



100 Jensen Avenue East
Parksville, BC V9P 2H3
Telephone: 250 951-2484
engineering@parksville.ca

REQUEST FOR PROPOSAL NO. 5225-20-STM

STORM DRAINAGE MASTER PLAN

The City of Parksville is requesting proposals from qualified Consultants/Consulting firms to complete a Storm Drainage Master Plan.

Attached are the Terms of Reference, Submission and Evaluation Criteria, and Instructions to Proponents which are to be used as the basis for your submission.

ISSUED BY: City of Parksville, Engineering Department

CONTACT PERSON: Shawn Boven, Director of Engineering & Technology Systems

ISSUE DATE: March 21, 2023

CLOSING DATE: **Responses must be received prior to 3 pm Pacific Standard Time, Thursday, April 6, 2023**

Four (4) complete hard copies and one (1) digital copy prepared in PDF format submitted on a USB key required. Digital copies of the proposal received by the closing date with hard copy to follow is acceptable.

Please note, the office is closed from 12 - 1 pm.

CLOSING LOCATION: City of Parksville, Civic & Technology Centre
Engineering Reception Desk, Second Floor
100 Jensen Avenue East
PO Box 1390
Parksville, BC V9P 2H3

Proposals will not be opened publicly. The City appreciates all proposal responses; however, only short-listed or successful candidates will be contacted.

TERMS OF REFERENCE

INTRODUCTION

The City of Parksville is requesting proposals from qualified Consultants/Consulting firms to complete a comprehensive storm drainage master plan.

BACKGROUND

The City of Parksville is a mid-sized municipality located on the east coast of Vancouver Island. The City's population at the last census was 13,642. The surrounding unincorporated areas include an additional 16,500 people. The area is experiencing population growth and Parksville's Council has stated a strong desire to attract young families to the City.

The previous Storm Drainage Master Plan was completed in 2016. The previous plan did not include financial modelling, nor an asset management plan, and a lot more is known with respect to climate change since then.

Of relevance, the City is currently completing a Sanitary Sewer Utility Master Plan, Water Utility System Master Plan, Transportation Master Plan, and a Pavement Condition Assessment.

PROJECT GOALS

Upon completion of this project the City desires the following:

- A master plan that protects property while prioritizing the preservation and restoration of watershed hydrology, prevents stream erosion, and improves fish and wildlife habitat.
- An outcome-based master plan that uses a whole system water balance approach and engages the community.
- A plan that turns the clock back and shifts the ecological baseline upwards by influencing the form and function of the built environment.
- A plan that shifts the thinking of treating stormwater as a nuisance, to treating rainwater as a resource that should be valued.
- A plan that prevents pollution by continuously reducing discharges of contaminants to the environment towards a goal of net zero impact from human activity.
- An accurate computerized network model capable of undertaking analysis at an engineering level while considering the effects of climate change.
- A report or technical memorandums with recommendations for capital replacements and/or improvements over the next 20 years.

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- A report or technical memorandums with recommendations around implementation, operational and maintenance activities and costs, as well as recommended policies, standards or bylaws;
 - An asset management plan for the storm drainage infrastructure.
 - A financial model that informs us with respect to funding the stormwater utility in perpetuity and that reviews our DCC rate structure.

SCOPE OF WORK

The Consultant will develop a master plan that accounts for the following key activities:

Project Familiarization

All relevant members of the Consultant's project team are to familiarize themselves with all pertinent reports, documents, drawings, existing sites and facilities, computer programs, and Engineering, Operations, Finance, and Planning Department file information.

The Team must be able to work with members of our Engineering, Planning, Operations and Finance Departments.

Meetings

The Consultant will be required to host and chair a project start-up meeting with City staff.

During this project, the Consultant will be required to meet with the Engineering, Operations, Planning, and Finance Departments to review model development, undertake facility visits and field calibration, and assess existing and future needs. Subsequent meetings are to be held throughout the project to use the knowledge available from City staff and the consultant.

The Consultant will host a roundtable discussion session with City staff to review the draft report and present the recommended upgrading program and costs.

OBJECTIVES AND PROJECT TASKS

The objective of this request for proposal is to provide the City with an innovative and efficient Consultant who is effective in working in a multi-disciplinary team-based environment to coordinate several technical assessments and provide critical recommendations. Upon selection of the successful proponent, a detailed Contract will be required confirming the deliverables for each assessment.

This stormwater master plan will represent a change in perspective from traditional methods of managing stormwater to a more integrated approach that more closely

resembles the natural water cycle. The new approach views stormwater as a resource and rather than conveying runoff quickly away from properties, the new management strategy will consider the effects of runoff management on the entire watershed. The plan will use a volume-based approach that provides guidelines for creative and sustainable measures of managing runoff bringing together current and future land uses, environmental, physical landscape, and engineering perspectives. The successful proponent is encouraged to apply scientifically defensible analysis in the formation of stormwater management strategies that support the following documents:

- Stormwater Planning: A Guidebook for British Columbia
- Planning for Agriculture Drainage
- Beyond the Guidebook, Context for Rainwater Management and Green Infrastructure, BC
- An Economic rationale for Integrated Stormwater Management, and
- Best Management Practices guide for Stormwater

The main objectives of the plan are:

- Compose a future vision for the watershed that marries the interests of Engineering, Planning, Operations, and the community.
- Prepare a comprehensive inventory of the watershed including confirmation of its boundaries.
- Identify any deficient drainage infrastructure to minimize risks to life and property damage by flooding.
- Quantify the overall health and natural features of the watershed.
- Protect water courses and aquatic life.
- Prevent pollution and maintain / improve water quality.
- Protect and enhance the environment, wildlife, and habitat corridors.
- Identify areas of existing and future residential, commercial, recreational, and agricultural land uses.
- Inform stakeholders of the issues and objectives of the plan.
- Develop a comprehensive and cost-effective strategy for municipal capital improvements, potential projects for community groups and improve community awareness of watershed issues.
- Develop a cost-effective implementation plan.

The following in more detail describes the tasks involved in the development of the stormwater master plan. Some tasks may be limited or eliminated due to the characteristics of the neighbourhoods but are listed below for consideration.

- 1.1 Upon award of project, the successful proponent will meet with the City to review and confirm the scope of work required for the plan completion. At that time, the responsibilities of the City and the successful proponent will be confirmed.
- 1.2 The City will request monthly project status reports including budget updates. It is the responsibility of the consultant to perform the required tasks within the approved budget.

