



**COWICHAN VALLEY REGIONAL DISTRICT**

**Request for Proposals**

**For**

**Lake Cowichan / Youbou Torrent Flow Assessment**

Request for Proposals No.: **ES-041-17**

Issued: **September 20, 2017**

Submission Deadline: **October 11, 2017 @ 2:00 PM local time**

COWICHAN VALLEY REGIONAL DISTRICT  
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# PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS

## 1.1 Invitation to Proponents

This Request for Proposals (the “RFP”) is an invitation by the Cowichan Valley Regional District (“the CVRD”) to prospective proponents to submit proposals for the provision of a **Lake Cowichan / Youbou Torrent Flow Assessment** as further described in the RFP Particulars (Part 2) (the “Deliverables”).

## 1.2 RFP Contact

For the purposes of this procurement process, the “RFP Contact” shall be:

**Anthony Jeffery** email: [purchasing@cvrd.bc.ca](mailto:purchasing@cvrd.bc.ca)

## 1.3 Type of Contract for Deliverables

The selected proponent will be requested to enter into direct contract negotiations to finalize an agreement with the CVRD for the provision of the Deliverables. The terms and conditions found in the Form of Agreement (Appendix A) are to form the basis for commencing negotiations between the CVRD and the selected proponent.

It is the Region’s intention to enter into an agreement with only one (1) legal entity.

## 1.4 RFP Timetable

Issue Date of RFP	September 20, 2017
Deadline for Questions	October 3, 2017
Deadline for Issuing Addenda	October 5, 2017
Submission Deadline	October 11, 2017 @ 2:00 PM local time
Anticipated Ranking of Proponents	October 18, 2017
Contract Negotiation Period	Five business days from contact with consultant

The RFP timetable is tentative only, and may be changed by the CVRD at any time.

## 1.5 Submission of Proposals

Submissions must be sent by email to the RFP Contact at the email address set out above. The complete submission must be received in the inbox of the RFP Contact’s email address by the Submission Deadline. Submissions received after the Submission Deadline will not be considered.

### 1.5.1 Proposals to be submitted on Time

Proposals must be submitted at the location set out above on or before the Submission Deadline. Subject to the process described below, proposals submitted after the Submission Deadline will be rejected.

### 1.5.2 Amendment of Proposals

Proponents may amend their proposals via email to the RFP contact prior to the Submission Deadline by submitting the amendment prominently marked with the RFP title and number in the

email subject line. Any amendment should clearly indicate which part of the proposal the amendment is intended to amend or replace.

### **1.5.3 Withdrawal of Proposals**

At any time throughout the RFP process until the execution of a written agreement for provision of the Deliverables, a proponent may withdraw a submitted proposal. To withdraw a proposal, a notice of withdrawal must be sent to the RFP Contact and must be signed by an authorized representative of the proponent. The CVRD is under no obligation to return withdrawn proposals.

[End of Part 1]

## **PART 2 – RFP PARTICULARS**

### **2.1 Scope of Work**

The Cowichan Valley Regional District (CVRD) is seeking the services of a qualified consulting firms for the Lake Cowichan/Youbou Torrent Flow Assessment under the National Disaster Mitigation Program (NDMP).

As a component of the CVRD's Climate Adaption program the CVRD is utilizing a series of case studies focused on increasing hazards to assess adaptive or mitigative actions to reduce risk to the regions communities. The results of these case studies will inform a number of master planning documents related to land use, infrastructure and service provision as well as educating and supporting the communities to achieve higher levels of resilience.

Using the Lake Cowichan/Youbou area this particular case study will analyze current and future risk on downstream communities as a result of rainfall or changes to hydrology affecting steep slopes.

#### **2.1.1 Background**

Approximately 16,000 ha of steep slope forestry areas are directly above communities along the northern shore of Lake Cowichan. These areas have experienced substantial logging in the past and have roads and creek crossings which are points of potential failure. The area is further characterized by thin soils, groundwater seeps and potential macro pores due to historic logging. Early analysis of climate change impacts indicate that the region and the study area specifically may experience both increased levels of precipitation as well as storm intensity. The slopes are currently on the primary storm facing aspect and have a high potential susceptibility to failure. The assessment will take into consideration this evolving increase in hazard drivers and potential expansion of hazard areas.

