

District of Sechelt
Request for Proposal #2022-27
Archaeological Consulting Services
District of Sechelt Capital Program

Date of Issue: May 27, 2022

Closing Location:

District of Sechelt
Attention: Procurement Agent
2nd Floor, 5797 Cowrie Street
Sechelt, BC, V0N 3A0

Closing Date and Time:

Proposals must be received on or before June 23, 2022 2:00 pm Pacific Time
at 2nd Floor, 5797 Cowrie St., Sechelt, BC.

Contact:

All inquiries must be directed in writing via email,
stating “RFP #2022-27 Archaeological Consulting Services
District of Sechelt Capital Program —Inquiry” to:
Procurement Agent, District of Sechelt
Email: procurement@sechelt.ca



1. OVERVIEW

The District of Sechelt (the “District”) is requesting Proposals for the provision of archaeological consulting services for a three-year term to support the District of Sechelt Capital Program.

The District of Sechelt is located on the west coast of British Columbia (“BC”) approximately 30 kilometres (“km”) north of Vancouver. The region, known as the Sunshine Coast, includes approximately 3900 square km on the Sechelt Peninsula surrounded by the waters of the Strait of Georgia, Howe Sound, and Sechelt Inlet.

The District of Sechelt is seeking to engage the services of up to three (3) pre-qualified archaeological consulting firms to advise the District about archaeological considerations and permitting processes, hold a multi-assessment permit(s) for three years for the District’s Capital Program, initiate amendments to permits when necessary, and act as the District’s main point of contact with First Nation(s) and any other affected stakeholders for the archaeological, heritage, and cultural resources.

The representatives selected will become part of the District of Sechelt Consultant Roster for pre-qualified archaeologists, and will be utilized on a rotational basis. The call-ups might be direct call-ups, or after quotations have been received from pre-qualified consultant rostered archaeologists. The District will fund the acquisition of parallel multi-assessment permits for rostered archaeologists to conduct work for District projects.

This Request for Proposal (“RFP”) is being issued electronically through BC Bid (www.bcbid.gov.bc.ca), CivicInfo BC (www.civicinfo.bc.ca) and the District’s website (www.sechelt.ca).

Intended Term of Agreement

Successful proponents will enter an agreement with the District for a three (3) year term that could be extended through mutual agreement.

A copy of the Agreement is included for reference in **Attachment A** to this RFP.

Definitions

Throughout this RFP the following additional definitions apply:

“24/7” means twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days per year.

“Addendum” or **“Addenda”** means document(s) issued by the District as a supplement to this RFP that corrects errors, explains inconsistencies, provides clarifications or responses to questions submitted by Proponents or otherwise details or updates information provided in the RFP.

“Agreement” means a legal document and any attachments that bind the District to other parties subject to the terms of the RFP.

“Business Days” means Monday through Friday, inclusive, excluding statutory holidays.

“Closing Date and Time” means the closing date and time as set out on the cover page of the RFP.

“District” means the District of Sechelt, BC.

“MB” means megabyte, which is equal to 1024 kilobytes or 1,048,576 bytes of digital information.

“Must,” “Shall,” or **“Mandatory”** means a requirement of this RFP that must be met for a Proposal to receive consideration.

“Proponent” means an individual, partnership or company that submits, or intends to submit, a Proposal in response to this RFP.

“Proposal” means a response/submission provided by a Proponent in response to this RFP.

“RFP” means this Request for Proposal, including all appendices, schedules and addenda.

“Should” means a requirement having a significant degree of importance to the objectives of this RFP.

“USB stick” means an external flash drive that can be used with any computer that has a USB port.

2. SCOPE OF WORK & SPECIFICATIONS

Successful proponents will be expected to provide the District of Sechelt with practical, professional, and reliable archeological consulting services related to the *Heritage Conservation Act (BC)*. Consultants should demonstrate that they can provide proactive strategies to manage archaeological risk within study areas to ensure the timely and cost-effective completion of capital projects. Proponents must have the ability to direct field work and be a Provincial archaeological permit holder. It is expected that the successful proponent will work closely with the shíshálh Nation and affected stakeholders.

The scope of services falls into the following categories:

Capital Program Planning and Implementation Support Services

Services may be required such as Archeological Overview Assessments (AOA), Preliminary Field Reconnaissance (PFR), and Archeological Impact Assessments (AIA) for the District's Capital Program. As part of the archaeological investigations, requirements might include, but might necessarily be limited to:

- confirm the presence or absence of cultural deposits within the project areas;
- evaluate the vertical and horizontal extent of archaeological deposits as required;
- remote access to Archeological Data (RAAD) GIS mapping and analysis;
- identify and evaluate the magnitude and significance of impacts on archaeological resources that might result from the proposed projects;
- provide viable alternatives for avoiding or managing adverse impacts to archaeological deposits;
- obtain any required permits and/or approvals from the Provincial Archeology Branch, including multi-assessment permits for planned capital projects in the five-year plan and operation/maintenance activities entailing ground disturbance; and,
- if necessary, include archeological requirements, mitigation measures, and chance find protocols in construction contract documents, and coordinate these activities and professionals during construction, if necessary.

Public Works and Municipal Construction Support Services

For projects which advance into the construction stage construction support may be required, such as:

- archeological awareness training for District staff and external contractors conducting project work for the District;
- any data collection and reporting required by the archaeological permit;
- mapping of known or modeled archaeological, culture or heritage sensitive sites and providing this information to First Nations and the Provincial government as required; and,

- field services and site monitoring including but not limited to:
 - arranging and supporting field monitor representatives from each of the permitting First Nations where applicable;
 - site inspection, investigations, and testing;
 - site surveillance of sensitive areas during construction work; and,
 - field monitoring required by the terms of any permit.
- preparation of post-construction reports detailing findings of construction monitoring.

First Nation(s) and Stakeholder Liaison Services

The District will rely on the archaeological consultants for engagement activities, such as;

- liaise with shíshálh Nation; and
- contact individuals and organizations with knowledge of archaeological resources in the study area where appropriate.

Archaeology Advisory Services

The archaeological consultant will guide the District on the integration of best practices in formulating the District's archaeological policies. Some of this guidance will take the form of:

- establishing working groups and incorporate best practices for intergovernmental engagement and associated permitting with local First Nations;
- review and provide feedback on the District's draft archaeology policy;
- advising on strategies and best practices for departmental archaeological policy, and policy development for topics such as:
 - First Nations engagement and collaboration;
 - archaeological resource management;
 - site protection strategies;
 - archaeological procedure documents; and,
 - emergency impact management;
- assisting District staff in archaeological best practices education and training to include:
 - Resources Information Standards Committee (RISC);
 - Chance Find Procedures (CFP);
 - Culturally Modified Tree (CMT) Inventory; and,
 - Cultural heritage education; and,
- preparation of reports and presentations for any of the above.

Location Considerations

Sechelt is located on the Sunshine Coast, 30 kilometers northwest of Vancouver, BC. The Sunshine Coast does not have an overland route to the BC mainland and is dependent on the BC Ferry Corporation for the movement of vehicles or by barge for other items. A passenger ferry service runs between Horseshoe Bay and Langdale in the south and a smaller passenger service between Earl's Cove and Saltery Bay in the north. Scheduled seaplane flights from Vancouver, Richmond and Nanaimo are also available. Proponents should take this into consideration when preparing their Proposals. It may be beneficial for Proponents to conduct a visit of the area before submitting a Proposal.