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- 1.3 Relevant reports, data, and other resources that will be made available for this project are summarized below. The successful proponent is expected to review and confirm available information and identify any further data required. Collection of any additional data is the responsibility of the proponent; however, before proceeding with any additional data collection, the successful proponent is expected to confirm the scope with City staff.
 - 1.4 Work with City staff to undertake a public consultation process and receive feedback on public desires for watershed management. Receiving information from the public, technical and stakeholder groups will be a vital step to preparing the Plan. Proponents are invited to suggest the number of stakeholder meetings, open houses, and surveys they believe are necessary to complete the project.
 - 1.5 Collect, review, and interpret climate and infiltration data for use in stormwater analysis and to aid in the development of design guidelines appropriate for the full range of rainfall and/or snowmelt events. Include the development of runoff volume targets and performance indicators for rainfall capture, runoff control and flood risk management. Translate performance targets into design criteria.
 - 1.6 Develop an appropriate stormwater model of the area to perform hydrologic and hydraulic analysis for existing and future conditions for the 5, 10 and 20 year design horizons.
 - 1.7 Evaluate capacities of existing stormwater infrastructure including pipes, inlets (catch basins), outlets, rock pits and overland flow routes. Make recommendations on new infrastructure and/or improvements to existing infrastructure for the development of an adaptive management plan.
 - 1.8 Perform hydrologic analysis of the watershed for existing and future conditions and consideration of runoff quality. This will involve the development of a conceptual model of the groundwater regime. Hydrogeological and geotechnical assessments are required to develop a comprehensive understanding of the surface and subsurface conditions and determination of hydraulic conductivities and potential for ground infiltration. Geologic mapping may be required as a comprehensive understanding of the surficial geology, local aquifers, and water wells will be integral in performing this task. The watershed has strong surface/subsurface water connections and is believed to have some of the more complex modeling issues. This in conjunction with runoff quality will require the development of an appropriate model as well as calibration and verification of the model and validation of parameters.

- 1.9 Provide recommendations for a stormwater monitoring program, including both runoff quality sampling and flow monitoring locations and parameters.
- 1.10 Prepare an inventory of aquatic and terrestrial species and habitats within the watershed boundary. Potential impacts of current and future development and stormwater management should be evaluated, and recommendations provided to minimize any negative impacts.
- 1.11 Determine the extent and quality of environmentally sensitive areas and provide recommendations to facilitate better watershed management and land use decisions. Areas should include rivers, streams, springs, floodplains, riparian areas, wetlands, grasslands, farmland, rocky outcrops, slopes, and forested slopes. Based on findings, formulate alternative land use options for the protection and preservation of natural drainage courses and other environmentally sensitive areas.
- 1.12 Assess natural hazard conditions that may be associated with stormwater runoff concerns, such as landslides. Due to the geology and future land use plans, this task will be limited.
- 1.13 Assess current and future runoff pollutant loadings, accounting for the application of Best Management Practices (BMP). Sophisticated modeling may be needed to analyze the area. It is anticipated that through modeling, recommendations for a monitoring program will be provided to assist in the development of a non-point source pollution management plan.
- 1.14 Assess the implications of climate change on modeling results and on the application of BMP's or other stormwater source control options.
- 1.15 Review information for existing and future land use development (OCP), including determining land area intensity for the watershed catchment area and impervious surface areas within sub-catchments. With a detailed review of land use development plans in conjunction with data collected during the development of the Plan including overland flood routes, formulate alternatives to manage flooding, erosion, and water quality.
- 1.16 Identify a cost-effective mix of publicly and privately implemented stormwater controls and develop an adaptive management plan. The plan should include an implementation plan and timeline that will identify

priority actions, monitoring programs, capital improvements, cost estimates and special financing mechanisms if applicable. Each recommended improvement should include a project summary sheet with a location map, project description and estimated cost. Recommendations should identify priorities of improvements and recommended schedule for completion. This will be a management plan for the watershed over time.

- 1.17 Provide recommendations for consideration in other City planning processes such as the Official Community Plan and Subdivision and Development Servicing Bylaws. Recommendations for more innovative stormwater management practices that more closely mimic the natural hydrological cycle are encouraged.
- 1.18 Provide recommendations for design guidelines to be used by City staff, developers and consultants during future development and planning processes.
- 1.19 Provide a storm drainage master plan that addresses all the above tasks in an organized report complete with figures, tables, field records, modeling parameters, capital projects, cost estimates etc.

The proposal shall clearly identify any tasks listed in the RFP which are being specifically excluded. Even if the tasks outlined above are not reiterated in the proponent's submission, the City reserves the right to have these items completed.

Financial Modelling

Create a financial model in Microsoft Excel that informs us with respect to utility rate setting and funding of the utility in perpetuity and reviews our DCC rate structure.

Asset Management Plan

It is anticipated that future grant funding will be contingent on having an asset management plan in place. Parksville currently does not have an asset management plan for our storm utility, and we intend to use this master plan to fulfill this requirement.

Reports

The Consultant will be required to provide four (4) copies of a draft report and four (5) copies of the final report. Before writing begins on the draft report, the Consultant will prepare and submit for City approval a draft Table of Contents. Allow two (2) weeks for City review and approval of each submission. The report should include maps using the 2022 digital orthophoto underlying the existing/proposed sewer infrastructure.

The final report is to be submitted under the seal of a Professional Engineer registered in the Province of British Columbia

REPORTING STRUCTURE

The project will be led by the Engineering Department, with Shawn Boven acting as the overall Project Manager. The Project Manager will be the primary point of contact for the Consultant.

KEY STAKEHOLDERS

The following individuals are key contacts for this project:

Shawn Boven	Director of Engineering	sboven@parksville.ca
Joe Doxey	Manager of Infrastructure	jdoxey@parksville.ca
Ayla Defoor	Engineering Technologist	adefoor@parksville.ca
Deanne Dieleman	Administrative Assistant	ddieleman@parksville.ca
Randy Hall	GIS Specialist	rhall@parksville.ca
Lindsey Janik	GIS Technician	ljanik@parksville.ca
Belinda Woods	Director of Operations	bwoods@parksville.ca
James Arden	Manager of Operations	jarden@parksville.ca
Mark Adelborg	Supervisor – Roads & Fleet	schurko@parksville.ca
Blaine Russell	Director of Planning	brussell@parksville.ca
Jedha Holmes	Director of Finance	jholmes@parksville.ca
Marlie Boven	Manager of Finance	mboven@parksville.ca
Mike Denton	Capital Asset Accountant	mdenton@parksville.ca

CITY RESPONSIBILITIES

The City legal base, existing maps, as-built drawings GIS data, and 2022 orthophotos will be provided digitally for the consultant as requested.

The City is committed to providing the Consultant with information in a timely fashion and has dedicated resources to this project. Technical submissions will be reviewed as required, and feedback will be submitted in writing.

BUDGET

The City has established a total budget of up to \$150,000 for consultant services to complete this work, which will be inclusive of all costs, excluding GST. The scope of work may have to be adjusted to ensure that the cost of the work remains under budget. The Consultant should identify possible changes in the scope of work proposed, if necessary, to keep this assignment within budget. These scope changes should be priced separately.

DELIVERABLES

The key deliverables include, but are not limited to:

- A computerized hydraulic network model of our storm drainage infrastructure;
- Four (4) copies of a draft table of contents;
- Four (4) copies of the draft report; and
- Four (4) copies of the final report bound with a USB containing an electronic version of all text, tables and drawings in a form that can be manipulated.

Deliverables may vary as the project proceeds, and greater or lesser needs or levels of effort are identified with respect to issues are examined.

TIMELINE

The project shall be completed no later than twelve (12) months after award, or the proponent shall provide a schedule of dates based on interim deliverables.

FUTURE WORKS

The City reserves the right to engage the Consultant chosen from this Request for Proposal for future work related to this project. Future work may consist of updating the model annually and analysis of proposed development projects as the need arises.

