



REQUEST FOR PROPOSALS No. 20-009

2020 ORTHOPHOTOGRAPHY SERVICES

ISSUED: February 6, 2020

CLOSING DATE AND TIME:

Submissions must be received at the Closing Location on or before:
3:00 PM (15:00 hrs) Local Time on March 5, 2020

Regional District of Nanaimo (RDN) Contact for Questions:

Gary Jurasek, Manager, Information Technology and Geographic Information
Systems

Telephone: (250) 390-6532

Email: gjurasek@rdn.bc.ca

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

Proponent's Information Meeting:

No Proponent's meeting will be held. Direct all questions to the RDN contact person above

Proposals will not be opened in public



Instructions to Proponents

Closing Date/Time/Location

Submissions must be received at the closing location on or before 3:00 PM (15:00 hrs), Local Time, on March 5, 2020. Select one (1) of the Submission Methods below:

1. By Email: With **"20-009 2020 Orthophotography"** as the subject line at this electronic address: gjurasek@rdn.bc.ca
Please note: Maximum email file size limit is 20MB, or less. The RDN will not be liable for any technological delays of submissions.
2. By hand/courier delivery: One (1) copy of the Proposal along with one (1) electronic copy of the Proposal on a USB stick should be enclosed and sealed in an envelope clearly marked: **"20-009 2020 Orthophotography"** delivered to the:

Regional District of Nanaimo
Main Reception – 2nd Floor
6300 Hammond Bay Road
Nanaimo, B.C., V9T 6N2

Attention: Gary Jurasek, Manager, Information Technology and Geographic Information Systems

Should there be any differences between the hard copy and the electronic copy, the hard copy will prevail. Proposals received by facsimile are not accepted.

Amendment to Proposals

Proposals may be amended in writing and sent via email at gjurasek@rdn.bc.ca on or before the closing. Such amendments should be signed by the authorized signatory of the Proponent.

Addenda

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

Withdrawal of Proposals

The Proponent may withdraw their Proposal at any time by submitting a written withdrawal email to gjurasek@rdn.bc.ca on or before the closing.

Unsuccessful Vendors

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



1. INTRODUCTION

The Regional District of Nanaimo (RDN) invites qualified and experienced firms to submit a proposal for the provision of Orthophotography of the land area of the Regional District of Nanaimo. The completion date for all final products is to be no later than November 30, 2020.

2. SCOPE OF SERVICES

The RDN requires the following elements as part of the service to be provided:

Deliverables

1. Imagery
 - Collection Date – 2020;
 - Imagery Type Range - 4 band colour;
 - Resolution – Base 20 cm pixel. Provide an optional cost for 10 and 15 cm pixel;
 - Acquisition Conditions – snow free below 1300 metres, cloud free, haze free;
 - Minimum Sun Angle - 30 degrees;
 - Datum/Coordinate - NAD83 UTM10;
 - Map Sheet Tiling - As per 1:5000 BCGS grid;
 - Delivery Medium - Mr.Sid and uncompressed in Tiff format delivered on USB portable hard drive;
 - Characteristics - Elevated structures must be ortho-rectified to their true geometric position; Orthophotos shall maintain a uniform contrast and tone across all tiles of the project area; tiles will be seamless
2. Flight report.
3. Processed GPS/IMU data.
4. Digital photo index.
5. Un-rectified 4 band images in Tiff format along with aerial triangulation input and output parameter files.
6. RDN to have sole ownership of the data.

Project Area

Included in the file “RDN Location.jpg” is a map showing the project area being the Regional District of Nanaimo. Additionally, the zip file titled “Regional_District_of_Nanaimo.zip” contains a shapefile of the district. All land area is to be captured including islands and portions of ocean adjacent to land and islands. Tiles that include only ocean are not required. A 2,000 metre buffer is required for adjacent ocean and land portions of the Regional District.

Delivery Date

Delivery date for all final products is to be no later than November 30, 2020.