There are three communities within the study area including the Town of Lake Cowichan, Meade Creek and Youbou. The project area is an active development zone that includes long term historic residential areas as well as new destination and high value vacation homes. During a recent submission for a rezoning to accommodate a large town site and business center a background study indicated that there may be some risk as a result of increasing hazards.

The CVRD has many climate adaption goals for its communities in the project area including: preparing appropriate plans for minimizing risk to life and property in the event of a major catastrophe, promoting community awareness of emergency planning issues, supporting limitations or prohibitions on development within hazardous or environmentally sensitive areas to protect residents and to safeguard the natural environment. The project will support these objectives and benefit the communities and other key groups in the project area by providing needed strategic planning information. Specifically the analysis will:

1. Indicate the level of hazard in the area as well as the potential risk to the affected communities.
2. Identify key infrastructure affected.
3. Identify areas in which the risk tolerance is unacceptable and form the basis for mitigative actions in the future.
4. Identify and inform emergency response program development.

5. Inform current and future land use planning, including official community plans, zoning, bylaws and development permits.
6. Inform upland land use planning and resource management of forestry lands and infrastructure.
7. Provide key data that will inform future public and private investment in that area (including secondary instruments such as mortgages and insurance).

The impact of disasters is reduced when communities and governments manage risk in a way that maximizes benefits and minimizes costs to people, infrastructure, and the environment. This project will provide information on hazards, consequences, and probabilities which are pre-requisites for making effective risk mitigation decisions.

### **2.1.2 Project Description**

The geographic focus of this case study is the Lake Cowichan/Youbou Torrent Flow Assessment area identified in figure 1.

The case study will to identify the current hazard level as well as potentially increased risk due to climate projections for increased rainfall and storm intensity. This area has been identified at a planning level<sup>1</sup>, as being at risk for potential slope failure or torrent flow affecting down slope residential areas, run out to Cowichan Lake, transportation networks, and community infrastructure. In addition, given the nature of the topography, any slope failures or flooding will result in substantial impacts on our ability to respond to emergencies in the area as the only road servicing the communities would also likely be affected.

The project will have the following key deliverables:

- a) analysis of hazard areas (current and future),
- b) GIS database of community assets,
- c) risk assessment and impact analysis (including a completed provincial Risk Assessment Information Template - RAIT),
- d) development of summary recommendations for master planning and public policy, and;
- e) case study report.

The work program will include working with staff and a Technical Advisory Committee (comprised of CVRD, PMFL and other key investigators) to:

- Compile appropriate background information into a summary report
- Map community assets
- Analyze hazards, vulnerabilities and resilience
- Conduct a risk assessment using HAZUS or HAZUS like framework in GIS.
- Develop recommendations including actionable strategies for:
  - Pre-event planning: Investment in risk avoidance and structural mitigation measures that minimize the vulnerabilities of people and critical assets
  - Preparedness and response: Operational plans that increase the capabilities to withstand and respond to unexpected disasters.
  - Recovery and reconstruction: Foresight to rebuild communities in ways that restore socioeconomic vitality and increase disaster resilience over time
  - Additional studies to fill knowledge gaps

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<sup>1</sup> Based on simple GIS and limited background studies

Subcontractors with subject matter expertise should be included in the proponent's proposal to provide these services if they are outside of the scope of the proponents capacity. Input on public consultation if necessary should be sought from the Technical Advisory Committee in addition to CVRD staff.

## **2.2 Project Area**

The map in Appendix B depicts the project area, with respect to watershed boundaries as well as slopes over 20%. The study area covers a range of lands including resource, rural, urban and village landscapes surrounding the distinct communities of Youbou, Meade Creek and the Town of Lake Cowichan.

## **2.3 Key Tasks**

This study will be undertaken with involvement from CVRD staff – with representatives from various Departments (Engineering, Planning) and the Technical Advisory Committee made up of key external partners and property managers.

The study requires public consultation and the successful proponent will be expected to adopt a pro-active approach in both public and stakeholder consultation to develop the overall objectives, develop the evaluation criteria, and test the criteria in the public realm for support.