SUBMISSION AND EVALUATION CRITERIA

PROPOSAL SUBMISSION

Four (4) hard copies of the proposal and one digital copy on a USB key will be accepted up to **3 pm, Pacific Standard Time, on Thursday, April 6, 2023.**

The proposals are to follow the following format:

1. LETTER OF INTRODUCTION
2. DISCUSSION OF THE PROJECT AND RELEVANT ISSUES
3. METHODOLOGY
4. PERSONNEL PROPOSED AND THEIR SPECIFIC ROLES
5. SCHEDULE - Day one to be the award of the work to the successful Consultant. The schedule is to contain sufficient detail for the City to see how the Consultant intends to address the items discussed.
6. FEES
7. Appendix A – EXPERIENCE - Reference information for each project completed by your firm's proposed personnel similar to the task at hand. The Project Information is to be submitted on a separate page for each project in the following format:
 - a) PROJECT Title (and year completed)
 - b) CLIENT Name & Telephone Number
 - c) CONTACT PERSON Name/Position & Telephone Number
 - d) PROJECT MANAGER
 - e) DESCRIPTION OF PROJECT AND GENERAL COMMENTS
8. APPENDIX "B" - RESUMES OF PROPOSED PERSONNEL
9. APPENDIX "C" - CORPORATE INFORMATION
10. APPENDIX "D" - PROOF OF INSURANCE

Should you require clarification, additional information, or would like to schedule a meeting to discuss this project and your proposed scope of work, please contact:

Shawn Boven, MBA, ASCT

Director of Engineering & Technology Systems

City of Parksville

PHONE: 250 954-4651

EMAIL: sboven@parksville.ca

EVALUATION CRITERIA

The following items should be included in your proposal submissions and ***will be the basis for evaluation***. Information should be provided sequentially as shown:

No assumptions should be made that information regarding the Proponent or its participants, their experience, expertise and performance on other projects is known, other than the documentation and responses submitted by the Proponent.

Cover Letter

0 points

Your proposal should include a Cover Letter containing the following information:

- Should identify the Prime Consultant and any subconsultants that make up the team.
- Should contain company name, address, website, telephone number, email address, and primary contact person.
- Signed by the person or persons authorized to sign on behalf of the company.
- Should acknowledge any addendums issued for this Request for Proposal.

Qualifications

20 points

- Provide qualifications and resume for the Project Manager who has the overall responsibility for the project. The Project Manager should designate the backup person to act on their behalf during holidays, sickness, etc.
- Provide qualifications and resume of the key staff or any key sub-consultants in each discipline who will be involved in the project; their duties, their role in the project and percentage of their time devoted to this project.

Knowledge and Experience

35 points

- The proposal shall demonstrate the knowledge and experience of the individual proposed as Project Manager as well all required specialists and experts that may be necessary to complete the work.
- Teams must demonstrate they have expertise and experience in projects of similar scope, size and complexity (please provide a sample final report which the City will maintain in confidence) and are familiar with challenges of the project.

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- Provide a matrix with a minimum of three (3) projects for each team member, highlighting their previous experience in their area of specialty.
 - Provide a minimum of three (3) references from clients that the Proponent has served, highlighting similar previous experience.

Project Understanding and Methodology

35 points

- Proponents shall outline an approach to the project reflecting a clear understanding of the Scope of Work.
- Demonstrate your understanding of the project by describing key issues and potential resolutions that are appropriate for the Parksville context.
- Outline your abilities to use creative solutions, innovations, methodology or other traits that will allow your firm to successfully complete this project.
- Proponents should provide their methodology and work plan to achieve the program objectives and timelines.
- Provide cost control procedures and the Proponent's method for monitoring the project timeframe, quality of work and budget.

Fee Proposal

5 points

Proponents should provide a fee proposal, preferably in an Excel styled spreadsheet, including a detailed explanation of the makeup of the total cost for this project including:

- breakdown of project tasks, personnel responsible, number of hours, total number of staff hours, hourly rates and total proposal costs;
- submit a schedule of hourly rates should additional services be required;
- list of expected expenses, disbursements and any other probable costs; and
- all applicable value-added taxes.

Sustainability

5 points

The City of Parksville, in support of our community and corporate goals, is committed to ensuring our purchasing decisions achieve best value by seeking supply and service arrangements which provide the optimum combination of

quality, service, price, and sustainability considerations. Our objective is to integrate economic, social, and environmental considerations into our procurement development and award processes.

EVALUATION CRITERIA – GENERAL NOTES

This Request for Proposal asks proponents to provide information about their internal efforts that align with the City's goals.

The Evaluation Committee may apply the evaluation criteria on a comparative basis, evaluating the proposals by comparing one Proponent's proposal to another Proponent's proposal. The Evaluation Committee will not be obligated to select the proposal that offers the lowest price or cost or any proposal at all.

The weighting listed above with the evaluation criteria indicate the relative weighting anticipated by the City and is shown to give general guidance to Proponents in the preparation of proposals. The evaluation criteria will be applied to all proposals fairly and without bias to any Proponent or Proposal and the same criteria and weightings will be applied to all proposals.

The Evaluation Committee reserves the right to not complete a detailed evaluation of a proposal if the Evaluation Committee concludes, having undertaken a preliminary review of the proposal, that the Proponent or proposal as compared to all the proposals is not in contention to be the selected proposal.

INSTRUCTIONS TO PROPONENTS

1.0 SUBMISSION REQUIREMENTS

- 1.1 Please submit four (4) copies of your Proposal up to **3 pm, Pacific Standard time, Thursday, April 6, 2023 (the “Closing Time”)**.

**By Mail: City of Parksville
PO Box 1390
Parksville BC V9P 2H3**

**By Courier: City of Parksville
100 Jensen Avenue East
Parksville BC V9P 2H3**

Attention: Shawn Boven, Director of Engineering & Technology Systems

Proposals must have the project name clearly marked on the outside of the envelope. **Facsimile or email** submissions will not be accepted.

- 1.1 Proposals received and not conforming to Item 1.1 above, will be returned (unopened) to Proponent(s) without consideration.
- 1.2 Proposals, rather than tenders, have been requested in order to afford proponents a more flexible opportunity to employ their expertise and innovation, and thereby satisfy the City's needs in a more cost-effective manner. Proposals should be based on these Instructions and the attached Terms of Reference.
- 1.3 Any addenda to this Request for Proposal will be posted on the BC Bid Portal located [here](#). **It is the sole responsibility of each proponent to make sure that it is in receipt of all addenda prior to the Closing Time and acknowledge receipt of all addenda on their cover letter accompanying its proposal.**
- 1.4 Proponents are solely responsible for any costs or expenses related to the preparation and submission of proposals.
- 1.5 After the Closing Time all proposals received by the City become the property of the City.
- 1.6 Your proposal must be irrevocable and capable of acceptance for a period of ninety (90) days after the Closing Time.
- 1.7 This Request for Proposal is subject to the City's Purchasing Policy which may be viewed [here](#) and the laws of the *Province of British Columbia*.
- 1.8 This Request for Proposal is subject to the terms and conditions of the New West Partnership Trade Agreement (NWPTA) and the Canadian Free Trade Agreement (CFTA).

2.0 DEFINITIONS

- 2.1 The Corporation of the City of Parksville is referred to as the "City".
- 2.2 The entity submitting a proposal is referred to as the "Proponent".
- 2.3 The successful Proponent is referred to as the "Consultant".