3. SUBMITTING A PROPOSAL

Proponents are solely responsible for submitting their Proposals on or before **June 23, 2022, 2:00:00 pm Pacific Time** as indicated on the time clock at the District of Sechelt Reception Counter; and to ensure their Proposals are received when, where and as specified in this RFP. The District is not responsible for lost, misplaced or incorrectly delivered Proposals.

Proposals may be delivered in one (1) of the following two (2) methods **only**:

1. **By hand/courier delivery:** Proponents should submit two (2) hard copies and one (1) digital copy of their Proposal on a USB stick (PDF format only) in a sealed envelope/package clearly marked "RFP #2022-27 Archaeological Consulting Services District of Sechelt Capital Program —Proposal." Proposals must be delivered to: The District of Sechelt, 2nd Floor, 5797 Cowrie St., Sechelt, BC;

OR

2. **By Email:** Proponents should submit one (1) digital copy of their Proposal in PDF format only to procurement@sechelt.ca, with the subject line clearly marked "RFP #2022-27 Archaeological Consulting Services District of Sechelt Capital Program —Proposal Attached."

Note that the maximum file size limit is 15MB, or less, and that the District cannot accept zipped files ("filename.zip"). In addition, the District will not consider materials that are posted on websites or stored in a drop box or similar technological means as part of any Proposal

Electronically submitted Proposals will be deemed to be successfully received when the delivered time as noted by the District server is at or before the Closing Date and Time. The District will not be liable for any delay for any reason including technological delays, spam filters, firewalls, job queue, file size limitations, quarantine, etc.

The District will provide a reply email acknowledging receipt of submission. If Proponents do not receive such confirmation, they must assume that Proposals have not been received and should follow up directly with the District.

Proponents warrant that electronic files/media submitted are free, in whole or in part, from any malicious file that could cause damage to the District's technological infrastructure.

The following Proposals will not be accepted or considered:

- Proposals received by facsimile (fax);
- Proposals received in a language other than English; and
- Proposals received after the Closing Date and Time.

Proponent Expenses

Proponents are solely responsible for their own expense in preparing, delivering or submitting a Proposal, and for subsequent negotiations with the District, if any. The District will not be liable to any Proponent for any claims, whether for costs, expenses, damages, losses or liability incurred by the Proponent in preparing its Proposal, loss of anticipated profit in connection with any final Agreement, or any other matter whatsoever.

Acceptance and Rejection of Proposals

The District reserves the right to reject any and all Proposals, or any parts thereof, or to waive any informality or defect in any Proposal if it is in the best interests of the District.

All Proposals, plans and other documents submitted shall become property of the District. Responses to this RFP are considered public information and are subject to disclosure under the *Freedom of Information and Protection of Privacy Act*.

Inquiries Related to this RFP

All inquiries must be directed in writing via email only to the District's Procurement Agent at procurement@sechelt.ca. The subject line must read: "RFP #2022-27 Archaeological Consulting Services District of Sechelt Capital Program —Inquiry."

No other verbal or written instruction or information shall be relied upon by Proponents, nor will they be binding upon the District.

All inquiries regarding this RFP must be received by **June 16, 2022 at 2:00 pm Pacific Time**.

If an Addendum is necessary, it will be posted on the BC Bid, CivicInfo BC and District's websites, and shall become part of the RFP. It is the responsibility of Proponents to ensure that they have retrieved any and all Addenda/Addendum issued prior to the Closing Date and Time.

Withdrawal

Proponents may amend or withdraw their Proposals before the Closing Date and Time by submitting a request in writing via email only to the District's Procurement Agent at procurement@sechelt.ca. The subject line must read: "RFP #2022-27 Archaeological Consulting Services District of Sechelt Capital Program —Amend/Withdrawal."

Upon Closing Date and Time, all Proposals become irrevocable and Proponents cannot change any part of their Proposals, unless clarification is specifically requested by the District.

4. SELECTION CRITERIA

Proposals will be opened in private and will be evaluated against these pre-defined criteria based on an ability to deliver the complete scope of work stated in Section 2.

Proposals will be opened in private and will be evaluated against these pre-defined criteria:

Project Team – 25 points

- List of team members and project role
- CVs of team members including level of education and years of working experience
- Detailed summary of project-specific experience for team members

Relevant Project Profiles – 25 points

- Four projects maximum with references
- Consideration of similar projects in nearby and/or similar sized municipalities
- Experience with archaeological investigation and monitoring program for construction projects

Methods, Workplan, and Scheduling – 50 points

- Strategy to ensure timely completion of necessary processes and seamless integration of archaeological investigation, permitting, and monitoring with the project construction schedule
- Identify best practices for heritage, archaeological, and cultural resource identification, and preservation
- Approach to maintaining positive relationships with First Nations and any other affected stakeholders
- Approach to working with the Provincial Archaeology Branch

5. GENERAL TERMS AND CONDITIONS

FORM OF OFFER

This RFP must be completed in its entirety and it is Proponents' sole responsibility to ensure that their Proposals and the number of copies in the form required are received on time and at the proper location.



Failure to properly complete the requirements of this RFP may cause a Proposal to be rejected. Proposals received after the Closing Date and Time will be returned unopened.

INDEMNITY

The Proponent agrees to indemnify and save harmless the District, its employees, elected officials, contractors and agents from any loss, claim (including any claim of infringement of third-party intellectual property rights), damage award, action, cause of action, cost or expense that the District or any of the District's employees, elected officials, contractors or agents may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends, to the extent the loss is directly or indirectly caused or contributed to:

- any act or omission by the Proponent or by any of the Proponent's agents, employees, officers, directors or subcontractors in connection with this Agreement; or
- any representation or warranty of the Proponent being or becoming untrue or incorrect.

The provisions of this indemnity are paramount to any insurance requirements herein and shall survive the term of this Agreement.

INVOICING & PAYMENTS

Successful Proponents are required to issue invoices to the District for the goods or services that are rendered. Original invoices should be forwarded to the District as follows:

Accounts Payable
District of Sechelt
2nd Floor, 5797 Cowrie Street
PO Box 129, Sechelt, BC V0N 3A0
Email: finance@sechelt.ca

The District has payment terms of net thirty (30) days. Where applicable, the purchase order number assigned, or other meaningful reference/subject matter, must be stated on the invoice, otherwise payment may be delayed.

EXTRAS

No payments for extras will be made unless prior written approval or an approved change order has been issued by the District.

IRREVOCABLE SUBMISSION

Proposals will be open for acceptance for at least ninety (90) days after the Closing Date and Time. The District may request the date to be extended to one hundred twenty (120) days if the process requires more time to execute such as seeking elected officials' approval.

TIME IS OF THE ESSENCE

Time shall be of the essence in any Agreement. The District reserves the right to cancel any goods/services if not fulfilled within a reasonable time and in accordance with the terms and conditions specified herein.

ASSIGNMENT

The Proponent will not assign or transfer its obligations under any Agreement, in whole or in part, without the written consent of the District.