### **2.3.1 Study Schedule**

The Consultant will be required to prepare and submit a detailed study schedule in “Microsoft Project” format, which outlines a detailed work plan (level 2) and indicates study milestones and deliverables. This project schedule must be updated and resubmitted monthly or as frequently as deemed necessary by CVRD. The project schedule shall include the following key milestones:

- Project kick off meeting
- Background information summary report
- Asset mapping
- Public and stakeholder consultation strategy
- Hazard analysis including mapping and forecast scenarios
- Vulnerability assessment
- Resiliency assessment
- Risk Assessment
- Recommendations Report
- Protect team and technical meetings
- Case study report

### **2.3.2 Hazard analysis**

The hazard assessment will provide specific information on the type of hazard and its potential risk to the affected population and community. Key steps of the hazard analysis include:

- Using recently flown digital orthophotos, as well as high resolution base LiDAR mapping (where available), undertake an analysis of the 16,000 ha slope above the community using standardized methodologies to identify hazard areas.
- Work with upland key forestry owners to utilize existing data and site-based information for verification purposes.
- Model hazard scenarios

- Undertake secondary analysis utilizing downscaled climate projection for the area to incorporate potentially higher levels or intensity of precipitation and slope saturation
- Report on hazard assessment to support public safety and land use considerations.

The methodology for the identification of hazards should include:

1. Standardized industry and Province of BC terrain stability and torrent flow mapping guidelines to identify the existing hazard levels
2. Remote sensing techniques to incorporate existing changes to underlying structures and forest health
3. Remote sensing and field based techniques to identify key hydrological features which affect current and projected hazard inputs.

### **2.3.3 Risk Assessment**

A structured risk assessment will be undertaken based on the above noted hazard analysis. The project partners as well as supporting specialized consultants will provide input to the development of the Risk Assessment using the Public Safety Canada - NDMP template. Should there be a slide or torrent flow of significance there is also potential for downstream effects due to impacts on lake levels and river weir levels and control structures. This secondary level of risk will also be identified in the assessment. Key steps in the risk assessment include:

1. Map community assets, environmental and economic risk
2. Undertake structured risk scenario development
3. Complete Risk Assessment report

The methodology for the risk analysis should include

- Likelihood assessment: A number of scenarios will be developed which will drive likelihood of failure thresholds, including but not limited to, increases in rainfall and soil saturation, effects of historic and future projected logging compound failures, and other drivers to system failures and potential generation of torrent flows.
- Risk Assessment: standardized appropriate ISO 31000 risk assessment techniques will be utilized in order to populate the NDMP risk assessment information template and drive additional future recommendations regarding mitigation if necessary.
- Vulnerability analysis: This will take a multi-stage analytical process and will incorporate the asset mapping of downstream communities and infrastructure. This may be modeled on existing HAZUS frameworks but this will be reviewed as part of the overall project as that platform is currently under development.

### **2.3.4 Climate Change Impacts Identification**

Due to the results of the high level climate projections for the region, the CVRD has recently completed downscaled climate projections for the region, including changes to precipitation, in partnership with the Pacific Climate Impacts Consortium. These downscaled projections will be used as inputs to the hazard ratings and potential risk analysis with a focus on the direct linear and non-linear effects of increased precipitation and drought on the generation of torrent flow, mass wasting, and flooding due to precipitation.

### **2.3.5 Community Resilience Assessment**

The community-based asset mapping process will seek to identify areas of the community at risk and quantify the ability to withstand a number of modelled scenarios. Based on this analysis we

will be in a better position to specifically identify areas where there may be a deficit by determining the type of investment necessary (changes to land use management, infrastructure, policy, regulatory tools, or public education and information).

**2.3.6 Consultation and public outreach**

- Provide a communications and engagement delivery plan and overall approach for stakeholder (or if necessary public) consultation.
- Delivery of agreed upon consultation process
- The project team will be expected to work closely with the technical team and attend briefing meetings as necessary.

**2.3.7 Reporting and recommendations**

The project team should consult with the Technical Advisory Committee for report content. Reports to include:

- Baseline and background report
- Risk assessment report using HAZUS (or other) framework in GIS.
- Recommendations report
- Financial analysis

**2.4 Participants & Key Stakeholders**

The project/study will be conducted under the direction of CVRD staff in the Engineering Services Department. Involvement of other CVRD Departments, PMFL, large landowners and ministry staff at a technical level, is critical to its success. The list below outlines stakeholders that *may* be included. A final stakeholder list will be developed as part of the project.

External

- Public Safety Canada
- Cowichan Tribes
- Lake Cowichan First Nation
- Emergency Management BC
- Island Health
- Town of Lake Cowichan
- School District No. 79
- TimberWest
- Island Timberlands
- BC Timber Sales
- Hancock Forest Holdings
- Catalyst Pulp and Paper
- Cowichan Lake and River Stewardship Society

**2.5 Deliverables**

All reports and electronic submissions must be compatible with Microsoft Office 2010, or Adobe CS6 and Creative Cloud compatible files, and ESRI ArcGIS for Desktop 10.x compatible.

