



**DISTRICT OF SOOKE
REQUEST FOR PROPOSALS**

Fire Department Service Level Review

Request for Proposals No. 2015-06

Closing location:

District of Sooke
2205 Otter Point Road
Sooke, BC
V9Z 1J2

Closing date and time:

Wednesday August 12, 2015
at 2:00 pm Pacific time

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1. Overview of the Requirement

The District of Sooke desires the services of a consultant with extensive experience regarding the provision of fire services to undertake a review and analysis of its Fire Departments level of service related to the Fire Commissioner's *Structure Firefighters Competency and Training Playbook* and long term apparatus replacement. This review will report on the current level of service and apparatus fleet as well as providing options for Council to consider on fire department operations over the next 20 year planning period. Recommendations on means to improve the overall effectiveness of services in a cost effective manner is sought. A presentation to Council will be required.

Based on a review of responses to this Request for Proposals, the District of Sooke intends to select a Proponent who would then be invited to enter into a contract for provision of the services described in section 4.

2. Definitions

Throughout this Request for Proposals, the following definitions will be used:

- a) "Contract" means a written contract executed by the District of Sooke and the Contractor;
- b) "Contractor" means the successful Proponent to this Request for Proposals who enters into a written contract with the District of Sooke;
- c) "FUS" means the *Fire Underwriters Survey* that is used by insurers to determine their underwriting capacities and to help set property insurance rates;
- d) "must", or "mandatory" means a requirement that must be met in order for a Response to receive consideration;
- e) "Playbook" means the BC Fire Commissioner's *Structure Firefighters Competency and Training Playbook (2014)*
- f) "Proponent" means an individual or a company that submits, or intends to submit, a Response.
- g) "Response" means a submission in reply to this RFP;
- h) "RFP" or "Request for Proposals" means the process described in this document; and
- i) "should" or "desirable" means a requirement having a significant degree of importance to the objectives of this RFP.

3. RFP Terms and Conditions

3.1 Enquiries

All enquiries related to this RFP are to be directed to:
Gord Howie, Chief Administrative Officer

District of Sooke
2205 Otter Point Road
Sooke, BC V9Z 1J2
Email: ghowie@sooke.ca
Telephone: (250) 642-1634

Information obtained from any other source is not official and should not be relied upon. All written questions from bidders will be received by the District of Sooke no later than 2:00pm on Monday August 10, 2015. Addenda will be posted to the District website for reference for all proponents (www.sooke.ca).

3.2 Closing Date

Responses will be received up to and including 2:00 p.m., local time, on Wednesday August 12, 2015. Responses should be submitted in a sealed envelope clearly marked and addressed as follows:

Request for Proposals: Fire Department Service Level Review
Gord Howie
Chief Administrative Officer
District of Sooke
2205 Otter Point Road
Sooke, BC V9Z 1J2

3.3 Submission

Contents of the submission are left to the discretion of the proponent but must include, as a minimum, the requirements detailed in this RFP Schedules A through C.

3.4 Information Meeting

There will not be a pre-bid meeting for this project. Any questions are to be directed to Gord Howie by email at ghowie@sooke.ca or by phone at (250)642-1634. All written questions from bidders will be received by the District of Sooke no later than 2:00pm August 10, 2015. Addenda will be posted to the District website for reference for all proponents (www.sooke.ca).

3.5 Proposal Review Committee

Review of Responses will be by a committee formed by the District of Sooke and may include staff and contractors of the District of Sooke.

3.6 Review and Selection

The qualifications review committee will check Responses against the mandatory criteria. Responses not meeting all mandatory criteria will be

rejected without further consideration. Responses that do meet all the mandatory criteria will then be assessed and scored against the desirable criteria. Responses will be ranked and the District of Sooke's intent is to enter into contract negotiations with the Proponent who has the highest overall ranking.

3.7 Signed Responses

The Response must include a cover letter substantially similar to the cover letter set out in Appendix 1 and the cover letter must be signed by a person authorized to sign on behalf of the Proponent.