RESERVATION OF RIGHTS

In addition to any other reservation of rights set out in the RFP, the District reserves the right, in its sole discretion, to:

- modify the terms of the RFP at any time prior to the Closing Date and Time, including the right to cancel the RFP at any time prior to entering into an Agreement with a Proponent;
- in accordance with the terms of the RFP, to accept the Proposal(s) that it deems most advantageous to itself;
- waive any non-material irregularity, defect or deficiency in a Proposal;
- request clarification from a Proponent with respect to its Proposal, including clarification as to provisions that are conditional or that may be inconsistent with the specifications in the RFP, without any obligations to make such a request to all Proponents;
- reject any Proposal due to unsatisfactory references or unsatisfactory past performance under Agreements with the District, or any material error, omissions or misrepresentation in the Proposal;
- at any time, reject any or all Proposals; and
- at any time, terminate the competition without award and obtain the goods and services described in the RFP by other means, or do nothing.

ACCEPTANCE OF TERMS

Submission of a Proposal indicates acceptance of all terms and conditions, including those that follow and that are included in all schedules, appendices and any addenda.



PROPONENT'S RESPONSIBILITY

It is the Proponent's responsibility to ensure that the terms and conditions contained herein are fully understood and to obtain any further information required on its own initiative. The District reserves the right to share, with all Proponents, all questions and answers related to the RFP.

EVALUATION

Proposals will be assessed in accordance with, but not limited to, the evaluation criteria outlined in Section 4. The District will be under no obligation to receive further information, whether written or oral, from any Proponent. The District is under no obligation to perform any investigations or to otherwise verify any statements or representations made in a Proposal.

AWARD OF AGREEMENT

The District reserves the right to cancel, award all or part of the scope of work described in this document to a single Proponent or may split the award with multiple Proponents.

The RFP shall not be construed as an Agreement to purchase goods or services and does not commit the District in any way to award an Agreement. The lowest priced or any Proposal will not necessarily be accepted.

INSURANCE & WORKERS COMPENSATION

The Proponent shall provide proof of, and continuously hold for the term of any Agreement, insurance coverage with minimum limits of not less than those stated below:

- Commercial General Liability—not less than \$2 million per occurrence.
- Vehicle Third Party Liability—not less than \$5 million per occurrence.
- Errors and Omissions—not less than \$2 million per occurrence.

Successful Proponents are required to add the District as an "additional insured" on the Commercial General Liability policy of insurance.

Proponents must comply with, and must ensure that any subcontractors comply with, all applicable occupational health and safety laws in relation to the performance of the Proponent's obligations under any Agreement, including the *Workers Compensation Act* in British Columbia or similar laws in other jurisdictions.

Within ten (10) Business Days of any request to do so by the District, the Proponent must provide evidence of the Proponent's compliance with the *Workers Compensation Act*.

COLLUSION

Except as otherwise specified or as arising by reason of the provisions of the RFP, no person, partnership, or corporation other than the Proponent has or will have any interest or share in this Proposal or in any Agreement which may be completed in respect thereof. There is no collusion or arrangement between the Proponent and any other actual or prospective Proponent in connection with responses submitted for this project and the Proponent has no knowledge of the context of other responses and has no comparison of figures or agreement or arrangement, expressed or implied, with any other party in connection with the making of the Proposal.

LIABILITY OF ERRORS

While the District has used considerable efforts to ensure information in the RFP is accurate, the information contained herein is supplied solely as a guideline for Proponents. The information is not guaranteed or warranted to be accurate by the District, nor is it necessarily comprehensive or exhaustive. Nothing in the RFP is intended to relieve Proponents from forming their own opinions and conclusions with respect to the matters addressed in the RFP.

LAW

This RFP and any resulting Agreement(s) are governed by, and are to be interpreted and construed in accordance with the laws applicable in British Columbia, Canada.

CONFLICT OF INTEREST & SOLICITATION

A Proponent may be disqualified if the Proponent's current or past corporate or other interests, or those of a proposed subcontractor, may, in the District's opinion, give rise to an actual or potential conflict of interest in connection with the services described in the RFP. This includes, but is not limited to:

- involvement by a Proponent in the preparation of the RFP;
- a relationship with any employee, contractor, elected official or representative of the District involved in preparation of the RFP;
- participation on the evaluation committee or in the administration of any Agreement; or
- a relationship with any employee, contractor, elected official or representative of the District participating on the evaluation committee or in the administration of any Agreement.

If a Proponent is in doubt as to whether there might be a conflict of interest, the Proponent should consult with the District's Procurement Agent prior to submitting a Proposal. By submitting a Proposal, the Proponent is required to represent any and all circumstances that would give rise to a conflict of interest that is actual or potential in respect of the RFP on Schedule E.

A Proponent must not attempt to influence the outcome of the RFP process by engaging in lobbying activities. Any attempt by the Proponent to communicate for this purpose directly or indirectly with any



employee, contractor or agent of the District, including members of the evaluation committee and any elected officials of the District, or with the media, may result in disqualification of the Proponent.

DEFAULT & TERMINATION

The District at its sole discretion may immediately terminate any Agreement awarded through this process if there is a major violation of agreed terms and conditions or where the Proponent has taken an action against the District. During the Agreement period, should the District experience budget restraint or operational requirements that require a review of any Agreement, the District reserves the right to terminate any Agreement without penalty with three (3) weeks written notice. If key personnel change, the District reserves the right to terminate any Agreement prior to term.

The District may, by Notice of Default to the Proponent, immediately terminate, in whole or in part, any Agreement if the Proponent fails to perform the services required. In the event the District does terminate the Agreement, in whole or in part, as specified above, the District may acquire the goods or services in an alternative method for business continuity and the Proponent shall be liable to the District for any incurred additional costs such as liquidated damages.

FORCE MAJEURE (ACT OF GOD)

Neither party shall be responsible for any delay or failure to perform under its obligations under any Agreement where such delay or failure is due to fire, flood, explosion, war, embargo, governmental action, Act of Public Authority, Act of God, or to any other cause or similar force majeure event beyond its control, except labour disruption. 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.

CONFIDENTIALITY

The Proponent acknowledges that prior to the Closing Date and Time it may be required to enter into a confidentiality agreement with the District to obtain access to confidential materials relevant to preparing a Proposal.

RIGHT TO DO WORK

If the Proponent neglects to perform the work properly or fails to perform any provision of any Agreement, the District, after five (5) days written notice to the Proponent, without prejudice to any other remedy, may make good such deficiencies and may deduct all costs incurred from amounts due to the Proponent.

WORKERS & SAFETY

The Proponent shall employ sufficient workers to perform the work, and will not knowingly employ anyone who is not skilled in the assigned task or who may be a threat to the safety of public, employees or the smooth operation of the District. Anyone deemed to be a threat to safety will be immediately removed at the sole discretion of the District. All equipment used by Proponents must be in good repair, free of hazards of any kind and meet all applicable laws and regulations regarding licensing and operation.

ADVERTISEMENT

Successful Proponents will not use the name of the District or any of the contents of this document in any advertising or publication without prior written consent from the District.

BYLAW

Proponents will ensure compliance with and conform to all health and safety laws, bylaws or regulations of the Province of British Columbia, including without limitation the *Workers Compensation Act* and Regulations pursuant thereto.

6. PROPOSAL REQUIREMENTS

ALL PROPOSALS MUST INCLUDE THE FOLLOWING SCHEDULES COMPLETED IN THEIR ENTIRETY. IF A SCHEDULE, OR SECTION THEREOF, IS NOT APPLICABLE, IT SHOULD BE MARKED WITH “N/A”. ADDITIONAL DOCUMENTATION, SCHEDULES, ETC. CAN BE INCLUDED IN THE PROPOSAL AT EACH PROPONENT’S DISCRETION.