**2.6 Project Milestones**

Please note that CVRD reserves the right to modify specific target dates at its discretion.

Estimated key project milestone dates:

<b>Deliverable</b>	<b>Target Date</b>
Kick-off Meeting	end October, 2017
Background information report with base maps due	January , 2018

<b>Deliverable</b>	<b>Target Date</b>
Hazard mapping and forecast scenarios	March , 2018
Asset Mapping	March, 2018
Vulnerability Assessment	April, 2018
Resiliency Assessment	April, 2018
Risk Assessment	August 31, 2018
Communications and recommendations Draft	October 30, 2018
Recommendations Report	January 31, 2019
Return on Investment Assessment	January 31, 2019

## 2.7 Material Disclosures

The maximum funding available is \$185,000.00 inclusive of applicable taxes

## 2.8 Mandatory Technical Requirements

N/A

## 2.9 Rated Criteria

The following is an overview of the categories and weighting for the rated criteria of the RFP. Proponents who do not meet a minimum threshold score for a category will not proceed to the next stage of the evaluation process.

<b>Rated Criteria Category</b>	<b>Weighting (Points)</b>	<b>Minimum Threshold</b>
2.4.1 Experience and Qualifications	20	10
2.4.2 References	10	5
2.4.3 Project approach and methodology	15	10
<b>Pricing</b>	5	N/A
<b>Total Points</b>	50	N/A

### Suggested Proposal Content for the Evaluation of Rated Criteria

Proponents who do not meet the minimum threshold will not proceed to the pricing stage of the evaluation process.

Points will be assigned for each criteria based on the information provided in the RFP.

#### 2.9.1 Experience and Qualifications – Total Points = 20

Each proponent should provide the following in its proposal:

- (a) a brief description of the proponent and proponent team if applicable;
- (b) a description of the goods and services the proponent has previously delivered and/or is currently delivering, with an emphasis on experience relevant to the Deliverables;
- (c) the roles and responsibilities of the proponent and any of its agents, employees and sub-contractors who will be involved in providing the Deliverables, together with the identity of those who will be performing those roles and their relevant respective expertise;

(d) its knowledge, skills and expertise in the following areas:

**Slope stability analysis**

**Hydrology and hydrological assessments**

**Hazard and risk analysis**

**GIS and scenario development**

**Strategic recommendations related to infrastructure and land use planning; and**

**Facilitation of multi stakeholder analysis and consultation.**

(e) a description of how the proponent will provide the Deliverables, which should include a work plan and incorporate an organizational chart indicating how the proponent intends to structure its working relationship with the Region.

### **2.9.2 References – Total Points = 10**

Each proponent is requested to provide three (3) references from clients who have obtained goods or services similar to those requested in this RFP from the proponent in the last **five** years.

### **2.9.3 Project Approach – Total Points = 15**

The proponent should demonstrate their understanding of the project requirements, as outlined in the RFP. The proponent will address all the project's intended outcomes and results in the proposal through an organized work plan that highlights how these goals will be achieved and identifies any challenges associated with the project. The project approach should incorporate innovative and unique techniques to achieve the project's intended outcomes.

### **2.9.4 Evaluation of Pricing Total Points = 5**

Pricing is worth **5** points of the total score.

Pricing will be scored based on a relative pricing formula. Each proponent will receive a percentage of the total possible points allocated to price relative to the lowest bid price, based on the following formula:

$$\text{lowest price} \div \text{proponent's price} \times \text{total available points} = \text{proponent's score}$$

[End of Part 2]

## **PART 3 – EVALUATION AND NEGOTIATION**

### **3.1 Stages of Evaluation and Negotiation**

The CVRD will conduct the evaluation of proposals and negotiations in the following stages:

### **3.2 Stage I – Mandatory Submission Requirements**

Stage I will consist of a review to determine which proposals comply with all of the mandatory submission requirements. If a proposal fails to satisfy all of the mandatory submission requirements, the CVRD will issue the proponent a rectification notice identifying the deficiencies and providing the proponent an opportunity to rectify the deficiencies. If the proponent fails to satisfy the mandatory submission requirements within the Rectification Period, its proposal will be excluded from further consideration. The Rectification Period will begin to run from the date and time that the CVRD issues a rectification notice to the proponent. The mandatory submission requirements are as follows:

#### **3.2.1 Submission Form (Appendix A)**

Each proposal must include a Submission Form (Appendix A) completed and signed by an authorized representative of the proponent

#### **3.2.2 Other Mandatory Submission Requirements**

**N/A**

### **3.3 Stage II – Evaluation**

Stage II will consist of a scoring on the basis of the Rated Criteria. Subject to the Terms of Reference and Governing Law, the top-ranked respondent as established under the evaluation will be selected to enter into a contract for the provision of the Deliverables. The selected respondent will be expected to enter into a contract within the timeframe specified in the selection notice. Failure to do so may, among other things, result in the disqualification of the respondent and the selection of another respondent, or the cancellation of the RFP.

### **3.4 Stage III – Pricing**

Stage III will consist of a scoring of the submitted pricing in accordance with the price evaluation method set out in D3 of Part 2 – RFP Particulars.

### **3.5 Stage IV – Ranking and Contract Negotiations**

#### **3.5.1 Ranking of Proponents**

After the completion of Stage III, all scores from Stage II and Stage III will be added together and the proponents will be ranked based on their total scores. The top-ranked proponent will receive a written invitation to enter into direct contract negotiations to finalize the agreement with the CVRD.

#### **3.5.2 Contract Negotiation Process**

Any negotiations will be subject to the process rules contained in the Terms and Conditions of the RFP Process (Part 4) and will not constitute a legally binding offer to enter into a contract on the part of the CVRD or the proponent and there will be no legally binding relationship created with

any proponent prior to the execution of a written agreement. The terms and conditions found in the Form of Agreement (Appendix A) are to form the basis for commencing negotiations between the CVRD and the selected proponent. Negotiations may include requests by the CVRD for supplementary information from the proponent to verify, clarify or supplement the information provided in its proposal or to confirm the conclusions reached in the evaluation, and may include requests by the CVRD for improved pricing or performance terms from the proponent.

### **3.5.3 Time Period for Negotiations**

The CVRD intends to conclude negotiations and finalize the agreement with the top-ranked proponent during the Contract Negotiation Period, commencing from the date the CVRD invites the top-ranked proponent to enter negotiations. A proponent invited to enter into direct contract negotiations should therefore be prepared to provide requested information in a timely fashion and to conduct its negotiations expeditiously.

### **3.5.4 Failure to Enter into Agreement**

If the parties cannot conclude negotiations and finalize the agreement for the Deliverables within the Contract Negotiation Period, the CVRD may discontinue negotiations with the top-ranked proponent and may invite the next-best-ranked proponent to enter into negotiations. This process shall continue until an agreement is finalized, until there are no more proponents remaining that are eligible for negotiations or until the CVRD elects to cancel the RFP process.

### **3.5.5 Notification to Other Proponents**

Other proponents that may become eligible for contract negotiations will be so notified at the commencement of the negotiation process with the top-ranked proponent. Once an agreement is finalized and executed by the CVRD and a proponent, the other proponents will be notified in accordance with the Terms and Conditions of the RFP Process (Part 4).

[End of Part 3]

## **PART 4 – TERMS AND CONDITIONS OF THE RFP PROCESS**

### **4.1 General Information and Instructions**

#### **4.1.1 Proponents to Follow Instructions**

Proponents should structure their proposals in accordance with the instructions in this RFP. Where information is requested in this RFP, any response made in a proposal should reference the applicable section numbers of this RFP.

#### **4.1.2 Proposals in English**

All proposals are to be in English only.

#### **4.1.3 No Incorporation by Reference**

The entire content of the proponent's proposal should be submitted in a fixed form, and the content of websites or other external documents referred to in the proponent's proposal but not attached will not be considered to form part of its proposal.

#### **4.1.4 References and Past Performance**

In the evaluation process, the CVRD may include information provided by the proponent's references and may also consider the proponent's past performance or conduct on previous contracts with the CVRD or other institutions.

#### **4.1.5 Information in RFP Only an Estimate**

The CVRD and its advisers make no representation, warranty or guarantee as to the accuracy of the information contained in this RFP or issued by way of addenda. Any quantities shown or data contained in this RFP or provided by way of addenda are estimates only and are for the sole purpose of indicating to proponents the general scale and scope of the Deliverables. It is the proponent's responsibility to obtain all the information necessary to prepare a proposal in response to this RFP.