3.8 Changes to Response Wording

The Proponent will not change the wording of its Response after the closing date and time specified on the front cover of this RFP, and no words or comments will be added to the Response unless requested by the District of Sooke for purposes of clarification.

3.9 Proponent's Expenses

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

3.10 Acceptance of Responses

This RFP is not an agreement to purchase services. The District of Sooke is not bound to enter into a Contract with any Proponent. Responses will be assessed in light of the review criteria. The District of Sooke will be under no obligation to receive further information, whether written or oral, from any Proponent.

3.11 Definition of Contract

Notice in writing to a Proponent that its proposal has been selected as successful will neither constitute a Contract nor give the Proponent any legal or equitable rights or privileges relative to the service requirements set out in this RFP. Only if a Proponent and the District of Sooke enter into a subsequent full written Contract will a Proponent acquire any legal or equitable rights or privileges.

3.12 Modification of Terms

The District of Sooke reserves the right to modify the terms of this RFP at any time in its sole discretion. This includes the right to cancel this RFP at any time without entering into a Contract.

3.13 Ownership of Responses

All documents, including Responses, submitted to the District of Sooke become the property of the District of Sooke. They will be received and held in confidence by the District of Sooke, subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.

3.14 Confidentiality of Information

Information pertaining to the District of Sooke obtained by the Proponent as a result of participation in this RFP is confidential and must not be disclosed without written authorization from the District of Sooke.

3.15 Collection and Use of Personal Information

Proponents are solely responsible for familiarizing themselves, and ensuring that they comply, with the laws applicable to the collection and dissemination of information, including resumes and other personal information concerning employees and employees of any subcontractors. If this RFP requires Proponents to provide the District of Sooke with personal information of employees who have been included as resources in response to this RFP, Proponents will ensure that they have obtained written consent from each of those employees before forwarding such personal information to the District of Sooke. Such written consents are to specify that the personal information may be forwarded to the District of Sooke for the purposes of responding to this RFP and use by the District of Sooke for the purposes set out in the RFP. The District of Sooke may, at any time, request the original consents or copies of the original consents from Proponents, and upon such request being made, Proponents will immediately supply such originals or copies to the District of Sooke.

3.16 Additional Information on the RFP

All subsequent information regarding this RFP, including changes made to this document, will be posted on the District of Sooke website (www.sooke.ca). It is the sole responsibility of the Proponent to check for amendments and additional information on the website.

3.17 Form of Contract

Any Contract with a Proponent will be substantially similar to the terms and conditions of the District of Sooke's General Service's Agreement, a copy of which is attached as Appendix 2.

4. Requirements and Response

4.1 Summary of the Requirement

The District of Sooke plans to retain a contractor to conduct a Fire Department Service Level Review.

The District of Sooke desires the services of a consultant with extensive experience regarding the provision of fire services to undertake a review and analysis of its Fire Departments level of service related to the Fire Commissioner's Playbook and long term apparatus replacement. This review will report on the current level of service and apparatus fleet as well as providing options for Council to consider on fire department operations over the next 20 year planning period. Recommendations on means to improve the overall effectiveness of services in a cost effective manner is sought. A presentation to Council will be required.

Key duties and responsibilities are described in Schedule C.

The objective of this RFP is to identify and select a contractor that best meets the requirements of the District of Sooke for the provision of these services.

4.2 Additional Definitions

In addition to the RFP Definitions set out in section 2, throughout this RFP the following definitions will apply:

- a) "Contract Price" means the sum payable by the District of Sooke to the Contractor in respect of the Service Level Review Services.
- b) "Services" means the provision of all labour, materials and equipment for the purpose of providing the services described in "Schedule C" as may be amended from time to time.
- c) "Subcontractors" means an arms length subcontractor of the Contractor satisfactory to the District of Sooke in its sole discretion engaged in providing labour, equipment and materials in performing the Maintenance Services.