- | | |
|-----------------------------|------------|
| 1. SIGNATURE AND ACCEPTANCE | SCHEDULE A |
| 2. PROPOSED RATE SHEET | SCHEDULE B |
| 3. EXPERIENCE & REFERENCES | SCHEDULE C |
| 4. DISCLOSURE OF INTEREST | SCHEDULE D |

These following additional items must be submitted by successful Proponents within ten (10) Business Days after the award of any Agreement. Failure to do so may result in the Agreement being awarded to an alternate Proponent who can meet the requirements.

5. DISTRICT OF SECHELT BUSINESS LICENSE
6. CERTIFICATE(S) OF INSURANCE
7. WORKSAFE BC (OR EQUIVALENT) CLEARANCE LETTER
8. GST/PST NUMBER, AS APPLICABLE

ATTACHMENT A—SAMPLE Consultant Agreement

This Agreement is included for reference; Proponents are **NOT** required to submit a signed copy with their Proposal.

DISTRICT OF SECHELT CONSULTANT AGREEMENT

THIS AGREEMENT made the XX day of MONTH, YEAR.

BETWEEN:

CONSULTANT NAME
ADDRESS
ADDRESS
(the “Consultant”)

OF THE FIRST PART

- and -

DISTRICT OF SECHELT
2nd FLOOR, 5797 COWRIE STREET
SECHELT, BC, V0N 3A0
(the “District”)

OF THE SECOND PART

WHEREAS the District requested Proposals from interested proponents for the provision of contract services for PROJECT NAME, for PROJECT DESCRIPTION, as described in Schedule A attached to this Agreement for the following Project:

PROJECT NAME

AND WHEREAS the Consultant submitted a proposal, dated MONTH, XX, XXXX, attached to this Agreement as Schedule B;

AND WHEREAS the District wishes to retain the Consultant to deliver the Services as set out in this Agreement;

AND WHEREAS the Consultant has represented to the District that it has the skills and ability to deliver the Services to the District in an effective and efficient manner;

NOW THEREFORE in consideration of the mutual covenants herein contained and the provision of other good and valuable consideration (the receipt and adequacy of which is acknowledged) the Parties hereto agree as follows:

Definitions

- 1.1. **“Additional Services”** means services provided by the Consultant that are outside of the scope of the original Agreement.
- 1.2. **“Agreement”** means this agreement to provide the Services to the District and includes any amendments, supplements, schedules, exhibits or appendices attached.
- 1.3. **“Business Day”** means a day other than a Saturday, Sunday, or statutory holiday in British Columbia. A Business Day will end at 5:00p.m. on that day.
- 1.4. **“Confidential Information”** means any and all material and information whatsoever of the District and/or representatives of the District which has or will come into the possession or knowledge of the Consultant or any Consultant Personnel in connection with or as a result of the relationship of this Agreement including, without limitation, information concerning the District’s past, present, and future clients, suppliers, and Business. For the purposes of this definition, “information” and “material” includes know-how, data, patents, copyrights, trade secrets, processes, techniques, programs, designs, formulae, marketing, advertising, financial, commercial, sales, or programming materials, written materials, agreements, draft agreements, requests for proposals, compositions, drawings, diagrams, computer programs, studies, work-in-progress, visual demonstrations, ideas, concepts, and other data, in oral, written, graphic, electronic, or any other form or medium whatsoever. Notwithstanding the foregoing, Confidential Information does not include the following information:
 - 1.4.1. Information which is in the public domain when it is received by or becomes known to the Consultant or Consultant Personnel or which subsequently enters the public domain through no fault of the Consultant or Consultant Personnel (but only after it enters the public domain);
 - 1.4.2. Information which is already known to or in the possession of the Consultant or Consultant Personnel at the time of its disclosure to the Consultant or Consultant

Personnel by the District and/or representatives of the District and is not the subject of an obligation of confidence of any kind;

1.4.3. Information which is received by the Consultant or Consultant Personnel without an obligation of confidence of any kind from any person (other than the District and/or representatives of the District); and

1.4.4. Information which is disclosed by the Consultant or Consultant Personnel pursuant to a requirement of law or of a governmental agency or by operation of law, provided that the Consultant or Consultant Personnel has disclosed only that part of the Confidential Information which it was required to disclose and has, to the extent required or permitted by law notified the District prior to such disclosure in a timely fashion in order to permit the District to attempt to prevent or restrict such disclosure should it so elect.

For greater clarity, Confidential Information shall include materials and information of a third party in the possession of the District and/or representatives of the District.

1.5. **“Consultant”** means the person or entity identified as such in the Agreement. The term Consultant means the Engineer, or entity licensed to practice in the province of British Columbia and engaged by the District of Sechelt to provide the Consultant’s Engineering Services and to coordinate the provision of the Engineering Services of all other consultants employed by the District. The term Consultant means the Consultant or the Consultant’s authorized representative.

1.6. **“Consultant Personnel”** mean individuals employed, retained by or acting on behalf of the Consultant or a permitted Sub-Consultant of the Consultant.

1.7. **“Disbursement”** has the meaning set out in Section 14.5.

1.8. **“District of Sechelt”**

1.9. or "District" is a public body providing municipal administration and services to the citizens of the District of Sechelt and is incorporated pursuant to the laws of the Province of British Columbia. The term District includes its officers, elected officials or designated representatives.

1.10. **“Instruments of Service”** has the meaning set out in Section 17.1.

1.11. **“Project”** means the project identified on page 1 of this Agreement

1.12. **“Project Schedule”** means the intended start and completion dates for the Services as proposed by the Consultant and approved by the District and as otherwise provided in the Proposal and this Agreement.

- 1.13. **“Proposal”** means the proposal submitted to the District by the Consultant and attached to this Agreement as Schedule B.
- 1.14. **“Services”** means the services to be furnished by the Consultant to the District pursuant to this Agreement, as specified in the scope of work described in Schedule A and as identified in Schedule B attached to this Agreement.
- 1.15. **“Sub-Consultant”** means any registered or licensed Professional Engineer, Architect or any other specialist such as, without limitation, any geotechnical, environmental, legal, accounting, insurance or bonding specialist engaged by the Consultant in connection with the Services.
- 1.16. **“Work”** means the labour, materials, and equipment to be supplied and incorporated into the Project under this Agreement.

2. Schedules

2.1. The following schedules form a part of this Agreement:

- 2.1.1. Schedule A – Terms of Reference
- 2.1.2. Schedule B – Consultant’s Proposal
- 2.1.3. Schedule C – Insurance

3. Scope of Services

- 3.1. The Consultant shall provide to the District the Services in accordance with the terms and conditions of this Agreement and agrees to undertake the scope of work described in this Agreement and perform the consulting services identified in this Agreement for the District.
- 3.2. The scope of work described in Schedule A – Terms of Reference and the consulting services identified in Schedule B may be amended or otherwise modified by agreement in writing by the District and the Consultant and attached to this Agreement and, thereafter, the Services shall be deemed to include the services described in such amended scope of work and/or consulting services.