3.0 CONFIDENTIALITY

- 3.1 The City recognizes the importance to Proponents that their ideas and plans remain confidential; otherwise, they may be reluctant to disclose such information. The City will endeavour to respect and protect the confidentiality of such information and will treat it as supplied in confidence within the meaning of section 21 of the *Freedom of Information and Protection of Privacy Act*.
- 3.2 By submission of a proposal the Proponent agrees to maintain in confidence all information provided by the City in relation to the Request for Proposal. The contents of the Request for Proposal and any information provided by the City or its consultants in relation to this Request for Proposal may not be used or disclosed by a Proponent for any purpose other than in relation to the proposed or actual submission of a proposal.

4.0 COPYRIGHT OR OWNERSHIP

- 4.1 All documents, reports, working papers or other materials submitted to the City shall become the sole and exclusive property of the City, in the public domain, and not the property of the Consultant. The Consultant will be required to assign any and all copyright to the City. The City will have exclusive rights to copy, edit, publish and re-use all material in connection with this project and as reference material for future works at the City without further compensation to the Consultant.

5.0 PRICING

- 5.1 Your proposal should identify the "Net Total Cost" (which must include materials costs, labour costs, expenses/disbursements, subconsultant(s) fees and expenses and any other charges), **excluding applicable taxes**, so as to be the final cost to the City for the proposed services.
- 5.2 The activities or tasks listed in the attached Terms of Reference are minimum requirements to be undertaken. Proponents may also provide separate pricing on additional requirements they feel would benefit the City in meeting its goal.

5.3 All prices proposed should be in Canadian funds.

6.0 INVOICES

6.1 All invoices paid as a result of this Request for Proposal will be paid as per the City's standard payment terms – net 30 Days.

6.2 All invoices, quoting the City's Purchase Order Number, should be submitted electronically to ap@parksville.ca.

7.0 INDEMNIFICATION

7.1 In carrying out these works the Consultant, and/or their subconsultant(s) will act as an independent Consultant(s). The Consultant must agree to keep the City indemnified against any and all claims, actions or demands that may be brought, made or arise in respect of anything done or omitted to be done by the Consultant or its' employees who shall be and remain at all times and for all purposes, the servants or employees of the Consultant or their subconsultant(s), save and except to the extent that such claims action or demands arise from or relate to the negligence, wrongful act or omission of the City, or any of its officers or employees.

8.0 CONFLICT OF INTEREST

8.1 Proponents must ensure that they are not in a position that may be perceived as a conflict of interest.

9.0 COMPLIANCE WITH LAW

9.1 The Consultant shall comply with, and observe, all applicable laws and relevant regulations of any federal, provincial or municipal government or authority applicable to the supply of the service.

10.0 BUDGET

10.1 Acceptance of any proposal may be subject to budget considerations and available funding.

11.0 CANCELLATION

11.1 The City reserves the right to cancel this Request for Proposal at any time and for any reason, and will not be responsible for any loss, damage, cost or expense incurred or suffered by any Proponent as a result of that cancellation.

11.2 The City reserves the right to cancel the Contract, at its sole and absolute discretion, with 30 days' written notice to the Consultant, and the Consultant will have no rights or claims against the City. The Consultant

will be entitled to be paid for all authorized work and expenses to termination date. Cancellation would not, in any manner whatsoever, limit the City's right to bring action against the Consultant for damages for breach of contract.

12.0 PROPONENT'S EXPENSES

12.1 Proponents are solely responsible for their own expenses in preparing a proposal and for subsequent negotiations with the City, if any. If the City elects to reject all proposals, the City will not be liable to any Proponent for any claims, whether for costs or damages incurred by the Proponent in preparing the proposal, loss of anticipated profit in connection with any final Contract, or any other matter whatsoever.

13.0 LIMITATION OF DAMAGES

13.1 No Proponent shall have any claim for any compensation of any kind whatsoever, as a result of participating in this Request for Proposal, or as a result of the City's rejection of that Proponent's proposal, or as a result of the City's award of a Contract to another Proponent or no Proponent and by submitting a proposal each Proponent shall be deemed to have agreed that it has no claim.

14.0 RESPONSIBILITY OF PROPONENTS

14.1 Each Proponent is responsible for informing themselves as to the contents and requirement of this proposal. Each Proponent is solely responsible to ensure that they have obtained and considered all information necessary to understand the requirements of the proposal and to prepare and submit their proposal. The City will not be responsible for any loss, damage or expense incurred by a Proponent as a result of any inaccuracy or incompleteness in this proposal, or as a result of any misunderstanding or misinterpretation of the terms of the proposal on the part of any Proponent.

14.2 If a Proponent is in doubt as to the true meaning of any part of this Request for Proposals, or finds omissions, discrepancies or ambiguities, a request for interpretation or correction may be submitted to the Project Manager and, if deemed necessary by the City, an addendum will be issued in accordance with section 1.3. This procedure also applies should the City, of its own accord, wish to expand or delete any part of this Request for Proposal.

15.0 ACCURACY OF INFORMATION

15.1 The City makes no representation or warranty, either expressed or implied, with respect to the accuracy or completeness of any information

contained in or referred to in this Request for Proposal or any record or document associated with it.

16.0 SOLICITATION

16.1 If any director, officer, employee, agent or other representative of a Proponent makes any representation or solicitation to the Mayor, any Councillor, officer or employee of the City with respect to the Proposal, whether before or after the submission of the Proposal, the City shall be entitled to reject the Proposal.

17.0 PUBLICITY

17.1 The Consultant shall not make any statement of fact or opinion regarding any aspect of the Request for Proposals or resulting Contract to the media or any member of the public without the prior written authorization of the City.

17.2 All publicity relating to this project is subject to the approval of the City and no mention of the Project in advertising or articles in any publication will be permitted unless authorized in advance, in writing by the City.

18.0 EVALUATION PROCESS

18.1 An evaluation committee made up of City representatives will be reviewing proposal submissions. The City reserves the right to accept any or none of the proposals submitted and will evaluate proposals based on the best value offered to the City and not necessarily the lowest price.

18.2 The City reserves the right to conduct pre-selection meetings with Proponents. The City further reserves the right to conduct post-selection meetings in order to correct, change or adapt the selected proposal to the wishes of the selection committee.

18.3 The Proponent acknowledges that the City shall have the right to reject any and all proposals for any reason or to accept any Proposal which the City in its sole unrestricted discretion deems most advantageous to itself, including any Proposal that does not contain the content or form required by this Request for Proposal, or for failure to comply with the process for submission noted in this Request for Proposals. By submitting a proposal, the Proponent acknowledges the City's right under this clause and absolutely waives any right of action against the City for the City's failure to accept the Proponents' proposal whether or not such right of action arises in contract, negligence or any other cause of action.

18.4 The lowest or any proposal will not necessarily be accepted.

19.0 CONTRACT AWARD AND EXECUTION

- 19.1 The Request for Proposal and proposal of the selected Proponent shall become part of any contract initiated by the City. The selected Proponent shall be expected to enter into a contract that is substantially the same as the sample contract included. In no event should a Proponent submit its own standard contract terms and conditions as a response to this Request for Proposal. The Proponent should submit with its proposal any exceptions or contract deviations that its firm wishes to negotiate.
- 19.2 The Consultant will be required to enter into a written contract, in a form approved by the City Solicitor. The attached Appendix A – Sample Professional Services Agreement will form the basis of the contract from this Request for Proposal.