Ground Control

The proponent must specify the horizontal and vertical control that will be used for the orthorectification of the imagery. The Regional District can provide DEM coverage from TRIM for the project area. The Regional District may also be able to provide additional control points by arrangement with member municipalities.

Implementation schedule

The vendor is required to submit a proposed implementation schedule.

Project Partnerships

The RDN is open to the vendor bringing multiple agencies together to defer costs of the project overall.

Contractor's responsibilities:

- a) Unless otherwise indicated, the Contractor shall at his own expense, obtain all applicable permits, certificates and licences required by law for the conduct of the work and shall comply with all Federal, Provincial and Municipal Laws, Regulations, Building Codes and Ordinances affecting the execution of the work.
- b) The successful Proponent must have the necessary qualifications and be willing to accept the responsibilities as Prime Contractor for the project. They will be required to coordinate the safety of all workers including their employees and their subcontractors.

WorkSafe BC Prime Contractor

The successful Proponent is designated as the Prime Contractor and shall fulfill the Prime Contractor responsibilities as defined in:

- a) WorkSafeBC Occupational Health and Safety Regulation, Notice of Project, Section 20.2, and Coordination of multiple employer workplaces, Section 20.3;
- b) Workers Compensation Act (BC), Coordination at multiple-employer workplaces, Section 118, Subsections (1) & (2); and
- c) General Requirements, Section 3.10 WorkSafe BC.

Prior to commencing work, the successful Proponent will be required to provide the RDN with its latest WorkSafeBC Clearance Letter demonstrating it is a member in good standing and its remittance is up to date.

3. PROPOSAL SUBMISSION AND EVALUATION

The following information should be included in your proposal submission and will be used as the basis for evaluation. Failure to provide the following information may result in your proposal submission not being scored favourably. Proponents are asked to structure proposals in sequential order as listed below.

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.

1. Cover Letter

Your proposal should include a cover letter containing the following information:

- Company name, address, website address, telephone number, email address and primary contact person.
- Signed by the person or persons authorized to sign on behalf of the company.
- Highlights of your proposal and why the RDN should select your firm for this project.

2. Experience and Qualifications of the Firm

Provide a description of your company, including the following:

- Overview of the company, with a profile and brief history of the Proponent.
- Areas of expertise and the business carried out by the office and the company in terms of similar clients, and other similar work undertaken.

3. Approach and Methodology

- Proponents should briefly set out in their proposal their understanding of the RDN's requirements.
- Proponents should set out in a summary fashion in the proposal how the proponent intends to provide the works and services required by the RFP. Describe the proponent's specific approach to the project, how collaboration with the RDN will be handled, innovative or value-added work that would be included.
- Demonstrate through a work plan how the project will proceed including a listing of tasks, deliverables and the means and methods of obtaining desired results together with a description of the quality control and quality assurance procedures that will be employed to ensure project deliverables will meet the expected standards.
- Identify any challenges or constraints with the project and describe how you will deal with them.
- Identify any resources required from the RDN to ensure project success.
- Proponents should include a schedule showing when they plan to complete the work. The work should be completed on, or, before November 30, 2020.

4. Experience, Depth and Breadth of Project Team

- Please include an Organizational Chart outlining roles and responsibilities of staff and subcontractors who will be assigned to this project.
- Provide Resume or Curriculum Vitae of the Project Manager and other key personnel, including subcontractors, detailing their experience and qualifications in performing similar work for similar clients.

5. References

- Provide contact names and telephone numbers of four (4) most recent clients that you have provided similar systems to and that are of a similar size and/or complexity to the RDN.
- Provide the project title, value of the work, contact name, telephone number, and email address.
- Any or all references provided by Proponent may be contacted by the RDN to confirm the information provided in the proposal and the nature and quality of the services provided.
- After the initial evaluation of the Qualifications and Experience of the firm, Approach and Methodology, Project Team and Pricing, the RDN will create a shortlist of only the proponents that have a mathematical chance of being the highest ranked proponent. References of Proponents that do not have the mathematical opportunity to be the highest ranked proponent will not be checked.

