn around by the Township to review this information
- Based on the feedback provided by the Township prepare a final report on the findings

7 AVAILABLE INFORMATION

The following information is available to the Proponent:

- PDF Plans
- Street Inventory List
- 2012 Pavement Budgeting Model

Professional Services Contract

- Standard Contract for Services – Township of Esquimalt.

8 EVALUATION CRITERIA

The following criteria outlined below will be utilized in the evaluation of the Proposals.

- Cost of Project – 50 points
- Project Methodology and Task list – 20 points
- Schedule – 20 points
- Experience and Capacity– 10 points

9 GENERAL INSTRUCTIONS FOR THE PROPONENTS

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

9.1 The Corporation of The Township of Esquimalt expressly reserves rights to the following:

- 9.1.1 To accept any Proposal;
- 9.1.2 To reject any and/or all irregularities in the Proposal submitted;
- 9.1.3 To reject any and/or all Proposals;
- 9.1.4 To accept a Proposal that is not the lowest cost;

- 9.1.5 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;
 - 9.1.6 To work with any Participant who's Proposal, in the opinion of the Management, is in the best interest of The Township;
 - 9.1.7 To cancel or re-issue the RFP.
- 9.2 All Proposals must be submitted to the Engineering Department, on the 3rd floor of the Municipal Hall. Proposals are to be in one sealed envelope or appropriate packaging, containing THREE (3) copies, addressed to:

**Engineering Manager
Corporation of the Township of Esquimalt
1229 Esquimalt Road
Esquimalt, British Columbia V9A 3P1**

The name and address of the Proponent must appear on the outside of the packaging, the packaging must display the Request for Proposal title, due date and time.

Wednesday, May 10, 2017 2:00 P.M. local time

- 9.3 A Proposal will not be considered if it is deemed to be incomplete in any fashion or unsigned by the appropriate authority.
- 9.4 Any Proposal received after the hour and date specified will not be considered and will be returned unopened.
- 9.5 Telephoned, e-mailed and faxed Proposals will not be accepted.
- 9.6 Modification of a Proposal after the RFP closing date will result in the return of the Proposal.
- 9.7 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.
- 9.8 It is the responsibility of the Proponent to thoroughly examine these documents and satisfy itself as to the full requirements of this RFP.
- 9.9 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).
- 9.10 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.
- 9.11 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.

- 9.12 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.
- 9.13 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.
- 9.14 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.
- 9.15 In this section "Immediate Relative" means a spouse, parent, child, brother, sister, brother-in-law, or sister-in-law or a municipal employee.
- 9.16 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.
- 9.17 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.
- 9.18 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.
- 9.19 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.
- 9.20 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.
- 9.21 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.
- 9.22 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.

9.23 The successful proponent must possess an inter-municipal or non-resident business licence and will be required to provide evidence of same.

9.24 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.

9.25 INSURANCE

9.25.1 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:

9.25.1.1 Comprehensive General Liability Insurance \$2,000,000.00

9.25.1.2 Professional Liability \$1,000,000.00

9.25.2 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:

9.25.2.1 The Township and its officers, employees, officials, agents, representatives and volunteers as Additional Insured

9.25.2.2 Cross liability and a waiver of subrogation or recourse against The Township

9.25.2.3 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.

9.25.3 The Proponent shall be responsible for any deductibles or reimbursement clauses within the policy.

9.25.4 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.

9.25.5 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.

9.26 The successful Proponent will enter into a contract in the format as in the attached in Appendix D, including all conditions included in the RFP.

9.27 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.