4.3 Project Scope

The Fire Department Service Level Review services are subject to the standards outlined in Schedule C.

5. RFP Review Criteria

5.1 Mandatory Criteria

The following are mandatory requirements. Responses not clearly demonstrating that they meet them will receive no further consideration during the evaluation process.

Mandatory Criteria
a) The Response must be received at the closing location.
b) The Response must be in English and must not be sent by facsimile or email.
c) One hard copy of the Response must be submitted.
d) The Response must include a completed form, in substantially the same form as Appendix 1.

5.2 Desirable Criteria

Responses meeting the mandatory requirements will be further assessed against the following desirable criteria. A Proponent not reaching the minimum score in a given category (if applicable) will receive no further consideration during the RFP review.

Desirable Criteria	Points Available
Performance Measures (see below)	50
Fees as outlined in Schedules A and C	50
TOTAL POINTS AVAILABLE	100

5.3 Performance Measures

Quality of RFP will be evaluated with respect to the level of effort perceived as going into the RFP for resumes and other documentation.

Resume/Qualifications will be evaluated with respect to level of qualified staff dedicated to the project and relevant experience.

Methodology for Project will be evaluated by how the proponent defines and describes the work plan, how each task will be carried out, the anticipated deliverables and what services or interaction with District of Sooke staff is required.

Level of Effort will be evaluated through the total number of hours proposed and the distribution amongst the most qualified team members.

5.4 Fees

Proponent is to provide, at minimum, costs to deliver each of the items outlined in Schedule C. All personnel fees, salaries, wages, reimbursable expenses and taxes, will be taken into account in the proposal evaluation. Fees and disbursements will be billed at rates shown in the proposal. The consultant shall not exceed the amount shown in their proposal without prior, written approval from the District of Sooke.

Changes in scope requiring fees beyond the total fee as shown in the proposal must be authorized by the District of Sooke before work begins on additional work. Scope changes will be authorized with a formal Change of Scope signed by the District and the Consultant.

Schedule A – **Fee Schedule**

Schedule B – Proponent Information

1.1 LEGAL NAME AND ADDRESS

1.2 OWNERSHIP STRUCTURE

1.3 REFERENCES

Company	Contact Person	Telephone	Email

1.4 CERTIFICATIONS / QUALIFICATIONS (example: BCIT’s Maintenance Management Professional, BOMI’s Facilities Management Certificate, ITA’s Red Seal Program)

1.5 LIABILITY INSURANCE (Type of coverage, carrier, and amount of coverage)

1.6 WorkSafeBC INSURANCE

Number_____

1.7 DISTRICT OF SOOKE BUSINESS LICENCE

Number:_____

Schedule C – Fire Department Service Level Review Requirements and Standards

- 1) Meet with Chief Administrative Officer and Fire Chief of the District of Sooke, in Sooke, BC, to review the scope of the contract and any substantive changes to the scope must be approved by the District of Sooke Council in advance.
- 2) Review applicable legislation and identify any gaps in service and make recommendations to the District of Sooke Council in how to bring the Sooke Fire Rescue Service into compliance.
- 3) Review the Sooke Zoning By-law in conjunction with the District of Sooke's Official Community Plan, recognizing the latter is a general guideline for future growth and development, and provide options on how the District of Sooke might best provide fire service that meets the District of Sooke's Strategic Priority of fiscal responsibility and accountability.
- 4) Review the current Sooke Fire Rescue Service (SFRS) delivery of fire service and make recommendations as to the best utilization of resources to provide fire service to the community of Sooke. Identify those legislative requirements, or the Fire Commissioner's Playbook, or the recommendations from the Fire Underwriters Survey completed in 2010 that should be included in planning for the SFRS. When using comparable cities or communities, to identify those communities as to population levels, commercial structures, equipment, paid staff and volunteers, and other variables thought to be essential in providing appropriate recommendations.
- 5) Examine the role of the volunteer firefighters, including availability, goals and expectations from the District of Sooke. Review the volunteer firefighter survey completed by current and former volunteers. Include the role of the support services volunteers in the delivery of fire services only.
- 6) Review the SFRS submissions to Council for budget purposes for both minor and major capital items, including the 20 year capital plan that was completed by the Fire Chief and community member Derek Lewers. Make recommendations to essential and non essential items for budgeting purposes (providing 2015 cost analysis), recommend a schedule for the replacement of fire apparatus identifying what is essential in purchasing new or those items, with a schedule, deemed appropriate for reconditioning or refurbishing. It is essential that any recommendation reflect the Strategic Priority of the District of Sooke on financial responsibility and accountability.