6. Cost of Solution and Warranty

- Provide total cost for the project in Canadian Dollars. Applicable taxes should be shown separately.
- Provide a base cost for 20 cm pixel resolution.
- Provide an optional cost for 10 cm and 15 cm pixel resolutions.
- Provide warranty details on workmanship should bugs or flaws be identified.

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

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

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

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

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

The RDN reserves the right to award the assignment in whole or in part or to add or delete any portion of the work. Throughout the evaluation process, the evaluation committee may seek additional



clarification on any aspect of the Proposal to verify or clarify the information provided and conduct any background investigation and/or seek any additional information it considers necessary.

4. PROPOSED PURCHASE CONTRACT

The RDN's preferred form of Contract is attached herein. Proponents should carefully review this form of Contract. Proponents may (but are not required to) request that RDN consider revisions to the form of Contract, including the scope of Services. Proponents should submit such requests to the RDN well before the Closing Date and Time. If the RDN agrees to a request received prior to the Time, then RDN will issue an Addendum to modify the Contract. Failure to do so means acceptance of the agreement as presented.

5. GENERAL CONDITIONS

5.1 No Contract

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

5.2 Privilege Clause

The lowest or any proposal may not necessarily be accepted.

5.3 Acceptance and Rejection of Submissions

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

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

5.4 Conflict of Interest

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

5.5 Solicitation of Board Members and RDN Staff

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

5.6 Litigation Clause

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

- (a) any other contract for works or services; or



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

In determining whether to reject a Proposal under this clause, the RDN will consider whether the litigation is likely to affect the Proponent's ability to work with the RDN, its consultants and representatives and whether the RDN's experience with the Proponent indicates that the RDN is likely to incur increased staff and legal costs in the administration of this Contract if it is awarded to the Proponent.