9.28 BEST OFFER

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

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

APPENDIX A

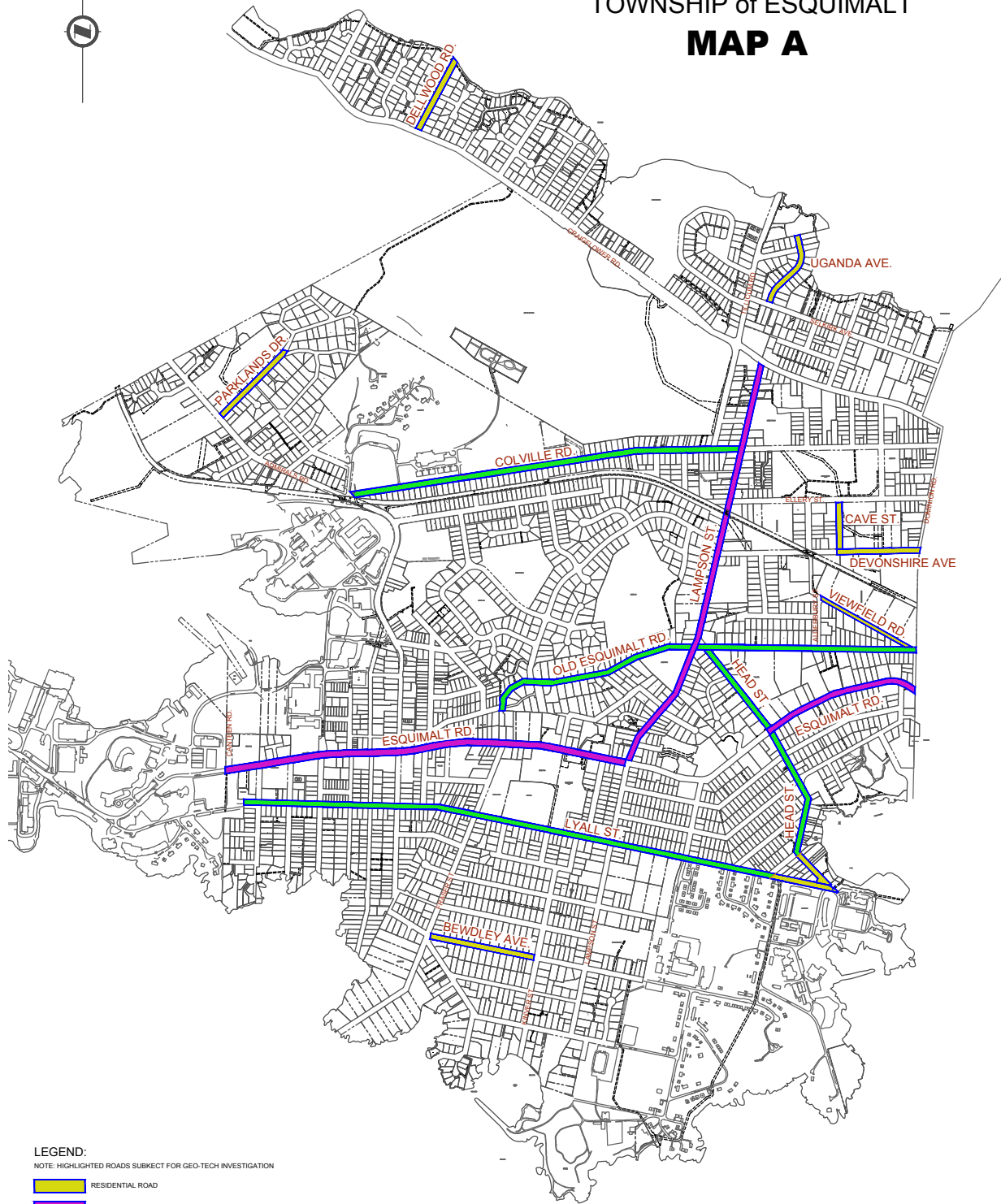
MAP A

APPENDIX B
PROFESSIONAL SERVICES AGREEMENT



Corporation of the
TOWNSHIP of ESQUIMALT

MAP A



LEGEND:

NOTE: HIGHLIGHTED ROADS SUBJECT FOR GEO-TECH INVESTIGATION

-  RESIDENTIAL ROAD
-  MAJOR ROAD
-  RESIDENTIAL COLLECTOR

PROFESSIONAL SERVICES AGREEMENT

Dated this ____ day of _____, 2017

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 (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 set out in the Proposal. 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 HST) 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 of himself and for any employee employed by him 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 HST, 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.
- 8.3 For Sub-consultants retained by the Consultant and approved by The Township, the Consultant shall bind the Sub-consultant to the terms of this Agreement.

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 regulation 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.
- 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 and 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 officers, agents, and employees against all third party claims, demands, actions, losses, expenses, costs or damages of every nature and kind whatsoever which they may incur or suffer as a result of 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. Comprehensive General Liability Insurance in respect to the services and operations of the Consultant for bodily injury and/or property damage with policy limits of not less than \$2,000,000 per occurrence. The Township shall be added as an additional insured.
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.
3. Certificates evidencing the existence of the policies shall be provided to The Township by the Consultant 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.
4. The Consultant shall be responsible for the payment of all premium and deductible amounts relating to the said insurance policies and the Consultant shall maintain the required insurance during the term of this Agreement.
5. 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.
- 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 him by law with respect to the Services or any portion of Services that he has completed.

15. TERMINATION FOR CONVENIENCE

15.1 The Township may terminate this contract 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 addressed as follows:

The Corporation of the Township of Esquimalt
1229 Esquimalt Road
Esquimalt BC V9A 3P1
Phone: (250) 414-7108 Fax: (250) 414-7160

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.

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 contractor.

25.0 **EXECUTION**

25.1 No work shall be performed by the Contractor until the Contract 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 text.](#)

Corporation of the Township of Esquimalt

Project Manager

Director, Engineering and Public Works

Corporate Officer

Schedule "A"

Services

Schedule “B”

Terms of Payment

Schedule "C"

Certificate of Insurance