- 7) Present the final comprehensive report to the District of Sooke council and respond to questions from Council regarding the report. Confidential and/or sensitive components must be kept in a separate confidential report for review by Mayor and Council, and the CAO.

Appendix 1 – Response Covering Letter

(Company Letterhead)

Date:

District of Sooke of Sooke
2205 Otter Point Road
Sooke, BC V9Z 1J2

Attention: Gord Howie, Chief Administrative Officer

Subject: Fire Department Service Level Review

The enclosed proposal is submitted in response to the above-referenced Request for Proposals.

Through submission of this proposal we agree to all terms and conditions of the Request for Proposals and agree that any inconsistent provisions in our proposal will be as if not written and do not exist. We have carefully read and examined the Request for Proposals and have conducted such other investigations as were prudent and reasonable in preparing the proposal. We agree to be bound by statements and representations made in our proposal.

I am duly authorized to submit this proposal on behalf of the Proponent.

Yours truly,

Signature

Name: _____

Title: _____

Telephone Number: _____

Address of Proponent: _____

Legal name of Proponent: _____

Date: _____

Appendix 2 – Sample General Services Agreement



GENERAL SERVICES AGREEMENT

Project Name: _____
District of Sooke File No: _____

THIS AGREEMENT dated for reference this day ___ of ___, ___

BETWEEN:

[NAME OF CONTRACTOR], [*incorporation no. where applicable*], having an address at [*address with postal code*]

("the Contractor")

AND:

DISTRICT OF SOOKE, a municipal corporation incorporated under the *Local Government Act*, having an address at 2205 Otter Point Road, Sooke, British Columbia, V9Z 1J2

(the "District of Sooke")

GIVEN THAT:

- A. The District of Sooke desires to engage the services of the Contractor as an independent contractor to perform [*type of services*] services as more particularly described below, and
- B. The Contractor agrees to provide such services on the terms and subject to the conditions set out in this Agreement,

IN CONSIDERATION OF the sum of ten (\$10.00) dollars paid by the District of Sooke to the Contractor, and the mutual agreements and covenants under this Agreement, and as a condition of the District of Sooke retaining the Contractor, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Agreement agree as follows:

(a) Interpretation

- a. In this Agreement, the following terms have the meanings set out after each:

"Agreement" means this agreement, including the recitals and schedules hereto, each as supplemented or amended from time to time;

(b) Schedules Incorporated

- a. The following are Schedules to, and form an integral part of, this Agreement:

Schedule "A" – the Services

Schedule "B" – the Rates

- b. If there is a conflict between a provision in a schedule to this Agreement and any other provision of this Agreement, then the provision in the schedule is inoperative to the extent of the conflict, unless it states that it operates despite a conflicting provision of this Agreement.

(c) Effective Date and Term

- a. This Agreement takes effect immediately upon execution by all of the Parties.
- b. The term of this Agreement is for that period set out in Schedule A.

(d) Authority

- a. The Contractor represents and warrants to the District of Sooke that it has the authority to enter into this Agreement and carry out its transactions and all necessary resolutions and procedural formalities have been completed and the persons executing this Agreement on its behalf are duly authorized to do so.