5.7 Exclusion of Liability

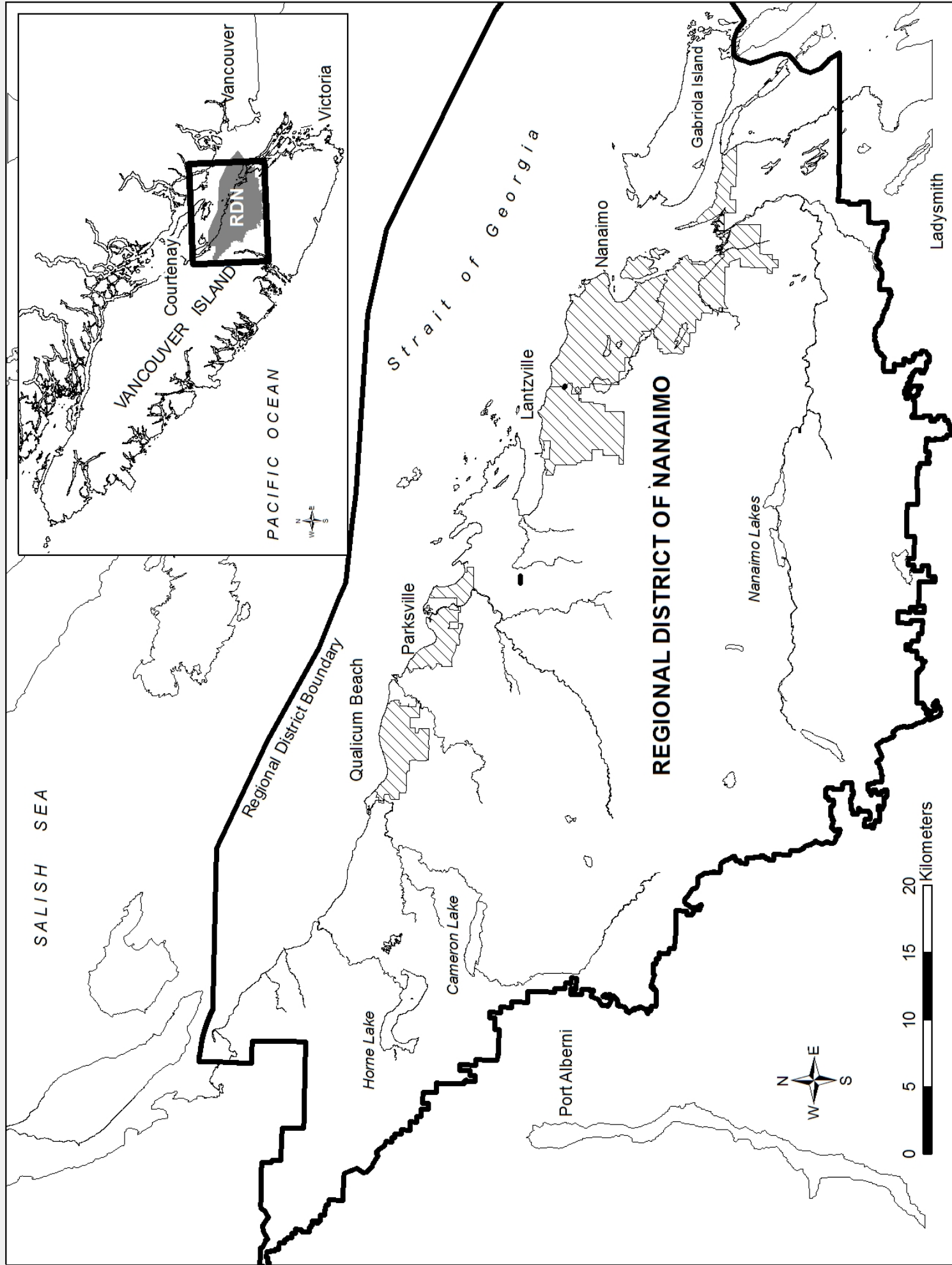
Proponents are solely responsible for their own expenses in preparing and submitting a Proposal and for any meetings, negotiations, or discussions with the RDN. The RDN will not be liable to any Proponent for any claims, whether for costs, expense, losses or damages, or loss of anticipated profits, or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

5.8 Ownership of Proposals

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

5.9 Freedom of Information

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





AGREEMENT FOR SERVICES

THIS AGREEMENT dated for reference this _____ day of _____, 20__.

BETWEEN:

REGIONAL DISTRICT OF NANAIMO

6300 Hammond Bay Road
Nanaimo, BC V9T 6N2

(the "**Regional District**")

OF THE FIRST PART

AND:

[NAME OF CONTRACTOR]

[address]
[address]

(the "**Contractor**")

OF THE SECOND PART

WHEREAS:

- A. The RDN called for proposals for the provision of Contractor services for [NAME OF PROJECT] (the "**Project**"), and the Contractor in reply submitted a proposal dated [DATE]. A copy of the call for proposals is attached as Schedule "C" to this Agreement, and a copy of the Contractor's proposal is attached as Schedules "D" to this Agreement.
- B. The RDN has agreed to engage the Contractor and the Contractor has agreed to provide the services described in Schedule "A" to this Agreement (the "**Services**") to the Regional District in respect of the Project on the terms and conditions set out in this Agreement.

NOW THEREFORE the Regional District and the Contractor, in consideration of their mutual duties and responsibilities and in consideration of the payment to be made by the Regional District to the Contractor agree as follows:



1.0 DEFINITIONS

1.1 In this Agreement:

- (a) **"Services"** means the services to be provided by the Contractor, as described in Schedule "A" to this Agreement.