4. Level of Services

- 4.1. Unless otherwise expressly specified in this Agreement, the Consultant agrees to supply at its sole cost and expense all staff, equipment, accommodations, disbursements and technical assistance necessary to perform the Services to be provided under this Agreement and assume all overhead expenses in connection therewith, to the reasonable satisfaction of the District.
- 4.1.1. The Consultant shall advise the District in a reasonably timely manner of any Sub-Consultant, other than those identified in the Proposal, necessary for the performance of the Services. The Consultant recognizes that the need for such Sub-Consultants would reasonably have been anticipated at the time of submitting the Proposal by a consultant qualified to perform services similar in scope, nature, and complexity to the Services, and the Consultant shall pay for such costs.
- 4.2. The Consultant shall respond promptly to the District's notices of apparent defects and deficiencies in the performance of the Services.
- 4.3. The Consultant shall submit technical memoranda, reports, and drawings to the District as necessary throughout the course of providing the Services and generally keep the District informed in a timely manner by way of written reports on all issues relevant to the Services, including progress of the Services, any anticipated delays, and on decisions required to be made by the District.

5. Commencement of Services

- 5.1. The Consultant shall commence work pursuant to this Agreement as identified in the Terms of Reference, or at the District's direction. The Consultant shall proceed with due dispatch to ensure that its obligations are completed as quickly as reasonably possible, but in any event to be completed before the completion date set out in Schedule A.

6. Additional Services

- 6.1. The Consultant may, at the Consultant's absolute discretion and without invalidating this Agreement, decline to take on any Additional Services requested by the District under this Agreement, which the Consultant decides are beyond the Consultant's normal fields of expertise.
- 6.2. The Consultant shall not undertake any Additional Services without the prior written approval in the form of a Change Order from the District. Prior to proceeding with any Additional Services, the Consultant and the District shall agree on the scope of the Additional Services



to be performed and the basis of payment by the completion of a Contemplated Change Order. The Consultant shall not proceed to provide any Additional Services more than the District-approved scope and cost estimate without the District's prior written approval

7. Standard of Service

7.1. The Consultant shall undertake and perform all Services with such degree of care, skill, and diligence as would reasonably be expected from a consultant qualified in British Columbia to perform services similar in scope, nature, and complexity to the Services. The Consultant warrants and represents that the Consultant is qualified and has sufficient expertise and experience to perform expeditiously and efficiently all the Services in a proper and professional manner to the standard set out above. In performance of Services under this Agreement, the Consultant shall, and shall ensure that all Consultant Personnel and Sub-Consultants:

7.1.1. Act diligently, honestly, in good faith, and in the best interests of the District;

7.1.2. Make reasonable efforts to promote the interests and reputation of the District, to the best of its ability; and

7.1.3. Assist the District in achieving its objectives and goals, in accordance with the customary standard of care.

8. Compliance with Laws

8.1. In performing the Services, the Consultant shall in all respects comply with all applicable laws, rules, codes, regulations, bylaws, orders, and ordinances of authorities having jurisdiction.

9. Consultant's Representative

9.1. Immediately upon execution of this Agreement, the Consultant shall designate in writing a representative to act as the Consultant's representative for the purposes of all communications with the District under this Agreement, such representative to have authority to provide information to, and receive instructions from, the District. The representative shall be available on a reasonably continuous basis during the performance of the Services. For any periods when the representative is absent or otherwise unavailable, the Consultant shall appoint a replacement with equivalent expertise and authority.

10. Confidentiality

- 10.1. The Consultant shall maintain confidentiality on all information, documentation and data provided by the District or otherwise acquired by the Consultant during carrying out the Services. Except with the prior written consent from the District, or as required or permitted by law or an authority having jurisdiction, neither the Consultant, nor any of its employees, officers, agents, representatives, or Sub-Consultants, shall divulge or disclose any of such information to third parties, or use any such information for any purpose other than as required under this Agreement in connection with the Project.
- 10.2. Upon completion or expiration or earlier termination of this Agreement, whichever shall first occur, the Consultant shall return to the District all written or descriptive matter, including but not limited to drawings, papers, documents or any other material, which contains any Confidential Information which is then in the possession or control of the Consultant or any Consultant Personnel and shall remove all digital representations thereof, in any form, from all electronic storage media in its or their possession or control, and shall certify in writing to the District that the Consultant has fully complied with this subsection. For complete clarity:
- 10.2.1. The Consultant shall hold all Confidential Information in trust and strictest confidence for the District and shall not disclose any such Confidential Information, by publication or other means, to any person, company or other government agency nor use same for any other project other than for the benefit of the District as may be authorized by the District in writing;
- 10.2.2. Any request for such approval by the District shall specifically state the benefit to the District of disclosure of Confidential Information;
- 10.2.3. Any use of the Confidential Information shall be limited to the express purposes as set out in the approval of the District;
- 10.2.4. The Consultant shall not, at any time during or after the Term of this Agreement, use any Confidential Information for its benefit or the benefit of anyone other than the District;
- 10.2.5. The Consultant shall not make any copies or partial copies of the Confidential Information except as required for its permitted use as described herein or as otherwise authorized in writing by the District. The Consultant shall take all reasonable steps to protect the Confidential Information to ensure that Confidential Information is not disclosed, distributed or used in violation of the provisions of this Agreement; and,

10.2.6. The Consultant shall ensure that all Consultant Personnel and Sub-Consultants having access to the Confidential Information comply with this Section of the Agreement.

11.Sub-Consultants

- 11.1. If the Consultant retains or employs any Sub-Consultant or other parties to assist in the performance of the Services, then the Consultant shall incorporate into an agreement with, and shall bind such Sub-Consultants and other parties to, all of the terms of this Agreement. The Consultant shall be solely responsible for such Sub-Consultants' and other parties' work, and for the oversight and coordination of such work.
- 11.2. The Consultant is the prime contractor under this Agreement and, as such, no sub-consulting by the Consultant shall relieve the Consultant of any responsibility for the full performance of all obligations of the Consultant under this Agreement. Notwithstanding the approval of any sub-consultants by the District, the Consultant shall assume full responsibility for the performance of the Services in accordance with the terms of this Agreement, including any activities, works, and/or Services provided by sub-consultants and any negligent acts and/or omissions of sub-consultants.
- 11.3. The Consultant shall not sell, assign, convey, transfer or encumber in any manner this Agreement, any part of this Agreement or any of its rights or obligations hereunder without the prior written consent of the District. Any such attempted sale, assignment, conveyance or transfer in violation hereof by the Consultant shall be void and have no force and effect.

12.Key Personnel

- 12.1. The Consultant shall maintain the key personnel as is listed in the Proposal attached as Schedule B, or as otherwise specified in this Agreement, and shall not replace any of such key personnel without the District's prior written agreement, which shall not be unreasonably withheld or denied.

13.Duties of the District

- 13.1. The District shall:
- 13.1.1. Provide the Consultant with a written description of the District's requirements for the Project, including, where applicable, the District's Project budget and Project Schedule.
- 13.1.2. Make reasonable efforts, unless otherwise provided in this Agreement, to disclose and make available to the Consultant, in a timely manner and at no cost to the

Consultant, all information or data in the District's possession or control relevant to the performance of the Services.