(e) Services

- a. The District of Sooke hereby retains the Contractor as an independent contractor to provide the services described in Schedule A ("the Services").
- b. The Contractor shall provide the Services strictly in accordance with the terms and conditions set out in this Agreement.
- c. The Contractor shall provide the Services during the time period set out in Schedule A, regardless of the date of execution or delivery of this Agreement unless an extension of the time period is agreed to in writing by both parties.
- d. The Contractor will perform the Services to a standard of care, skill and diligence maintained by person providing, on a commercial basis, services similar to the Services.

(f) Compensation

- a. During the term of this Agreement the District of Sooke shall pay the Contractor for the Services at the rates and times described in Schedule B.
- b. The Contractor shall submit written statements of account to the District of Sooke according to the schedule set out in Schedule B.
- c. The District of Sooke shall reimburse the Contractor for all necessary expenses that the Contractor incurred while performing the Services and shall do so in accordance with the terms set out in Schedule A.
- d. The District of Sooke shall not pay the Contractor for any fees or expenses in excess of any limit specified in Schedule A, except where that is agreed to in writing by the parties.
- e. Any expense claims provided by the Contractor to the District of Sooke shall be supported by proper receipts.

(g) Contractor's Obligations

- a. The Contractor shall be responsible for the payment of all income and other taxes attributable to any payments made under this Agreement. The Contractor agrees to indemnify and save harmless the Company from and against any and all manner of actions, claims and demands which may be made against it in respect of any fees, assessments, levies, rates, taxes or other charges made, demanded, assessed or otherwise claimed by any provincial or federal government or other body of competent jurisdiction in respect of any monies paid to the Contractor under this Agreement.
- b. The Contractor shall apply for and, immediately on receipt, remit to the District of Sooke any refund or remission of federal or provincial tax or duty available with respect to any items used in connection with this Agreement.
- c. The Contractor shall supply and pay for all labour and materials necessary or advisable to provide the Services.
- d. The Contractor shall be responsible for all applications, permits or other approvals necessary or advisable to provide the Services.
- e. The Contractor shall maintain time records and books of account, invoices, receipts, and vouchers for all expenses incurred, in form and content satisfactory to the District of Sooke.
- f. The Contractor shall, upon request, fully inform the District of Sooke of all work done in connection with providing the Services.
- g. The Contractor shall comply with the District of Sooke's instructions regarding the performance of the Services, but not as to the manner in which those instructions are carried out, except as specified in this Agreement.
- h. The Contractor shall, when necessary, provide and supervise a sufficient number of workers to enable timely and proper performance and completion of the Services, and shall ensure that all such workers are competent, work efficiently and are qualified by education, training and experience to carry out the tasks to which each is assigned.
- i. All workers hired by the Contractor to perform the Services shall be the employees of the Contractor and shall not be the employees of the District of Sooke.
- j. The Contractor shall refrain from doing anything that would result in workers hired by the Contractor being considered the employees of the District of Sooke.
- k. The Contractor shall reassign, replace or remove a worker who does not meet the requirements described above, or who has behaved or is likely to behave in a manner detrimental to the provision of the Services, or has violated or is likely to violate the confidentiality provisions of this Agreement.
- l. Where a worker is identified in a schedule to this Agreement as "Key Personnel" and is essential to the performance of the Services, then the Contractor shall not remove or replace them without the District of Sooke's prior written approval.
- m. The Contractor shall bear the expense of replacing its workers.
- n. Nothing in this Agreement restricts the right of the Contractor to terminate its employee's employment, or renders the Contractor liable for an employee's voluntary termination, or for any labour strike or lockout involving the Contractor's employees.

(h) Conflict of Interest

- a. The Contractor shall not provide services to any other person or organization where that could reasonably give rise to a conflict of interest.

(i) Subcontracting

- a. The Contractor shall not subcontract any obligation under this Agreement, other than to persons or firms listed in this Agreement, without the prior written consent of the District of Sooke.
- b. The District of Sooke may, for reasonable cause, object to the use of a proposed subcontractor and require the Contractor to retain another qualified subcontractor.
- c. No subcontract, whether consented to or not, shall relieve the Contractor of any obligations under this Agreement.
- d. The Contractor shall ensure that any subcontractor fully complies with this Agreement when performing the subcontracted Services.