2.0 TERM

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

3.0 CONTRACTOR'S DUTIES AND RESPONSIBILITIES

3.1 The Contractor must:

- a) provide the Regional District with the Services throughout the Term, in accordance with the specifications and requirements set out in Schedule "A" to this Agreement, and to the satisfaction of the Regional District;
- b) supply all labour, equipment and material, and do all things necessary for the provision of the Services;
- c) perform the Services for the Regional District with that degree of care, skill and diligence normally utilized by contractors having similar qualifications and performing duties similar to the Services;
- d) charge only the fees which the Contractor is entitled to under this Agreement for the provision of the Services;
- e) provide and maintain at the Contractor's expense any insurance that the Contractor is required to provide by law, or that is reasonably necessary to insure against any risks you may assume as a result of entering into this Agreement. Without limiting the foregoing, the Contractor must provide and maintain at the Contractor's expense any insurance specifically required in Schedule "B" to this Agreement. The Contractor must provide satisfactory proof of insurance coverage to the Regional District upon request;
- f) be registered as an employer with WorkSafe BC and maintain workers compensation coverage with WorkSafe BC for the Contractor and its employees. Agree they have the necessary qualifications and are willing to accept the responsibilities as Prime Contractor for the project and to coordinate the safety of all workers including their employees and their subcontractors.



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

4.0 CONTRACTOR REPRESENTATIONS AND WARRANTIES

4.1 The Contractor represents and warrants to the Regional District that:

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



5.0 FEES AND EXPENSES

- 5.1 In consideration for the provision of the Services, the Regional District shall pay to the Contractor the fee for all Services rendered under this Agreement according to the amounts and times of payment set out in Schedule "A" to this Agreement, plus any Goods and Services Tax applicable.
- 5.2 The Regional District shall pay the disbursements listed in Schedule "A" if incurred by the Contractor in providing the Services, provided the total disbursements payable shall not exceed the estimate set out in Schedule "A".
- 5.3 Unless stated otherwise in this Agreement, all sums of money are in Canadian dollars.

6.0 INDEMNIFICATION

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

7.0 TERMINATION

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

8.0 CONFIDENTIALITY

- 8.1 The Contractor shall not disclose any information, data or confidential information of the Regional District to any person, other than representatives of the Regional



District duly designated for that purpose in writing by the Regional District, and shall not use for its own purposes or for any purpose other than for the purpose of providing the Services any such information, data or confidential information it may acquire as a result of its engagement under this Agreement.

9.0 NOTICE

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

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

if to the RDN:	6300 Hammond Bay Road Nanaimo, BC V9T 6N2 Attention: Email: Fax:
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if to the Contractor:	[Insert the Contractor's address for delivery here as well as email and fax contact information]
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10.0 TIME

10.1 Time is of the essence of this Agreement.

11.0 BINDING EFFECT

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

12.0 SURVIVAL OF CERTAIN COVENANTS

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



13.0 RELATIONSHIP

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

14.0 NO ASSIGNMENT

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

15.0 WAIVER

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

16.0 ENTIRE AGREEMENT

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

17.0 LAW APPLICABLE

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

18.0 AMENDMENT

- 18.1 This Agreement may not be modified or amended except by the written agreement of the parties.



19.0 CONFLICT

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

20.0 HEADINGS

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

21.0 INTERPRETATION

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

22.0 ENUREMENT

- 22.1 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and permitted assigns. Neither party may assign, subcontract or transfer an interest in the Agreement without the prior written consent of the other.

23.0 DISPUTE RESOLUTION

- 23.1 All matters in dispute under this Agreement which are not first resolved between the parties acting reasonably may, with the concurrence of both the Regional District and the Contractor be submitted to mediation.

- 23.2 In the event of a dispute, the parties agree to resolve the dispute by:

Frank and open negotiations whereby both parties use their best efforts to resolve the dispute by mutual agreement including the most Senior Management of both parties.

- 23.3 If, after 30 business days, the dispute is not resolved, both parties agree to appoint a mediator to resolve the dispute and the Mediator's decision will be final. The mediation shall take place in Nanaimo, British Columbia, unless agreed otherwise. Parties will be responsible for their own costs.