- 13.1.3. When requested by the Consultant in writing, give due consideration to engaging, at the Consultant's cost, Sub-Consultants as may be reasonably necessary for the Consultant to undertake the Services. The District shall not have an obligation to retain any Sub-Consultants if requested to do so by the Consultant.
 - 13.1.4. Give timely consideration to requests from the Consultant, including requests for decisions required relating to the Services, and inform the Consultant of the District's decisions and provide all feedback in a timely manner so as not to unduly delay the Consultant's performance of the Services.
 - 13.1.5. Arrange and make provision for the Consultant's reasonable and ready access to District property as necessary for the Consultant to provide the Services.
 - 13.1.6. Give prompt notice to the Consultant whenever the District becomes aware of any apparent defects or deficiencies in the Services.
- 13.2. Immediately upon execution of this Agreement, the District shall designate in writing a representative to act as the District's representative, for the purposes of all communications with the District under this Agreement, such representative to have authority to provide instructions to, and receive information from, the Consultant. The representative shall be available on a reasonably continuous basis during the performance of the Services, and for any periods when the representative is absent or otherwise unavailable, a replacement with equivalent expertise and authority shall be appointed by the District.
- 13.3. The District shall maintain confidentiality on all information, documentation, and data provided by the Consultant that is expressly identified in the Proposal or other provision of this Agreement, as being proprietary or confidential in nature. Except with the prior written consent of the Consultant, or as required by a law or authority having jurisdiction, neither the District nor any of its employees, officers, agents, representatives, or committee members shall divulge or disclose any of such information for any purpose other than as required under this Agreement in connection with the Project.

14. Total Contract Price

- 14.1. In compensation for the Services provided by the Consultant, the District agrees to pay the Consultant the sum of **\$XXXXX.XX** for completed works requested by the District noted in the fees portion in Schedule B. The sum of total payment includes all fees, disbursements, general and overhead expenses, and applicable taxes, with the exception of GST, which (if applicable) shall be included in each invoice submitted to the District and the District agrees to pay such applicable GST to the Consultant.
- 14.2. The fees for Services rendered may be, on written agreement by the parties, either a lump sum fee or a fee based on the actual hours reasonably expended in performing such Services, but shall not exceed the maximum amount specified in the Consultant's proposal in Schedule B. It is anticipated by the District that the fees rendered for this Agreement will be based on the percentage of the Services completed.
- 14.3. In each invoice submitted to the District, the Consultant shall include all applicable taxes. The Consultant shall remit all applicable taxes to the applicable taxing authorities as required by law.
- 14.4. Notwithstanding subsection 14.1 above, the parties may agree on the performance of Additional Services by the Consultant. The District must have approved any such Additional Services in writing, in advance, per Section 6.2 of this Agreement. Failing such approval, no payment shall be made.
- 14.5. The District shall pay the Consultant the Consultant's actual out of pocket costs for the items set out below, as reasonably incurred by the Consultant to perform the Services and substantiated by supporting invoices reasonably acceptable to the District (called in the aggregate the "Disbursements"), but shall not exceed the maximum amount specified in the Consultant's Proposal in Schedule B. Disbursements means the costs of:
- 14.5.1. Reproduction of documents including reports or submissions to the District;
 - 14.5.2. Messenger or courier services, long distance telephone calls, and postage;
 - 14.5.3. Fees paid to any authority having jurisdiction to obtain any required record information or data;
 - 14.5.4. Items specifically identified in Schedule B.

15. Payment

- 15.1. Each month, the Consultant shall submit to the District an invoice for the Consultant's fees and Disbursements as provided in this Agreement. Each invoice shall be accompanied by supporting documentation, including a breakdown of staff level of effort, as may reasonably be required by the District.
- 15.2. The District shall pay such invoices in full within 30 calendar days of receipt. If the District reasonably determines that it does not owe the full amount of the invoice, the District will pay the amount it determines is owed and forthwith provide the Consultant with written rationale for any deduction in the amount of the invoice. Any progress claims for payment made by the Consultant shall not include any aspects of the Services not yet fully and properly performed.
- 15.3. The aggregate of all monthly claims for Services and Disbursements shall not exceed the maximum amount specified in Schedule B.

16. Term

- 16.1. This Agreement shall be deemed to have commenced on MONTH, XX, XXXX, and is subject to earlier termination or extension as provided for in this Agreement, continue in effect until the completion date identified in Schedule A.
- 16.2. The District will have the option to extend this Agreement for satisfactory completion of the Services herein provided by the Consultant and/or for additional work that may be required. The District reserves the right to award any follow-up work to the Consultant without necessitating a separate procurement process.
- 16.3. Unless otherwise expressly provided in Schedule A or any addendum thereto, this Agreement is not deemed to confer upon the Consultant an exclusive right to supply those Services to the District related to this Agreement or otherwise.

17. Ownership

- 17.1. The Consultant agrees that all legal interest and title to work product, which includes but is not limited to any information, records, materials, plans, concepts, drawings, specifications, designs, data, digital models, documents, photographs, surveys, calculations, drawings, analyses, graphs, reports, processes or other subject matter prepared, procured, acquired or produced by the Consultant, or provided by the District for use by the Consultant, in the provision of the Services under the Agreement vests solely in the District ("Work Product").



- 17.2. The Work Product is not to be used for other work and is not to be copied or altered in any manner without the prior written authorization of the District. The Consultant waives all copyright, moral rights and intellectual property rights that it has or may have in the Work Product and shall obtain waivers of such rights from every subconsultant and all of their respective personnel in respect to the Work Product.
- 17.3. Subject to any rights, title or interests expressly granted by this Agreement, neither Party shall acquire any right, title, or interest in or to any intellectual property rights of the other Party. Notwithstanding the foregoing, to the extent that the Work Product incorporates the intellectual property of the Consultant, the Consultant shall provide the District and any entity controlled by the District with an irrevocable, royalty free, non-transferable license to use same in connection with the Work Product.
- 17.4. Upon expiration, conclusion or early termination of this Agreement, the Consultant shall provide the original copies of the Work Product, all Confidential Information, and any copies of same received, created or compiled by the Consultant in accordance with this Agreement, forthwith to the District at the Consultant's sole expense.
- 17.5. The District accepts full responsibility for any District changes made to any Work Product without the prior written consent of the Consultant and shall indemnify and hold harmless the Consultant from any claims arising from use of such District-changed Work Product.

18. Insurance

- 18.1. The Consultant shall obtain and maintain insurance policies as specified in Schedules A and C of this Agreement.
- 18.2. The District shall approve the above insurance policies prior to the commencement of the Services, and the Consultant shall provide the District with satisfactory evidence of such insurance at any time upon request.
- 18.3. All policies shall contain a cancellation clause requiring the insurer to give at least 30 days' written notice to the District prior to any policy cancellation.
- 18.4. Should the Consultant neglect to obtain or maintain insurance as required under this Agreement, or to provide satisfactory evidence of such insurance to the District upon request, the District will declare the Consultant to be in default, in which case the provisions of Section 20.1 shall apply.

19. Indemnity

19.1. Notwithstanding the provision of any insurance coverage by the District, the Consultant shall indemnify and save harmless (but not defend) the District, its officers, employees, successors, assigns, committee members, and representatives from and against any losses, claims, damages, actions and causes of actions, costs, expenses, judgments and proceedings to the extent caused by any error, or negligent or malicious act or omission, by the Consultant or any of its officers, agents, representatives, employees, or Sub-Consultants, except to the proportionate extent of any contributing negligent or wrongful act or omission of the District, or any of its officers, agents, representatives, employees, or committee members. The terms and conditions of this indemnity provision shall survive the completion of all Services and the termination of this Agreement for any reason.