20.0 INQUIRIES

- 20.1 All enquiries regarding this Request for Proposal must be directed in writing to Shawn Boven, Director of Engineering & Technology Systems, via email to sboven@parksville.ca. All questions should be received at least five (5) days prior to the closing time and date
- 20.2 The City will not be responsible for, and the Proponent shall not rely upon, information, instructions or clarifications given to a Proponent other than in the form of a written addendum issued by the City. Without limiting the foregoing, any verbal representations, promises, statements or advice made by any employees of the City shall not be relied upon.

Appendix A
Sample Professional Services Agreement



City of
Parksville

PROFESSIONAL SERVICES AGREEMENT

for the

Completion of a Storm Drainage Master Plan

THIS AGREEMENT dated for reference the [redacted] day of April, 2023.

BETWEEN:

CITY OF PARKSVILLE

PO BOX 1390

100 JENSEN AVENUE EAST

PARKSVILLE, BC V9P 2H3

(The “**City**”)

AND:

[redacted]
[redacted]
[redacted]

(the “**Consultant**”)

WHEREAS:

- A.** The City wishes to engage the Consultant for the provision of services described in this Agreement; and
- B.** The Consultant has agreed to perform the said services in accordance with the terms and conditions set out in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the terms, covenants, and conditions herein contained, and in consideration of the payment of one (\$1.00) dollar by the City to the Consultant (the receipt and sufficiency the Consultant acknowledges) the parties hereto, hereby covenant and agree as follows:

1.0 SERVICES

1.1 Services

The City hereby retains the Consultant to provide the services for the project as described in the Terms of Reference in **Schedule "A"**, which is attached hereto and incorporated herein, for the fulfillment and completion of this Agreement (the "Services" and the "Project", respectively). **Schedule "A"** shall include, but is not limited to: a brief project description, objectives, identification of key employees and Subconsultants, project phases (if applicable), and task descriptions.

1.2 Amendment of Services

The City may, from time to time, by written notice to the Consultant, make changes to the Services, and the Consultant shall carry out the Services subject to such changes, within the time limits agreed to by the parties, and may include an increase or decrease of the fees and/or schedule. Such changes to the Services shall be by written amendment to this Agreement, signed by the City and the Consultant, prior to commencement of any such changes to the Services. All other terms of this Agreement shall apply to any changes of the Services. The City shall not be liable to pay additional compensation to the Consultant for any changes to the Services performed without prior written authorization of such changes in the form of an amendment.

1.3 Supplemental and On-Call Services

The Consultant shall, if requested in writing by the City, perform supplemental services including on-call, as-needed services, (the "Supplemental Services") at the hourly rates shown in **Schedule "B"**, which is attached hereto and incorporated herein. The Consultant shall not provide any Supplemental Services in excess of the Services unless previously authorized in writing by the City, and attached to this Agreement as a schedule by way of amendment. All other terms of this Agreement shall apply to any Supplemental Services.

1.4 Standard of Care

The Consultant shall perform the Services and any applicable Supplemental Services: (a) with the degree of care, skill, and diligence normally applied in the performance of services of a similar nature and magnitude to those contemplated by this Agreement at the time and place the Services are rendered; (b) in accordance with current professional practices and industry standards; and (c) in conformance with all applicable laws, rules, regulations, ordinances, codes, and orders of governmental bodies, agencies, and courts having jurisdiction applicable at the time the Services are rendered.

2.0 AGREEMENT TERM

2.1 Delivery Schedule

Services shall be completed by the Consultant in accordance with the delivery schedule shown in **Schedule "C"** (the "Delivery Schedule"), which is attached hereto and incorporated herein. The parties may from time to time, by amendment, alter the Delivery Schedule. The Consultant acknowledges that time is of the essence with respect to the provision of Services, and accordingly, the Consultant shall provide the Services pursuant to the Delivery Schedule or any applicable amendment.

2.2 Recovery Schedule

If at any time the Consultant discovers that the Delivery Schedule cannot be met, the Consultant shall immediately advise the City in writing and provide a revised Delivery Schedule for the City's review and approval. The revised Delivery Schedule shall be attached to this Agreement as an amendment.

2.3 Authorization to Proceed

Upon receipt by the City from the Consultant of the insurance certificate, business licence confirmation and WorkSafeBC registration number, as required by this Agreement (and any further documents that may be required prior to issuance of a purchase order, as may be set out in this Agreement), the City shall issue a purchase order to the Consultant (the "Purchase Order"). Issuance of the Purchase Order authorizes the Consultant to proceed with the Services, and the Consultant shall not proceed with any Services unless they have received a Purchase Order from the City.

2.4 Agreement Term

The term of this Agreement shall begin on the reference date on page 1 of this Agreement and, unless previously terminated, this Agreement shall expire three months from the date that the City makes final payment to the Consultant for Services rendered (the "Term"), except for provisions in this Agreement that shall survive the termination or expiry of this Agreement.

2.5 Supplemental and On-Call Services

The Consultant shall perform any Supplemental Services as set out in Section 1.3 in a timely manner or in accordance with agreed-upon completion dates or time periods.

3.0 FEES FOR SERVICES

3.1 Maximum Authorized Expenditure

In consideration of the performance of the Services, the City shall pay the Consultant a maximum total fee, not to exceed [written number]

(\$) dollars, which amount includes disbursements but excludes applicable federal and provincial taxes, (the "Maximum Authorized Expenditure"), as detailed in **Schedule "B"** which is attached hereto and incorporated herein. Progress payments shall be based on work completed to date, based on tasks outlined in the Services identified in **Schedule "A"**.

3.2 Adjustment of Fees

The City may increase or decrease the Maximum Authorized Expenditure by written notice to the Consultant and incorporated by way of an amendment to the Agreement. Should the Consultant consider that any request or instruction from the City's Project Representative constitutes a change in the scope of Services, the Consultant shall so advise the City's Project Representative, in writing, within ten (10) days of such request or instruction. Without said written advice within the time period specified, the City shall not be obligated to make any payments of additional fees or disbursements to the Consultant.

3.3 Hourly Rates

Unless noted otherwise in this Agreement, payment for all professional services (labour), including payment for Supplemental Services, shall be made by the City to the Consultant in accordance with the hourly rates included in **Schedule "B"**.

3.4 Subconsultants and Disbursements

For this Agreement, all reimbursable expenses are included with the Maximum Authorized Expenditure as set out in **Schedule "B"**. Unless noted otherwise in **Schedule "B"**, invoices for Subconsultant services and disbursements shall be paid by the City to the Consultant at actual cost without mark-up. The Consultant shall be solely responsible for payment to Subconsultants and vendors of disbursement goods and services, and the City shall not be responsible or liable for any payments to Subconsultants and disbursement vendors.

4.0 APPLICATION FOR PAYMENT

4.1 Invoicing Frequency

The Consultant shall submit invoices to the City on or before the twentieth (20th) day of each month for services performed in the preceding month. If the City approves the amount of such invoices, the City shall pay such invoices within thirty (30) days from the date the invoice is received by the City.