24.0 COUNTERPART



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

25.0 DOCUMENTATION, PATENT AND COPYRIGHT

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

26.0 DELAY IN PERFORMANCE

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



the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

27.0 SEVERABILITY

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

28.0 PAYMENT

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



29.0 SUBCONTRACTORS

- 29.1 The Service Provider may retain Sub contractors to assist in the performance of the Services provided that the terms of this Agreement shall apply to the Sub contractors and provided that the Service Provider shall be wholly responsible for the professional standards, performance and all actions of the Sub contractors. The Service Provider shall only employ Sub contractors having the appropriate standards, qualifications and experience in their respective areas of expertise.

30.0 WORK AND SERVICES OMITTED

- 30.1 Upon receipt of written direction from the RDN, the Service Provider shall omit Services to be performed under the Agreement. The Service Provider shall have no claim against the RDN for loss associated with any omitted Services.

31.0 THIRD PARTY RIGHTS

- 31.1 Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the RDN and the Service Provider.

Printed Name, Title



SCHEDULE "A"

A.1 SERVICES

- [List all services to be provided by the Contractor, and include all necessary details as to where, when and how the services are to be performed]

A.2 FEES

- [Insert details of fees and payment schedule]

A.3 REIMBURSABLE EXPENSES

- [List all reimbursable expenses, if any.]



SCHEDULE "B"

INSURANCE

The Contractor shall, at its own expense, provide and maintain throughout the Term the following minimum insurance in a form acceptable to the Regional District, with an insurer licensed in British Columbia:

- a. **Comprehensive General Liability** in an amount not less than Two Million Dollars (\$2,000,000.00) inclusive per occurrence against bodily injury and property damage. The RDN is to be added as an additional insured under this policy. Such insurance shall include, but not be limited to:

- .01 Products or Completed Operations Liability;
- .02 RDN's and Contractor's Protective Liability;
- .03 Blanket Written Contractual Liability;
- .04 Contingent employer's Liability;
- .05 Personal Injury Liability;
- .06 Non-Owned Automobile Liability;
- .07 Cross Liability;
- .08 Employees as additional Insureds;
- .09 Broad Form Property Damage;
- .10 Broad Form Completed Operations;
- and where such further risk exists:**
- .11 Shoring Blasting, Excavating, Underpinning, Demolition, Piledriving and Caisson Work, Work Below Ground Surface, Tunneling and Grading, as applicable;
- .12 Elevator and Hoist Liability; and
- .13 Operation of Attached Machinery.

- b. **Automobile Liability** on all owned or leased vehicles in an amount not less than Two Million Dollars (\$2,000,000.00)
- c. **Aircraft and/or Watercraft Liability**, where applicable, for all owned or non-owned craft operating or used in the performance of the Work by the Contractor, in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence and including aircraft passenger hazard liability, where applicable.
- d. **Professional Liability Insurance** \$250,000 per claim, \$1,000,000.00 aggregate.
- e. **Property** insurance which shall cover all property, of every description, to be used in the construction of the Work, against "All Risks" of physical loss or damage, while such property is being transported to the site, and thereafter throughout erection, installation and testing and such insurance shall be maintained until Substantial Performance of the Work. Such policy of insurance shall extend to protect the interest of the RDN and shall contain a waiver of subrogation against the RDN.
2. All the foregoing insurance shall be primary and not require the sharing of any loss by any insurer of the RDN.



3. The Contractor shall provide the RDN with evidence of all required insurance prior to the commencement of the Work or services. Such evidence shall be in a form acceptable to the RDN. When requested by the RDN, the Contractor shall provide certified copies of required insurance policies.
4. All required insurance shall be endorsed to provide the RDN with thirty days (30) advance written notice of cancellation or material change.
5. The Contractor hereby waives all rights of recourse against the RDN with regard to damage to the Contractor's property.
6. The Contractor shall require and ensure that each subcontractor maintain liability insurance comparable to that required above.
7. Unless specified otherwise, the duration of each insurance policy shall be from the date of commencement of the Work until the date of the final certificate for payment.