20. Suspension and Termination

20.1. If the Consultant is in default in the performance of any of the Consultant's material duties and responsibilities under this Agreement, then the District may, by written notice to the Consultant, require such default to be corrected. If within 5 Business Days after receipt of such notice, such default is not corrected or reasonable steps to correct such default not have been taken, the District may, without limiting any other right or remedy the District may have, give a further written notice of termination of this Agreement to the Consultant.

20.1.1. In the event of such termination the District shall pay for the cost of the Services rendered and Disbursements occurred by the Consultant pursuant to this Agreement and remaining unpaid as of the effective date of such termination.

20.1.2. Notwithstanding Section 20.1.1, the District may deduct from amounts owing to the Consultant any reasonable additional costs and expenses incurred as a result of the Consultant's default, and if the payments owing to the Consultant are not sufficient to cover such costs, then the Consultant shall immediately pay the District the shortfall.

20.1.3. Unless the District otherwise agrees in writing, and without limiting any other provision of this section, the failure, refusal, or neglect by the Consultant to deliver the Services in a diligent manner within the time frame specified or to promptly replace, remedy, or correct the Consultant's performance and/or Services as required pursuant to this Agreement shall be deemed to constitute an authority for the District to purchase and/or replace the Services in question on the open market. The Consultant shall forthwith reimburse the District for all extra costs and expenses incurred to purchase and/or replace such Services, the District's internal costs, and any delay costs.



- 20.2. If the District fails to make payment to the Consultant in accordance with this Agreement, then the Consultant may, by written notice to the District, require that such default be corrected. If within 5 Business Days after receipt of such notice such default shall not have been corrected, or reasonable steps taken to correct such default, the Consultant may, without limiting any other right or remedy the Consultant may have, give a further written notice to the District to terminate immediately this Agreement.
- 20.2.1. In the event of such termination the District shall pay for the cost of the Services rendered and Disbursements occurred by the Consultant pursuant to this Agreement and remaining unpaid as of the effective date of such termination.
- 20.2.2. In the event of any other default by the District, the Consultant shall only have the right to claim damages, but not the right to terminate this Agreement
- 20.3. The District has the right to suspend or terminate further performance of all or any portion of the Services at any time, for convenience or any other reason, by written notice to the Consultant. Upon receipt of such notice, the Consultant shall immediately discontinue the performance of the Services as instructed, whether being performed by the Consultant or approved Sub-Consultants, except to the extent that those Services are reasonably necessary to comply with the Client's instructions, and shall preserve and protect all Work in progress and all completed Work.
- 20.3.1. In the event of such suspension or termination, the District shall, in addition or any other rights or remedies the Consultant may have, pay the Consultant for that portion of the Services satisfactorily performed or completed to the date of the notice, including Disbursements incurred as provided under this Agreement.
- 20.4. If the Project is terminated by mutual consent of the parties, the District shall pay the Consultant for all Services performed, and for all Disbursements incurred pursuant to this Agreement and remaining unpaid as of the effective date of such termination.
- 20.5. If the Services are suspended by the District at any time for more than 60 calendar days, either consecutive or in the aggregate, through no fault of the Consultant, then the Consultant may, at any time until such suspension is lifted by the District, give written notice to the District of termination due to suspension. If within 15 Business Days after receipt of such notice such suspension has not been lifted, the Consultant may, without limiting any other right or remedy the Consultant may have, give a further written notice to the District to terminate this agreement.
- 20.5.1. In the event of such suspension, the District shall pay for the cost of the Services rendered and Disbursements occurred by the Consultant pursuant to this Agreement and remaining unpaid as of the effective date of such suspension.

21. Dispute Resolution

- 21.1. Both parties shall use reasonable efforts to resolve any dispute or difference of opinion under or in connection with this Agreement by good faith and amicable negotiations on a “without prejudice” basis, and shall provide frank, candid, and timely disclosure of all relevant facts, information, and documentation to facilitate negotiations.
- 21.2. If the dispute or difference of opinion is not resolved to the reasonable mutual satisfaction of the parties within 10 Business Days of the commencement of negotiations, the dispute or difference of opinion shall be submitted to mediation. Both parties agree to not make a request for arbitration or to commence litigation without first attempting the mediation process.
- 21.2.1. The mediator shall be appointed by agreement of the parties and shall be impartial and free from any actual or apparent conflict of interest.
- 21.2.2. Both parties shall share the costs of mediation equally.
- 21.3. If the dispute or difference of opinion is not resolved to the reasonable mutual satisfaction of both parties within 30 calendar days of the appointment of the mediator, or within such longer time as may be mutually agreed to by the parties, the dispute or difference of opinion may, upon the mutual written agreement of the parties, be submitted to binding arbitration in accordance with the laws of the Province of British Columbia.
- 21.4. If the dispute relates to the Consultant’s fees or Disbursements under this Agreement, the District shall be entitled to withhold the amount of fees and/or Disbursements that are in dispute, and the District, in accordance with this Agreement, shall pay the undisputed balance.

22. Notices

- 22.1. All notices under this Agreement shall be in writing and delivered by hand or pre-paid registered mail to the recipient’s designated representative at the address set out on page 1 of this Agreement, and shall be considered to have been received immediately upon delivery, if delivered by hand, or 3 Business Days from the date of mailing, if sent by pre-paid registered mail.

22.2. Either party may, at any time, change its address for notices by giving written notice to the other party in accordance with this Agreement.

23. Assignment

23.1. Neither party shall assign this Agreement, or any portion of this Agreement, without the prior written consent of the other party.

24. Rights and Remedies

24.1. The duties and obligations imposed by this Agreement and the rights and remedies available under this Agreement shall be in addition to and not in substitution for any duties, obligations, rights and remedies otherwise imposed by or available at law or equity.

24.2. No action or failure to act by either party shall constitute a waiver by that party of any of its rights or remedies, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach under this Agreement.

24.3. Nothing contained or implied in this Agreement shall fetter in any way the discretion of the District or the Council. Further, nothing contained or implied in this Agreement shall derogate from or prejudice or affect the District's rights, powers, duties, or obligation in the exercise of its functions pursuant to the Community Charter or the Local Government Act, as amended or replaced, or act to fetter or otherwise affect the District's discretion, and the rights, powers, duties and obligations of the District under all public and private statutes, by-laws, orders and regulations.

25. Conflicts of Interest

25.1. The Consultant declares and confirms that it has no pecuniary or other interest in the business of any third party that would cause a conflict of interest or be seen to cause a conflict of interest in performing the Services. If any such conflict of interest occurs during the term of this Agreement, the Consultant shall immediately declare it in writing to the District and, at the direction of the District, the Consultant shall promptly and diligently take steps to the satisfaction of the District to resolve the conflict.

26.Independent Contractor

26.1. The Consultant shall be, and in all respects be deemed to be, an independent contractor and nothing in this Agreement shall be construed to mean that the Consultant is an employee of the District or that any joint venture or partnership exists between the Consultant and the District.

27.Governing Law

27.1. This Agreement shall be interpreted and construed according to the laws of British Columbia.

28.Interpretation

28.1. Words importing the masculine gender shall include the feminine and neuter, and the singular shall include the plural where the meaning or context so requires and the rest of the sentence shall be construed as if the grammatical and terminological changes thereby rendered necessary had been made.

28.2. All captions, titles, and headings in this Agreement are inserted for convenience and ease of reference only and do not define, limit or enlarge the scope, meaning or intent of any provisions of this Agreement.