(j) Non-Compliance

- a. If the Contractor fails to observe, perform, or comply with any provision of this Agreement, then the District of Sooke may, at its sole discretion:
 - (k) allow the Contractor to continue to provide the Services with a time limit for compliance, rectification or both; or
 - (l) suspend all or part of the Services, including payments in whole or in part, and give the Contractor a time limit for compliance, rectification or both.
- a. If the District of Sooke has set a time limit for compliance, rectification or both and believes that the Contractor has failed to meet the time limit, the District of Sooke may employ whatever means necessary to rectify that non-compliance, including performance of the Contractor's obligations on the Contractor's behalf and/or termination of this Agreement, and the Contractor shall pay an amount equal to all costs reasonably incurred by the District of Sooke in rectifying the non-compliance.

(m) Termination

- a. The District of Sooke may terminate this Agreement at any time, and without cause, by giving 5 (five) days' written notice of termination to the Contractor and paying the Contractor an amount equal to the minimum fees that would otherwise have been payable for the Services completed at the time of termination. That payment shall discharge the District of Sooke from all liability to the Contractor under this Agreement.
- b. The District of Sooke may terminate this Agreement if the Contractor fails to comply with any of the terms, covenants and agreements that the Contractor must observe or perform under this Agreement and that failure continues for 5 (five) days after receipt by the Contractor of notice in writing from the District of Sooke specifying the failure.
- c. The Contractor may terminate this Agreement by providing 5 (five) days' written notice of termination to the District of Sooke.

(n) Information Made Available

- a. The District of Sooke shall make available to the Contractor all information in its possession that the District of Sooke considers relevant to the Contractor's performance of the Services.

(o) Intellectual Property

- a. The Contractor agrees that any documentation or deliverables developed by the Contractor for the purposes of this Agreement is the property of the District of Sooke and any copyrights, ownership rights or any other rights to such documentation or deliverables remain solely with the District of Sooke.

(p) Materials and Equipment

- a. Any material or equipment that the District of Sooke provides to the Contractor, or to a subcontractor hired by the Contractor, shall remain the exclusive property of the District of Sooke.
- b. The Contractor shall deliver to the District of Sooke any material or equipment provided to the Contractor or the Contractor's subcontractor immediately following expiration or termination of this Agreement, or as requested by the District of Sooke, and the material or equipment shall be returned in the same condition that it was supplied to the Contractor, except for loss or damage resulting from reasonable wear and tear associated with the performance of the Services.

(q) Insurance

- a. The Contractor shall, at its own expense, maintain at all times during the term of this Agreement, general liability insurance coverage in an amount and with deductibles as described in Schedule A, and shall ensure that the District of Sooke is named as an insured.
- b. The Contractor shall apply to the Workers' Compensation Board for coverage for the Contractor and any workers or other persons engaged by the Contractor to perform the Services during the term of this Agreement.
- c. The Contractor may, at its own expense, provide additional insurance for its members to augment WorkSafe BC coverage.
- d. The Contractor shall comply with all conditions of the *Workers Compensation Act* and regulations, and will be responsible for all fines, levies, penalties and assessments made or imposed under the *Workers Compensation Act* and regulations relating in any way to the Services, and shall indemnify and save harmless the District of Sooke, its employees and agents, from and against any such fines, levies, penalties and assessments.

(r) Confidentiality

- a. The Contractor acknowledges that in the performance of its responsibilities hereunder, the Contractor may have access to confidential information and records and the Contractor shall maintain strict confidentiality concerning any information, data, reports, instructions

or directions received from or delivered by the District of Sooke in connection with the providing of any Services under this Agreement (“the Confidential Information”).