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



SCHEDULE "C"

CALL FOR PROPOSALS

SAMPLE



SCHEDULE "D"

PROPONENT'S PROPOSAL

SAMPLE



Schedule "E"

Privacy Protection Schedule

Definitions

1. In this Schedule,
 - (a) **"access"** means disclosure by the provision of access;
 - (b) **"Act"** means the *Freedom of Information and Protection of Privacy Act*;
 - (c) **"contact information"** means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;
 - (d) **"personal information"** means recorded information about an identifiable individual, other than contact information, collected or created by the Contractor as a result of the Agreement or any previous agreement between the Regional District of Nanaimo and the Contractor dealing with the same subject matter as the Agreement but excluding any such information that, if this Schedule did not apply to it, would not be under the "control of a public body" within the meaning of the Act; and

Purpose

2. The purpose of this Schedule is to:
 - (a) enable the Regional District of Nanaimo to comply with the Regional District of Nanaimo's statutory obligations under the Act with respect to personal information; and
 - (b) ensure that, as a service provider, the Contractor is aware of and complies with the Contractor's statutory obligations under the Act with respect to personal information.

Collection of personal information

3. Unless the Agreement otherwise specifies or the Regional District of Nanaimo otherwise directs in writing, the Contractor may only collect or create personal information that is necessary for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.
4. Unless the Agreement otherwise specifies or the Regional District of Nanaimo otherwise directs in writing, the Contractor must collect personal information directly from the individual the information is about.



5. Unless the Agreement otherwise specifies or the Regional District of Nanaimo otherwise directs in writing, the Contractor must tell an individual from whom the Contractor collects personal information:
 - (a) the purpose for collecting it;
 - (b) the legal authority for collecting it; and
 - (c) the title, business address and business telephone number of the person designated by the Regional District of Nanaimo to answer questions about the Contractor's collection of personal information.

Accuracy of personal information

6. The Contractor must make every reasonable effort to ensure the accuracy and completeness of any personal information to be used by the Contractor or the Regional District of Nanaimo to make a decision that directly affects the individual the information is about.

Requests for access to personal information

7. If the Contractor receives a request for access to personal information from a person other than the Regional District of Nanaimo, the Contractor must promptly advise the person to make the request to the Regional District of Nanaimo unless the Agreement expressly requires the Contractor to provide such access and, if the Regional District of Nanaimo has advised the Contractor of the name or title and contact information of an official of the Regional District of Nanaimo to whom such requests are to be made, the Contractor must also promptly provide that official's name or title and contact information to the person making the request.

Correction of personal information

8. Within 5 Business Days of receiving a written direction from the Regional District of Nanaimo to correct or annotate any personal information, the Contractor must annotate or correct the information in accordance with the direction.
9. Within 5 Business Days of correcting or annotating any personal information, the Contractor must provide the corrected or annotated information to any party to whom, within one year prior to the date the correction request was made to the Regional District of Nanaimo, the Contractor disclosed the information being corrected or annotated.
10. If the Contractor receives a request for correction of personal information from a person other than the Regional District of Nanaimo, the Contractor must promptly



advise the person to make the request to the Regional District of Nanaimo and, if the Regional District of Nanaimo has advised the Contractor of the name or title and contact information of an official of the Regional District of Nanaimo to whom such requests are to be made, the Contractor must also promptly provide that official's name or title and contact information to the person making the request.

Protection of personal information

11. The Contractor must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, including any expressly set out in the Agreement.

Storage and access to personal information

12. Unless the Regional District of Nanaimo otherwise directs in writing, the Contractor must not store personal information outside Canada or permit access to personal information from outside Canada.

Retention of personal information

13. Unless the Agreement otherwise specifies, the Contractor must retain personal information until directed by the Regional District of Nanaimo in writing to dispose of it or deliver it as specified in the direction.