#### **4.1.6 Proponents to Bear Their Own Costs**

The proponent shall bear all costs associated with or incurred in the preparation and presentation of its proposal, including, if applicable, costs incurred for interviews or demonstrations.

#### **4.1.7 Proposal to be Retained by the CVRD**

The CVRD will not return the proposal or any accompanying documentation submitted by a proponent.

#### **4.1.8 Trade Agreements**

Proponents should note that procurements falling within the scope of Chapter 5 of the Agreement on Internal Trade and/or the New West Partnership Trade Agreement are subject to those trade agreements but that the rights and obligations of the parties shall be governed by the specific terms of this RFP.

#### **4.1.9 No Guarantee of Volume of Work or Exclusivity of Contract**

The CVRD makes no guarantee of the value or volume of work to be assigned to the successful proponent. The agreement to be negotiated with the selected proponent will not be an exclusive

contract for the provision of the described Deliverables. The CVRD may contract with others for goods and services the same as or similar to the Deliverables or may obtain such goods and services internally.

## **4.2 Communication after Issuance of RFP**

### **4.2.1 Proponents to Review RFP**

Proponents shall promptly examine all of the documents comprising this RFP, and may direct questions or seek additional information in writing by email to the RFP Contact on or before the Deadline for Questions. No such communications are to be directed to anyone other than the RFP Contact. The CVRD is under no obligation to provide additional information, and the CVRD is not responsible for any information provided by or obtained from any source other than the RFP Contact. It is the responsibility of the proponent to seek clarification from the RFP Contact on any matter it considers to be unclear. The CVRD is not responsible for any misunderstanding on the part of the proponent concerning this RFP or its process.

### **4.2.2 All New Information to Proponents by Way of Addenda**

This RFP may be amended only by addendum in accordance with this section. If the CVRD, for any reason, determines that it is necessary to provide additional information relating to this RFP, such information will be communicated to all proponents by addendum issued in the same manner that this RFP was originally issued. Each addendum forms an integral part of this RFP and may contain important information, including significant changes to this RFP. Proponents are responsible for obtaining all addenda issued by the CVRD. In the Submission Form (Appendix B), proponents should confirm their receipt of all addenda by setting out the number of each addendum in the space provided.

### **4.2.3 Post-Deadline Addenda and Extension of Submission Deadline**

If the CVRD determines that it is necessary to issue an addendum after the Deadline for Issuing Addenda, the CVRD may extend the Submission Deadline for a reasonable period of time.

### **4.2.4 Verify, Clarify and Supplement**

When evaluating proposals, the CVRD may request further information from the proponent or third parties in order to verify clarify or supplement the information provided in the proponent's proposal. The CVRD may revisit and re-evaluate the proponent's response or ranking on the basis of any such information.

## **4.3 Notification and Debriefing**

### **4.3.1 Notification to Other Proponents**

Once an agreement is executed by the CVRD and a proponent, the other proponents may be notified directly in writing and shall be notified by public posting in the same manner that this RFP was originally posted of the outcome of the procurement process.

### **4.3.2 Debriefing**

Proponents may request a debriefing after receipt of a notification of the outcome of the procurement process. All requests must be in writing to the RFP Contact and must be made within sixty (60) days of such notification. The intent of the debriefing information session is to aid the proponent in presenting a better proposal in subsequent procurement opportunities. Any

debriefing provided is not for the purpose of providing an opportunity to challenge the procurement process or its outcome.

#### **4.3.3 Procurement Protest Procedure**

If a proponent wishes to challenge the RFP process, it must provide written notice to the RFP Contact within sixty (60) days of notification of the outcome of the procurement process. The notice must provide a detailed explanation of the proponent's concerns with the procurement process or its outcome.

### **4.4 Conflict of Interest and Prohibited Conduct**

#### **4.4.1 Conflict of Interest**

The CVRD may disqualify a proponent for any conduct, situation or circumstances, determined by the CVRD, in its sole and absolute discretion, to constitute a Conflict of Interest. For the purposes of this Section, "Conflict of Interest" has the meaning ascribed to it in the Submission Form (Appendix B).

#### **4.4.2 Disqualification for Prohibited Conduct**

The CVRD may disqualify a proponent, rescind an invitation to negotiate or terminate a contract subsequently entered into if the CVRD, in its sole and absolute discretion, determines that the proponent has engaged in any conduct prohibited by this RFP.