4.2 Invoice Components

As a minimum, each invoice submitted by the Consultant shall include:

-
- (a) Purchase Order number;
 - (b) Brief status report summarizing Services completed during the preceding month;
 - (c) Budgeted amount for each task outlined in the Services per Schedule "A";
 - (d) Purchase Order number;
 - (e) Brief status report summarizing Services completed during the preceding month;
 - (f) Budgeted amount for each task outlined in the Services per Schedule "A";
 - (g) Budgeted amount for each additional task included in approved Amendments, if any;
 - (h) Costs incurred for each task outlined in Schedule "A" in the preceding month;
 - (i) Amount earned and invoiced to date for each task, including total amount;
 - (j) Amount paid to date for each task, including total amount;
 - (k) Percentage of amount of invoice divided by the Maximum Authorized Expenditure;
 - (l) Percentage of amount earned to date divided by the Maximum Authorized Expenditure;
 - (m) Total amount payable for the current invoice, including Subconsultants, disbursements, and applicable taxes;
 - (n) Copies of invoices from Subconsultants; and
 - (o) Copies of invoices or receipts for Disbursements.

4.3 Payment in Proportion to Completed Services

The City shall not be obligated to pay the Consultant a greater percentage of the Maximum Authorized Expenditure than the actual percentage complete based on invoice components provided for in Section 4.2.

4.4 City Review of Invoices

The City shall not be responsible for any interest on any amount of the Consultant's invoice where payment is delayed because the City wishes to review, audit, or otherwise seek clarification concerning the Consultant's invoices.

4.5 Withholdings

The Consultant agrees to remit and shall be responsible for all withholding taxes, income taxes, Canada Pension Plan contributions, Employment Insurance deductions, and any other deductions required by applicable federal or provincial statutes for the Consultant, its employees, and Subconsultants.

4.6 Inspection and Audit

The Consultant shall preserve all books, payrolls, accounts, and other records with respect to any time and expenses which the City is or has been required to pay as a result of performance of the Services, including but not limited to, hours worked, details of all disbursements, and percentage of work completed, and shall make the same available for inspection and audit by the City's representatives during the Term of this Agreement and for two years thereafter.

The City shall have the right to attend at the Consultant's office and audit the Consultant's files and records in respect of the Project and Services upon forty-eight (48) hours advance written notice, during normal business hours. Any error in a claim for payment or the amount of a payment disclosed on audit shall be adjusted between the parties.

5.0 CONSULTANT'S EMPLOYEES

5.1 Qualified Employees

The Consultant shall provide only professional employees and Subconsultants who have the qualifications, experience, and capabilities to perform the Services.

5.2 Listed Employees and Subconsultants

The Consultant shall perform the Services using only the key employees and Subconsultants listed in **Schedule "A"**.

5.3 Substitution of Employees or Subconsultants

- (a) The Consultant shall not dismiss or substitute any key employee or Subconsultant listed in **Schedule "A"** without the prior written approval of the City, such approval not to be withheld unreasonably. The City shall not approve removal or substitution of employees or Subconsultants for the reason that the Consultant or its affiliates has called on such individual to perform services for another client of the Consultant.
- (b) If, at any time, the City reasonably objects to the performance, experience, qualifications, or suitability of any of the Consultant's employees or Subconsultants, then the Consultant shall, on written request from the City, replace such employee or Subconsultant. The Consultant shall, subject to scheduling and staffing considerations make commercially reasonable efforts to replace the individual with someone of substantially similar competency and experience.
- (c) Regardless of whether or not the City consents to, or requests a substitution of any employee or Subconsultant of the Consultant, the City shall not be liable to pay additional compensation to the Consultant for any replacement or substitution.

5.4 Sub-agreements with Subconsultants

The Consultant shall incorporate the terms and conditions of this Agreement into all agreements with Subconsultants in respect of the Services as necessary to preserve all rights of the City under this Agreement. The Consultant shall be fully responsible to the City for all acts and omission of Subconsultants and of persons employed by any Subconsultant or by the Consultant.

5.5 Not an Agent of the City

Nothing in this Agreement shall be interpreted so as to render the City the agent, employer, or partner of the Consultant, or the employer of anyone working for the Consultant, and the Consultant must not do anything that would result in anyone working for the Consultant being considered an employee of the City. The Consultant is not, and must not claim to be, an agent of the City.

5.6 Independent Contractor

The Consultant is an independent contractor. This Agreement does not create the relationship of employer and employee, a partnership, or a joint venture. The City shall not control or direct the details, means, methods, or processes by which the Consultant performs the Services.

The Consultant is responsible for performance of the Services and may not delegate or assign any Services to any other person except as provided for herein. The Consultant shall be solely liable for the work quality and conditions of any partners, employees, and Subconsultants.

6.0 INDEMNIFICATION AND INSURANCE

6.1 Indemnity

The Consultant shall indemnify and save harmless the City and its elected and appointed officials, employees, agents, and contractors from and against all claims, losses, damages, costs, expenses (including legal fees and disbursements on a solicitor and own client basis), liabilities, actions and proceedings, suffered, made, incurred, sustained, brought, prosecuted, threatened to be brought or prosecuted, in any manner caused, based upon, occasioned by or attributable to,

- a) any personal injury or death, damage to or loss of property;
- b) wilful or negligent acts or omissions or other actionable wrongs; and
- c) any loss or damage of any kind connected with or related in any way to the performance or breach of this Agreement by the Consultant.

The Consultant's liability to indemnify the City and its elected and appointed officials, employees, agents, and contractors under this section does not limit or affect any other rights or remedies the City

may have against the Consultant in respect of the Consultant's performance or breach of this Agreement.

6.2 Survival of Indemnity

The indemnity described in Section 6.1 shall survive the termination or expiry of this Agreement and, notwithstanding such termination or expiry, shall continue in full force and effect for the benefit of the City, its elected officials, appointed officers, employees, agents, and contractors.

6.3 Consultant's Insurance Policies

Without limiting the effect of the foregoing provisions, the Consultant shall, at all times during the continuance of this Agreement, maintain insurance with an insurer(s) satisfactory to the City and licensed to work in British Columbia in accordance with the following terms:

- (a) Comprehensive General Liability insurance in the amount of five million dollars (\$5,000,000) inclusive per occurrence for bodily injury and property damage.
- (b) Automobile Public Liability and Property Damage insurance in the amount of two million dollars (\$2,000,000) per occurrence per owned, non-owned, or hired vehicle.
- (c) Professional Liability Insurance in an amount not less than two million dollars (\$2,000,000) in the aggregate for all claims per year.
- (d) Ensure that the Services are carried out in conformity with the *Worker's Compensation Act*, R.S.B.C. 996, c. 492, as regards to employee coverage, benefits, and safety regulations.
- (e) Be responsible for any deductible amounts under the policies.

6.4 Insurance Certificates

Prior to receiving a Purchase Order from the City, the Consultant shall provide Certificate(s) of Insurance to the City which satisfies the City that the insurance required herein has been obtained and is in force. The City shall be named as an Additional Insured on any General Liability Policy obtained by the Consultant as required by this Agreement. The policies shall also contain an endorsement to provide the City with thirty (30) days prior written notice of cancellation or material change in the policies.

7.0 CITY BUSINESS LICENCE

Prior to receiving a Purchase Order from the City, the Consultant shall obtain and maintain a valid City of Parksville Business Licence for the duration of the Agreement. Costs associated with the licence are the responsibility of the Consultant.