- b. Statements or materials related to the Services shall not be released by the Contractor to the public without the prior written approval of the District of Sooke.
- c. During and after the term of this Agreement, the Contractor shall not, directly or indirectly, disclose Confidential Information to any person or use any Confidential Information, except:
 - (a) as required in the course of performing the Services and then only to staff of the District of Sooke on a need-to-know basis; or
 - (b) with the prior written consent of the District of Sooke.
- d. All Confidential Information which the Contractor shall prepare or use or come in contact with shall be and remains the District of Sooke sole property and shall not be removed from the District of Sooke premises without its prior written consent, except as required in the normal course of performing the Services under this Agreement.
- e. The Contractor agrees to return to the District of Sooke all the Confidential Information provided by the District of Sooke and any copies of such material in its possession forthwith upon demand.
- f. The Contractor agrees that it will cause any worker, before commencing his or her duties, to sign a written confidentiality agreement and the Contractor shall be liable to the District of Sooke for any breach of any such agreement by the worker.
- g. The Contractor agrees that, upon request of the District of Sooke, or in the event that the Contractor ceases to require use of the Confidential Information, or upon expiration or termination of this Agreement, the Contractor will turn over to the District of Sooke all data, documents, specifications, drawings, reports, software, disks or other computer media, or other material in the possession or control of the Contractor that:
 - (a) may contain or be derived from ideas, concepts, creations, or trade secrets and other proprietary and Confidential Information; or
 - (b) is connected with or derived from the Contractor's Services to the District of Sooke.
- h. The Contractor agrees and acknowledges that the Confidential Information is of a proprietary and confidential nature and that any failure to maintain the confidentiality of the Confidential Information in breach of this Agreement cannot be reasonably or adequately compensated for only in money damages and would cause irreparable injury to the District of Sooke. Accordingly, the Contractor agrees that the District of Sooke is entitled to, in addition to all other rights and remedies available to him at law or in equity, an injunction restraining the Contractor and any agents of the Contractor, from directly or indirectly committing or engaging in any act restricted by this Agreement in relation to the Confidential Information.

(s) Notices

- a. Any notice permitted or required to be given by a party hereunder shall be given in writing, and may be delivered by hand, sent by facsimile transmission, or forwarded by first-class prepaid registered mail to the addresses and fax numbers set forth below, or to such other addresses as may from time to time be provide by the parties in writing. Any notice delivered by hand or sent by facsimile shall be deemed to be given and received at the

time of sending. Any notice that is sent by prepaid or registered mail shall be deemed to have been received by the party to whom it is addressed on the fourth (4th) business day (Saturdays, Sundays and Statutory Holidays excluded) following the date of posting, provided that Canada Post service is not interrupted by strike or lock-out at the time of posting or within four (4) business days thereafter, in which case the notice shall only be effective once it is actually delivered.

- b. Notices under this Agreement are to be delivered as follows:

To the District of Sooke:

District of Sooke of Sooke
2205 Otter Point Road
Sooke, BC V9Z 1J2
Attention: Corporate Officer

Fax: (250) 642-0541

To the Contractor:

[Name]
[Street Address]
[Town/City], [Province], [Postal Code]

(t) Dispute Resolution

- a. In the case of any dispute arising between the District of Sooke and the Contractor, a party to this Agreement may give the other party notice of the dispute, and if the matter cannot be resolved the parties may submit the dispute to arbitration by a single arbitrator in accordance with the *Commercial Arbitration Act* (British Columbia), as amended.

(u) Force Majeure

- a. For the purposes of this Agreement, the term "Force Majeure" is defined as an Act of God, an act of a public enemy, war, labour disruptions and other extraordinary causes not reasonably within the control of the Contractor.
- b. If the Contractor is rendered unable, wholly or in part, by Force Majeure to provide the Services then the Contractor shall provide to the District of Sooke notice of the Force Majeure as soon as reasonably possible, and to the extent that the Contractor's performance is impeded by the Force Majeure it shall not be in breach of its obligations under this Agreement.
- c. The parties acknowledge and agree that during an event of Force Majeure, the Contractor's obligations pursuant to this Agreement shall be reduced or suspended as the case may be, but not longer than the continuance of the Force Majeure, except for a reasonable time period after if required by the Contractor to resume its obligations.