#### **4.4.3 Prohibited Proponent Communications**

A proponent shall not engage in any communications that could constitute a Conflict of Interest and should take note of the Conflict of Interest declaration set out in the Submission Form (Appendix B).

#### **4.4.4 Proponent Not to Communicate with Media**

A proponent shall not at any time directly or indirectly communicate with the media in relation to this RFP or any agreement entered into pursuant to this RFP without first obtaining the written permission of the RFP Contact.

#### **4.4.5 No Lobbying**

A proponent shall not, in relation to this RFP or the evaluation and selection process, engage directly or indirectly in any form of political or other lobbying whatsoever to influence the selection of the successful proponent(s).

#### **4.4.6 Illegal or Unethical Conduct**

Proponents shall not engage in any illegal business practices, including activities such as bid-rigging, price-fixing, bribery, fraud, coercion or collusion. Proponents shall not engage in any unethical conduct, including lobbying, as described above, or other inappropriate communications; offering gifts to any employees, officers, agents, elected or appointed officials or other representatives of the CVRD; deceitfulness; submitting proposals containing misrepresentations or other misleading or inaccurate information; or any other conduct that compromises or may be seen to compromise the competitive process provided for in this RFP.

#### **4.4.7 Past Performance or Past Conduct**

The CVRD may prohibit a supplier from participating in a procurement process based on past performance or based on inappropriate conduct in a prior procurement process, including but not limited to the following:

- (a) illegal or unethical conduct as described above;
- (b) the refusal of the supplier to honour its submitted pricing or other commitments; or
- (c) any conduct, situation or circumstance determined by the CVRD, in its sole and absolute discretion, to have constituted an undisclosed Conflict of Interest.

#### **4.5 Confidential Information**

##### **4.5.1 Confidential Information of the CVRD**

All information provided by or obtained from the CVRD in any form in connection with this RFP either before or after the issuance of this RFP:

- (a) is the sole property of the CVRD and must be treated as confidential;
- (b) is not to be used for any purpose other than replying to this RFP and the performance of any subsequent contract for the Deliverables;
- (c) must not be disclosed without prior written authorization from the CVRD; and
- (d) must be returned by the proponent to the CVRD immediately upon the request of the CVRD.

##### **4.5.2 Confidential Information of Proponent**

A proponent should identify any information in its proposal or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by the CVRD. The confidentiality of such information will be maintained by the CVRD, except as otherwise required by law or by order of a court or tribunal. Proponents are advised that their proposals will, as necessary, be disclosed, on a confidential basis, to advisers retained by the CVRD to advise or assist with the RFP process, including the evaluation of proposals. If a proponent has any questions about the collection and use of personal information pursuant to this RFP, questions are to be submitted to the RFP Contact.

#### **4.6 Procurement Process Non-binding**

##### **4.6.1 No Contract A and No Claims**

This procurement process is not intended to create and shall not create a formal, legally binding bidding process and shall instead be governed by the law applicable to direct commercial negotiations. For greater certainty and without limitation:

- (a) this RFP shall not give rise to any Contract A–based tendering law duties or any other legal obligations arising out of any process contract or collateral contract; and

- (b) neither the proponent nor the CVRD shall have the right to make any claims (in contract, tort, or otherwise) against the other with respect to the award of a contract, failure to award a contract or failure to honour a proposal submitted in response to this RFP.

#### **4.6.2 No Contract until Execution of Written Agreement**

This RFP process is intended to identify prospective suppliers for the purposes of negotiating potential agreements. No legal relationship or obligation regarding the procurement of any good or service shall be created between the proponent and the CVRD by this RFP process until the successful negotiation and execution of a written agreement for the acquisition of such goods and/or services.

#### **4.6.3 Non-binding Price Estimates**

While the pricing information provided in proposals will be non-binding prior to the execution of a written agreement, such information will be assessed during the evaluation of the proposals and the ranking of the proponents. Any inaccurate, misleading or incomplete information, including withdrawn or altered pricing, could adversely impact any such evaluation or ranking or the decision of the CVRD to enter into an agreement for the Deliverables.

#### **4.6.4 Cancellation**

The CVRD may cancel or amend the RFP process without liability at any time.

### **4.7 Governing Law and Interpretation**

These Terms and Conditions of the RFP Process (Part 4):

- (a) are intended to be interpreted broadly and independently (with no particular provision intended to limit the scope of any other provision);
- (b) are non-exhaustive and shall not be construed as intending to limit the pre-existing rights of the parties to engage in pre-contractual discussions in accordance with the common law governing direct commercial negotiations; and
- (c) are to be governed by and construed in accordance with the laws of the province of British Columbia and the federal laws of Canada applicable therein.