8.0 WORKSAFE BC COVERAGE

8.1 WorkSafe BC Compliance

The Consultant agrees that it shall procure in British Columbia and carry and pay for, full WorkSafe BC coverage for itself and all workers, employees, servants, and others engaged in or upon any work which is the subject of this Agreement. The Consultant agrees that the City may deduct any unpaid premiums, assessments, or penalties for such WorkSafe BC coverage from any monies owing by the City to the Consultant, where the Consultant fails to make such payments on demand by the City. The City shall have the right to withhold payment under this Agreement until WorkSafe BC premiums, assessments, or penalties in respect of the Services performed in fulfilling this Agreement have been paid in full.

8.2 WorkSafe BC Registration

Prior to receiving a Purchase Order from the City, the Consultant shall provide the City with the Consultant's WorkSafe BC registration number and a letter from WorkSafe BC confirming that the Consultant is registered in good standing with WorkSafe BC, and that all premiums and assessments have been paid to the date thereof.

8.3 WorkSafe BC Indemnity

The Consultant shall indemnify the City and hold harmless the City from all manner of claims, demands, costs, losses, penalties, and proceedings arising out of or in any way related to unpaid WorkSafe BC premiums, assessments, or penalties owing from any person or corporation engaged in the performance of Services under this Agreement or arising out of or in any way related to the failure to observe safety rules, regulations, and practices of WorkSafe BC. Such indemnity shall survive the termination or expiry of this Agreement.

9.0 CITY INFORMATION AND RESOURCES

9.1 Available Information

The City shall make available to the Consultant all relevant information, plans, maps, reports, specifications, standards, and data pertinent to the Project which is in the hands of the City and is required by the Consultant to perform the Services. The Consultant shall be entitled to rely upon the accuracy and completeness of such information and data furnished by the City, except where it is stated otherwise or unreasonable to do so.

9.2 City Resources

The City acknowledges that the Consultant's ability to provide the Services in accordance with this Agreement shall be dependent on the City providing available information and resources in a prompt and timely manner as reasonably required by the Consultant (the "City Resources"). To the extent that the City fails to provide City Resources, the Consultant shall not be liable for any resulting delay in the Services or failure to meet the Delivery Schedule, but in no event shall such delay or failure to provide City Resources constitute a breach of this Agreement by the City, nor shall the Consultant be entitled to extra compensation for same.

9.3 Obligations of Consultant

No reviews, approvals, or inspections carried out or supplied by the City shall derogate from the duties and obligations of the Consultant, and all responsibility related to performance if the Services shall be and remain with the Consultant.

10.0 OWNERSHIP AND USE OF MATERIALS

10.1 Ownership of the Materials

All reports, designs, sketches, drawings, plans, specifications, calculations, manuals, correspondence, agendas, minutes, notes, audio-visual materials, photographs, models, software data, other documents or products produced by the Consultant under this Agreement (collectively, the "Material") are and shall remain the property of the City even though the Consultant or another party has physical possession of them. The Consultant hereby waives, in favour of the City, any moral rights the Consultant, its employees, or Subconsultants may have in the Material. Until the expiry or earlier termination of this Agreement, the Consultant may retain copies, including reproducible copies, of the Material.

10.2 Delivery and Use of Material

All Material shall be transferred and delivered by the Consultant to the City without further compensation following the expiration or sooner termination of this Agreement, provided that the City may, at any time prior to the expiration or earlier termination of this Agreement, give written notice to the Consultant requesting delivery by the Consultant to the City of all or any part of the Material in which event the Consultant shall forthwith comply with such request. Material created electronically must be submitted in a format and medium acceptable to the City. The Material may be used by the City in any manner for the intended purpose or as part of its operations associated with the Material.

10.3 Survival of Ownership and Use Provisions

It is understood and agreed that the covenants contained in Sections 10.1 through 10.2, inclusive, shall survive the expiry or earlier termination of this Agreement, and that those Sections are severable for such purpose.

11.0 CONFIDENTIALITY

11.1 No Disclosure

The Consultant shall keep confidential and shall not disclose, publish, or release any information, data, or secret of the City to any person other than representatives of the City duly designated for that purpose, in writing by the City, and shall not use for the Consultant's own purposes, or for any purpose other than those of the City, any information, data, or secret the Consultant may acquire as a result of the performance of the Services.

11.2 Freedom of Information and Protection of Privacy Act

The Consultant acknowledges that the City is subject to the *Freedom of Information and Protection of Privacy Act* (FOIPPA), that the City may be legally obligated to disclose to a person parts, or all, of this Agreement and any documents legally connected to this Agreement, and that the authority of the City to refuse to disclose a record containing third party confidential information is limited as set out in section 21 of FOIPPA. If the Consultant considers that information supplied by it to the City in connection with the performance of the Services is confidential information that should not be disclosed to a person making a request under FOIPPA, the Consultant shall identify this information to the City, indicate that the information is supplied in confidence, and refer to FOIPPA and section 21 of FOIPPA in this regard. The Consultant acknowledges and agrees that the City may be required to disclose Consultant information even where the Consultant stipulates that such information is supplied in confidence. The Consultant acknowledges and agrees that any information included in this Agreement (including in the schedules to this Agreement) is not supplied in confidence.

11.3 Advertising

The Consultant shall submit to the City any proposed advertising or publicity by the Consultant, referring to the City, the Project, or performance of the Services, for written approval prior to issue.

12.0 ASSIGNMENT

The Consultant shall not assign this Agreement, in whole or in part, except with the prior written consent of the City, which consent shall not be unreasonably withheld, delayed, or conditioned. Any attempt to assign this Agreement without such consent shall be void and of no effect. However, the Consultant shall be permitted to assign this Agreement to any entity into, by, or with which the business or assets of the Consultant have been merged, acquired, consolidated, or re-organized, or any entity which purchases all or substantially all of the business or assets of the Consultant, provided that the Consultant

first provides the City with reasonable particulars of the transaction (permitting the City to independently verify the nature of the transaction), and a legally enforceable covenant from the new entity confirming that it is legally bound to the City to perform the Services of this Agreement.

13.0 TERMINATION OF AGREEMENT

13.1 Termination for Cause or Default

The City reserves the right to immediately cancel all or any part of this Agreement if the Consultant or any Subconsultant defaults or fails to deliver the Services in accordance with the terms and conditions of this Agreement. Such cancellation shall be in writing, may be without notice, and shall not result in any penalty or other charges to the City. Without limitation, the Consultant is in default of its obligations contained in this Agreement if the Consultant, or any Subconsultant:

- (a) Fails to supply sufficient, properly-skilled workers or proper workmanship, products, materials, tools, and equipment to perform the Services;
- (b) Fails to observe or comply with all laws or ordinances, including all requirements of governmental or quasi-governmental authorities, including federal, provincial, and local government enactments, bylaws, and other regulations now or, following the date of this Agreement, in force that pertain to;
- (c) Fails to observe or comply with the City's reasonable instructions;
- (d) Breaches any Conflict-of-Interest provision in article 15 of this Agreement; or
- (e) Otherwise violates any provision of this Agreement.

13.2 Termination for Convenience

The City may, at its option, terminate this Agreement at any time during the Term, and, if such option is exercised, then this Agreement shall terminate fifteen (15) business days after the date such written notice is received, or deemed received, by the Consultant.