29.Enurement

29.1. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective executors, administrators, successors, and assigns.

30.Entire Agreement

30.1. This Agreement constitutes the entire agreement between the parties relating to the matters covered in this Agreement and supersedes all prior agreements, negotiations, understandings, and representations between the parties, whether written or oral, relating to the subject matter hereof unless specifically provided for otherwise in this Agreement.

31.Unenforceability

31.1. If any provision of this Agreement is found to be invalid, illegal, or unenforceable, it shall be severed from this Agreement and any such severance shall not affect the validity, legality, or enforceability of the remaining provisions of this Agreement.

32.Conflicting Provisions

32.1. In the event of a conflict of ambiguity between a provision of Schedule B and another provision of this Agreement, including Schedules A and C of this Agreement, such other provision will prevail over the provision of Schedule B to the extent of the conflict or ambiguity.

33.Force Majeure

33.1 Any default in the performance of this Agreement caused by any of the following events and without fault or negligence on the part of the defaulting party shall not constitute a breach of contract: labour strikes, riots, war, acts of governmental authorities, unusually severe weather conditions or other natural catastrophe, pandemic or any other cause beyond the reasonable control or contemplation of either party. Nothing herein relieves the District of its obligation to pay the Consultant for services rendered. This provision applies, without limitation, to any impacts caused by, resulting from, or arising out of the COVID-19 pandemic, which was declared a worldwide pandemic by the World Health Organization on March 11, 2020.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first written above.

Consultant: **CONSULTANT NAME**

(FULL LEGAL NAME OF CORPORATION, PARTNERSHIP OR INDIVIDUAL)

(AUTHORIZED SIGNATORY)

(AUTHORIZED SIGNATORY)

THE DISTRICT OF SECHELT

(DIRECTOR OF ENGINEERING AND OPERATIONS: Kirn Dhillon)

(DIRECTOR OF FINANCIAL SERVICES: David Douglas)

SCHEDULE A – SERVICES

Terms of Reference

SCHEDULE B – CONSULTANT’S PROPOSAL

B.1 The District shall pay the Consultant as set out in the Consultant’s Proposal.

SCHEDULE C – INSURANCE

C.1 The Consultant shall obtain and maintain for the duration of the Services and for a minimum of 2 year from completion of the Services, at its own cost, **Professional Liability Insurance** with terms and from an insurer satisfactory to the District.

C.1.1 The **Professional Liability Insurance** Policy shall insure the Consultant’s legal liability for errors, omissions, and negligent acts, to the extent of no less than the following:

\$2,000,000.00 per claim
\$2,000,000.00 aggregate

C.2 The Consultant shall obtain and maintain for the duration of the Services, at its own cost, the following insurance with terms and from insurers satisfactory to the District:

- a. **Comprehensive General Liability** coverage, covering premises and operations liability;
- b. **Consultant’s Contingency Liability** coverage, covering operations of Sub-Consultants;
- c. **Completed Operations Liability** coverage;
- d. **Contractual Liability** coverage; and
- e. **Owned and Non-owned Automobile Liability Insurance** coverage

C.2.1 The limits of coverage shall not be less than the following:

- a. Bodily Injury Liability - \$2,000,000.00 each occurrence; \$2,000,000.00 aggregate products and/or completed operations
- b. Property damage Liability - \$2,000,000.00 each occurrence; \$2,000,000.00 aggregate products and/or completed operations
- c. Owned and Non-owned Automobile- \$5,000,000.00 any one accident

C.2.3 A Cross Liability clause shall be made part of the Comprehensive General Liability Insurance.

END OF SAMPLE AGREEMENT

SCHEDULE A—SIGNATURE AND ACCEPTANCE

Failure to complete this schedule, including a proper signature, will result in a Proposal not being considered. The authorizing signatory must be an officer, employee or agent having authority to legally bind the Proponent to the terms of the Proposal.

The Proponent is an ___ Individual ___ Partnership ___ Corporation (check where applicable) Incorporated under the laws of _____.	
Business Information	
Name:	
Address:	Postal Code:
Telephone #:	Website:
Contact Information	
Name:	Telephone #:
Email:	

We certify that we have read and understand the information provided in the RFP and all addenda. The information provided in our Proposal is accurate and we agree to be bound by all conditions, statements, representations and prices offered herein.

Executed this _____ day of _____, 2022.

Signature	
_____	_____
Name (print)	Title (print)
_____	_____
Witness Signature	Witness Name (print)

END OF SCHEDULE A – SIGNATURE AND ACCEPTANCE

SCHEDULE B—PROPOSED RATE SHEET

Rates offered must be provided in this Schedule B, and **must be firm for the entire Agreement period** unless this RFP specifically states otherwise.

Rates shall be in Canadian dollars only and include all costs of performing the requested services, including labour, equipment, fuel, transportation, delivery, and all other costs associated with the scope of services and requirements in this RFP, excluding any sales taxes. Proponents must provide their GST/PST number, as applicable, as a condition of any Agreement.

If additional space is required, please add an attachment to this form.

Scope	Fixed Fee
AOA study and recommendations. Fee to include all disbursements and expenses, excluding GST.	
GST	
TOTAL Fee	

END OF SCHEDULE B—PROPOSED RATE SHEET

SCHEDULE C—EXPERIENCE & REFERENCES

EXPERIENCE

Years of experience Proponent has providing services set out in RFP:
--

Proponents shall provide three (3) separate customers, other than the District, with which they have undertaken work of a similar nature to this RFP. The District will use this information to assess Proponent’s experience in the appropriate fields of work, and may contact the references given below before awarding any Agreement. If additional space is required, please add an attachment to this form.

Reference 1	
Client Name	
Contact Name & Phone Number	
Year & Location of Work	
Contract Value	
Description of Work	
Reference 2	
Client Name	
Contact Name & Phone Number	
Year & Location of Work	
Contract Value	
Description of Work	
Reference 3	
Client Name	
Contact Name & Phone Number	
Year & Location of Work	
Contract Value	
Description of Work	

SCHEDULE C—EXPERIENCE & REFERENCES

QUALIFICATIONS

Please provide the educational credentials, certifications, specialized training, etc. of the key personnel of the Proponent expected to deliver the services requested in this RFP. If additional space is required, please add an attachment to this form.

Key Personnel—Name	Qualifications/Credentials	Year Obtained/Re-certified

END OF SCHEDULE C—EXPERIENCE & REFERENCES

SCHEDULE D—DISCLOSURE OF INTEREST

As a condition of this Proposal, all Proponents shall make full disclosure of any business relationships within the last five (5) years, including any donations/gifts in excess of one hundred dollars (\$100.00), with any employees, contractors, or agents of the District, its elected officials or immediate relatives thereof.

If a Proponent fails to disclose an interest and/or the interest is falsely or insufficiently reported, the District reserves the right to terminate or cancel any Agreement that it may have been entered into with the Proponent.

**Completion and submission of the Disclosure of Interest form is a mandatory part of the RFP.
 Sign and return the form with the Proposal even if there is nothing to disclose.**

If additional space is required, please add an attachment to this form.

Nature of Business Activity/Interest	With Whom?	Dates of Relationship	Completed or Ongoing?	Dollar Value of Interaction

Authorized Signature _____

Date _____

Print Name _____

Print Title _____

END OF SCHEDULE E—DISCLOSURE OF INTEREST