[End of Part 4]

## APPENDIX A – SUBMISSION FORM

### 1. Proponent Information

Please fill out the following form, naming one person to be the proponent’s contact for the RFP process and for any clarifications or communication that might be necessary.	
Full Legal Name of Proponent:	
Any Other Relevant Name under which Proponent Carries on Business:	
Street Address:	
City, Province/State:	
Postal Code:	
Phone Number:	
Fax Number:	
Company Website (if any):	
Proponent Contact Name and Title:	
Proponent Contact Phone:	
Proponent Contact Fax:	
Proponent Contact Email:	

### 2. Acknowledgment of Non-binding Procurement Process

The proponent acknowledges that the RFP process will be governed by the terms and conditions of the RFP, and that, among other things, such terms and conditions confirm that this procurement process does not constitute a formal, legally binding bidding process (and for greater certainty, does not give rise to a Contract A bidding process contract), and that no legal relationship or obligation regarding the procurement of any good or service shall be created between the CVRD and the proponent unless and until the CVRD and the proponent execute a written agreement for the Deliverables.

### 3. Ability to Provide Deliverables

The proponent has carefully examined the RFP documents and has a clear and comprehensive knowledge of the Deliverables required. The proponent represents and warrants its ability to provide the Deliverables in accordance with the requirements of the RFP for the rates submitted.

### 4. Non-binding Pricing

The proponent has submitted it’s pricing in accordance with the instructions in the RFP. The proponent confirms that the pricing information provided is accurate. The proponent acknowledges that any inaccurate, misleading or incomplete information, including withdrawn or

altered pricing, could adversely impact the acceptance of its proposal or its eligibility for future work.

## 5. Addenda

The proponent is deemed to have read and taken into account all addenda issued by the CVRD prior to the Deadline for Issuing Addenda. The proponent is requested to confirm that it has received all addenda by listing the addenda numbers, or if no addenda were issued by writing the word "None", on the following line: \_\_\_\_\_. If this section is not completed, the proponent will be deemed to have received all posted addenda.

## 6. No Prohibited Conduct

The proponent declares that it has not engaged in any conduct prohibited by this RFP.

## 7. Conflict of Interest

For the purposes of this RFP, the term "Conflict of Interest" includes, but is not limited to, any situation or circumstance where:

- (a) in relation to the RFP process, the proponent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to (i) having, or having access to, confidential information of the CVRD in the preparation of its proposal that is not available to other proponents, (ii) communicating with any person with a view to influencing preferred treatment in the RFP process (including but not limited to the lobbying of decision makers involved in the RFP process), or (iii) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive RFP process or render that process non-competitive or unfair; or
- (b) in relation to the performance of its contractual obligations under a contract for the Deliverables, the proponent's other commitments, relationships or financial interests (i) could, or could be seen to, exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement, or (ii) could, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.

For the purposes of section (a)(i) above, proponents should disclose the names and all pertinent details of all individuals (employees, advisers, or individuals acting in any other capacity) who (a) participated in the preparation of the proposal; **AND** (b) were employees of the CVRD within twelve (12) months prior to the Submission Deadline.

If the box below is left blank, the proponent will be deemed to declare that (a) there was no Conflict of Interest in preparing its proposal; and (b) there is no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the RFP.

Otherwise, if the statement below applies, check the box.

- The proponent declares that there is an actual or potential Conflict of Interest relating to the preparation of its proposal, and/or the proponent foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the RFP.

If the proponent declares an actual or potential Conflict of Interest by marking the box above, the proponent must set out below details of the actual or potential Conflict of Interest:

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### 8. Disclosure of Information

The proponent hereby agrees that any information provided in this proposal, even if it is identified as being supplied in confidence, may be disclosed where required by law or by order of a court or tribunal. The proponent hereby consents to the disclosure, on a confidential basis, of this proposal by the CVRD to the advisers retained by the CVRD to advise or assist with the RFP process, including with respect to the evaluation this proposal.

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Proponent Representative

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Name of Proponent Representative

\_\_\_\_\_  
Title of Proponent Representative

\_\_\_\_\_  
Date

I have the authority to bind the proponent.

## APPENDIX B – PROJECT AREA