Use of personal information

14. Unless the Regional District of Nanaimo otherwise directs in writing, the Contractor may only use personal information if that use is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.

Disclosure of personal information

15. Unless the Regional District of Nanaimo otherwise directs in writing, the Contractor may only disclose personal information inside Canada to any person other than the Regional District of Nanaimo if the disclosure is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.
16. Unless the Agreement otherwise specifies or the Regional District of Nanaimo otherwise directs in writing, the Contractor must not disclose personal information outside Canada.



Notice of foreign demands for disclosure

17. In addition to any obligation the Contractor may have to provide the notification contemplated by section 30.2 of the Act, if in relation to personal information in the custody or under the control of the Contractor, the Contractor:
- (a) receives a foreign demand for disclosure;
 - (b) receives a request to disclose, produce or provide access that the Contractor knows or has reason to suspect is for the purpose of responding to a foreign demand for disclosure; or
 - (c) has reason to suspect that an unauthorized disclosure of personal information has occurred in response to a foreign demand for disclosure

the Contractor must immediately notify the Regional District of Nanaimo and, in so doing, provide the information described in section 30.2(3) of the Act. In this section, the phrases “foreign demand for disclosure” and “unauthorized disclosure of personal information” will bear the same meanings as in section 30.2 of the Act.

Notice of unauthorized disclosure

18. In addition to any obligation the Contractor may have to provide the notification contemplated by section 30.5 of the Act, if the Contractor knows that there has been an unauthorized disclosure of personal information in the custody or under the control of the Contractor, the Contractor must immediately notify the Regional District of Nanaimo. In this section, the phrase “unauthorized disclosure of personal information” will bear the same meaning as in section 30.5 of the Act.

Inspection of personal information

19. In addition to any other rights of inspection the Regional District of Nanaimo may have under the Agreement or under statute, the Regional District of Nanaimo may, at any reasonable time and on reasonable notice to the Contractor, enter on the Contractor's premises to inspect any personal information in the possession of the Contractor or any of the Contractor's information management policies or practices relevant to the Contractor's management of personal information or the Contractor's compliance with this Schedule and the Contractor must permit, and provide reasonable assistance to, any such inspection.

Compliance with the Act and directions

20. The Contractor must in relation to personal information comply with:



- (a) the requirements of the Act applicable to the Contractor as a service provider, including any applicable order of the commissioner under the Act; and
 - (b) any direction given by the Regional District of Nanaimo under this Schedule.
- 21. The Contractor acknowledges that it is familiar with the requirements of the Act governing personal information that are applicable to it as a service provider.

Notice of non-compliance

- 22. If for any reason the Contractor does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, the Contractor must promptly notify the Regional District of Nanaimo of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

Termination of Agreement

- 23. In addition to any other rights of termination which the Regional District of Nanaimo may have under the Agreement or otherwise at law, the Regional District of Nanaimo may, subject to any provisions in the Agreement establishing mandatory cure periods for defaults by the Contractor, terminate the Agreement by giving written notice of such termination to the Contractor, upon any failure of the Contractor to comply with this Schedule in a material respect.

Interpretation

- 24. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.
- 25. Any reference to the "Contractor" in this Schedule includes any subcontractor or agent retained by the Contractor to perform obligations under the Agreement and the Contractor must ensure that any such subcontractors and agents comply with this Schedule.
- 26. The obligations of the Contractor in this Schedule will survive the termination of the Agreement.
- 27. If a provision of the Agreement (including any direction given by the Regional District of Nanaimo under this Schedule) conflicts with a requirement of the Act or



an applicable order of the commissioner under the Act, the conflicting provision of the Agreement (or direction) will be inoperative to the extent of the conflict.

28. The Contractor must comply with the provisions of this Schedule despite any conflicting provision of this Agreement or, subject to section 32, the law of any jurisdiction outside Canada.
29. Nothing in this Schedule requires the Contractor to contravene the law of any jurisdiction outside Canada unless such contravention is required to comply with the Act.