13.3 Steps after Termination

Upon termination of this Agreement by the City, the City shall pay the Consultant for the Services rendered and disbursements incurred by the Consultant to the date of termination pursuant to this Agreement, less any amounts necessary to compensate the City for damages or costs incurred by the City arising from the Consultant's default. Termination will be without prejudice to any other rights or remedies the City may have.

13.4 Force Majeure

Either party shall be absolved from its obligation under this Agreement when and to the extent that performance is delayed, prevented, and in the City's case, when and to the extent that its need for vehicles, materials, or

Services to be supplied hereunder is reduced or eliminated by any course, except financial, for reasons beyond its control, including but not limited to: fire, explosion, war, riots, strikes, labour disputes, and governmental laws, orders, or regulations.

14.0 APPLICABLE LAWS AND BYLAWS

14.1 Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia. The City and the Consultant accept the jurisdiction of the Courts of Nanaimo, British Columbia and agree that any action under this Agreement be brought in such courts.

14.2 Codes and Bylaws

The Consultant shall provide the Services in compliance with all applicable federal, provincial, regional, and municipal codes, bylaws, and regulations.

14.3 Interpretation of Codes

The Consultant shall, as a qualified and experienced professional, interpret codes, bylaws, and regulations applicable to the performance of the Services.

14.4 Licences and Registrations

During the term of this Agreement, the Consultant and all Subconsultants shall possess and maintain licences, registrations, and permits where required by legislation to perform the Services.

15.0 CONFLICT OF INTEREST

15.1 Conflict of Interest

The Consultant, the Consultant's employees, and Subconsultants:

- (a) Shall conduct their duties related to this Agreement with impartiality, and shall, if they exercise discretionary authority over others in the course of those duties, disqualify themselves from dealing within anyone with whom a relationship between them could bring the impartiality of the Consultant or its employees into question;
- (b) Shall not influence, seek to influence, or otherwise take part in a decision of the City knowing that the decision might further their private interests;
- (c) Shall not accept any commission, discount, allowance, payment, gift, or other benefit connected, directly or indirectly, with the performance of Services related to this Agreement, that causes, or would appear to cause, a conflict of interest;
- (d) Shall have no financial interest in the business of a third party that causes, or would appear to cause, a conflict of interest in connection with the performance of the Services related to this Agreement, and

-
- if such financial interest is acquired during the term of this Agreement, the Consultant shall promptly declare it to the City;
- (e) Shall not, during the term of this Agreement, perform a service for, or provide advice to, any person, firm, or corporation, which gives rise to a conflict of interest between the obligations of the Consultant under this Agreement and the obligations of the Consultant to such other person, firm, or corporation; and
 - (f) Warrant and represent that neither the Consultant, the Consultant's Employees, nor the Subcontractor has any financial or personal relationship or affiliation with any City elected official, officer or employee, or any of their immediate family members that the Consultant has not disclosed in writing to the City prior to the execution of this Agreement. The Consultant shall notify the City should any such relationship or affiliation arise during the performance of the Services under this Agreement.

16.0 DISPUTE RESOLUTION

16.1 Dispute Resolution Procedures

The parties shall make reasonable efforts to promptly resolve any dispute, claim, or controversy arising out of or related to this Agreement ("Dispute") using the Dispute Resolution Procedures set out in this Section.

16.2 Negotiations

First, the City's Project Representative and the Consultant's Project Manager shall make reasonable efforts to resolve any Dispute by amicable negotiations and shall provide frank, candid, and timely disclosure of all relevant facts, information, and documents to facilitate negotiations. Should these negotiations be unsuccessful in resolving the Dispute, the matter shall be promptly referred to the City's Chief Administrative Officer, or designee, and the Consultant's Principal, who shall meet and confer, in good faith, to resolve the Dispute to mutual satisfaction of the parties.

16.3 Arbitration

If all or any portion of a Dispute cannot be resolved by good faith negotiations as set forth above within thirty (30) days of the first negotiation, either party may, by notice to the other party, submit the Dispute for resolution under the *Commercial Arbitration Act*. Within seven (7) days of delivery of such notice, the parties shall jointly appoint a single arbitrator. The cost of the arbitration (including fees of arbitrators) shall be borne equally by the parties, and each party shall bear its own costs of participating in arbitration. The arbitration shall take place in the Parksville, British Columbia area. The award of the arbitrator shall be final and binding upon the parties.

17.0 PROJECT REPRESENTATIVES AND NOTICES

17.1 City's Project Representative

The City appoints the person named below as the City's Project Representative for the purposes of this Agreement (the "City's Project Representative").

17.2 Consultant's Project Manager

The Consultant appoints the person named below as its Project Representative for the purposes of this Agreement (the "Consultant's Project Manager").

17.3 Communications and Notices

All communications between the City and the Consultant regarding this Agreement, including performance of the Services, shall be between the City's Project Representative and the Consultant's Project Manager. Any notice, report, or other document that either party may be required or may wish to give to the other must be in writing, unless otherwise provided for, and shall be deemed to be validly given to and received by the addressee, if delivered personally, on the date of such personal delivery, if delivered by email, or if by mail, five (5) calendar days after posting.

The addresses for delivery shall be as follows:

City of Parksville

Project Representative: Shawn Boven, MBA, AScT

PO Box 1390, 100 Jensen Avenue East

Parksville, BC V9P 2H3

Telephone No.: 250 954-4651

Email Address: sboven@parksville.ca

The Consultant

Project Manager: _____

Mailing Address: _____

City, Province, Postal Code _____

Telephone No.: _____

Email Address: _____

18.0 GENERAL

18.1 Headings

The heading or captions appearing in this Agreement are inserted for convenience.

18.2 Amendment

This Agreement may be amended only by written amendment to this Agreement, signed by both parties.

18.3 Validity of Provisions

If any provision of this Agreement is invalid or unenforceable, it shall be severed from the Agreement and shall not affect the enforceability or validity of the remaining provisions of the Agreement.

18.4 Conflict between Agreement and Schedules

In the event of a conflict between a provision in this Agreement and a provision in a Schedule attached to this Agreement, the provisions in this Agreement shall prevail.

18.5 Legally Binding Agreement

This Agreement shall benefit and be legally binding on the parties and their successors and permitted assigns.

18.6 Waiver

No waiver by either party of any breach by the other party of any of its covenants, obligations, and agreements shall be a waiver of any subsequent breach or of any other covenant, obligation, or agreement, nor shall any forbearance to seek a remedy for any breach be a waiver of any rights and remedies with respect to such or any subsequent breach.

18.7 Entire Agreement

This Agreement, including the Schedules attached hereto, and any Purchase Order issued pursuant to clause 2.3 and referencing this Agreement, constitutes the entire agreement between the parties with respect to the terms, conditions, and Services and supersedes all earlier proposals, understandings, communications, representations, and

agreements, whether oral or in writing. Any amendment to this Agreement shall prevail over any other provision of this Agreement, in the event of an inconsistency between them.

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

EXECUTED THIS _____ day of April, 2023 at Parksville, in the Province of British Columbia.

CITY OF PARKSVILLE

CONSULTANT

Director

Name of Signing Officer

Chief Administrative Officer

Legal Name of Consultant

Mayor

Address (City, Province, Postal Code)

Attachments to Appendix 1:

Exhibit "A" Terms of Reference (Project and Services)

Exhibit "B" Hourly Rates and Fees for Services

Exhibit "C" Delivery Schedule