(v) No Assignment

- a. The Company may not assign any of its rights or interests in this Agreement.

(w) Binding on Successors

- a. This Agreement enures to the benefit of and is binding upon the parties and their respective successors and permitted assigns, notwithstanding any rule of law or equity to the contrary.

(x) Remedies Cumulative

- a. No reference to or exercise of any specific right or remedy by the District of Sooke prejudices or precludes the District of Sooke from any other remedy, whether allowed at law or in equity or expressly provided for in this Agreement. No such remedy is exclusive or dependent upon any other such remedy, but the District of Sooke may from time to time exercise any one or more of such remedies independently or in combination. Without limiting the generality of the foregoing, the District of Sooke is entitled to commence and maintain an action against the Contractor to collect any sum not paid when due, without exercising the option to terminate this Agreement.

(y) Waiver

- a. Waiver by the District of Sooke of any breach of any term, covenant or condition of this Agreement by the Contractor must not be deemed to be a waiver of any subsequent default by the Contractor. Failure by the District of Sooke to take any action in respect of any breach of any term, covenant or condition of this Agreement must not be deemed to be a waiver of such term, covenant or condition.

(z) Indemnity

- a. The Contractor shall indemnify, release and save harmless the District of Sooke and its elected and appointed officials, officers, employees, agents, contractors, successors and assigns from any and all liabilities, actions, damages, claims, losses, orders, fines, penalties, costs and expenses, including the full amount of all legal fees and expenses that may be brought against, or suffered or incurred by, the District of Sooke or any of its elected and appointed officials, officers, employees, agents, contractors, successors and assigns, in any way directly or indirectly arising from or in connection with the activities, actions or omissions of the Contractor or any of its employees, subcontractors, agents, licenses, servants, invitees or anyone for whom the Contractor is in law responsible, in relation to the Services or in connection with this Agreement. The indemnities set out in this paragraph do not include indemnifications for negligence or wilful or malicious misconduct on the part of the District of Sooke or a person for whom the District of Sooke is responsible at law. This paragraph will survive termination of this Agreement.

(aa) Release

- a. The Contractor releases the District of Sooke from and against all liabilities, claims, demands, damages, costs, expenses, suits and actions which the Contractor may at any time have against the District of Sooke in respect of the Services, this Agreement and related matters. The obligations of the Contractor under this section survive the expiry or earlier termination of this Agreement.

(bb) General

- a. Time is of the essence of this Agreement.
- b. Parties may by written agreement amend this Agreement
- c. Every reference to each party is deemed to include the heirs, executors, administrators, corporate successors, servants, employees, agents, contractors, officers, licensees and invitees of such party, wherever the context so requires or permits.
- d. Wherever the singular or masculine or neuter is used in this Agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties so require.
- e. Unless otherwise specified in this Agreement, all references to currency are in Canadian dollars.
- f. The headings included in this Agreement are for convenience only and do not form part of this Agreement and will not be used to interpret, define or limit the scope or intent of this Agreement.
- g. This Agreement shall be construed in accordance with the laws of the Province of British Columbia. Without limitation, the Contractor acknowledges that this Agreement is subject to the *Freedom of Information and Protection of Privacy Act*.
- h. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of the Agreement.
- i. The provisions in this Agreement constitute the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants and agreements whether verbal or written, between the parties with respect to the subject matter of this Agreement.

NOW THEREFORE as evidence of their agreement to be bound by the terms of this Agreement, the parties have executed this Agreement as follows:

DATED the day of , 20

District of Sooke by its authorized signatories:

Mayor:

Clerk:

DATED the day of , 20

[Name of Contractor] by its authorized signatories:

Name:

Name:

SCHEDULE A – the Services

(to be determined)

DRAFT

SCHEDULE B – the Rates

(to be determined)

DRAFT