

From: [Official Information](#)
To: fyi-request-28478-45797f85@requests.fyi.org.nz
Cc: [Official Information](#)
Subject: Final response - LGOIMA 427873 - Flood risk mapping Hamilton City
Date: Monday, 21 October 2024 4:44:22 pm
Attachments: [image001.png](#)
[image002.jpg](#)
[image003.jpg](#)
[Contract Details Redacted.pdf](#)

Kia ora,

We refer to your information request below. Hamilton City Council provides the following response.

Your request:

1. Could you please supply the legislation that was used to support the flood mapping of Hamilton City.
2. Could you please supply the name of the person signing off the flood mapping for Hamilton City Council.
3. Could you supply the directive given and who gave it to flood map Hamilton city.
4. Could you please supply the name of the person who was responsible for procuring the services of Mr Craven and his flood mapping service.
5. Could you supply the contract details between Mr Craven and Hamilton City Council and the agreed contract price please.
6. What was the total price paid to Mr Craven for all flood mapping.
7. Could you please supply what business unit was Mr Craven paid from?
8. What other agencies consult with Hamilton city council about flood risk and flood mapping?
9. Does Hamilton city council have a contract with WSP?

Our response:

I refer to your official information request dated 23 September 2024 for Flood Risk mapping Hamilton.

Part of the information you have requested is enclosed. However, we have decided to refuse your request for information which relates to who signed of the procurement of contractor under section 7(2)(f)(ii) LGOIMA - Improper Pressure or Harassment.

We consider that the release of the information requested be likely to lead to the improper pressure or harassment of an identifiable person. This assessment has been made following your past interactions with staff and Council contractors, including:

- Improper registration of a security interest on the Personal Property Security Register (PPSR) against Council's CE and a Council contractor;
- Claiming compensation from Council and staff when there is no legal basis to do so;
- Approaching a Council contractor engaged to complete work on flood mapping at their place of business/ dwelling.

You have previously been advised by Council lawyers, Tompkins Wake in correspondence of 4

April 2024 that Council would not tolerate interference of any kind with the private affairs of its staff.

Staff consider that the actions by you constitute improper pressure or harassment and given the continuing actions of yourself in this manner, are likely to have a detrimental impact upon the effective conduct of public affairs.

Staff consider that any public interest in disclosure of the withheld information does not outweigh the need to withhold this for the above reasons. Please see our responses below.

1. **Could you please supply the legislation that was used to support the flood mapping of Hamilton City**

Councils is not aware of standalone legislation which covers all aspects of flood hazard mapping, rather it is a responsibility on councils referenced in multiple Acts. The work is undertaken to help protect and inform communities and assist council planning to mitigate the impacts of flooding.

The primary relevant legislation is the Resource Management Act 1991 (RMA) and the Civil Defence Emergency Management Act (CDEM) 2002.

The RMA requires regional authorities to control the use of land for the avoidance or mitigation of natural hazards. This can include directing Local Authority's to address flood hazards and risk within their own District Plans. For example, the Waikato Regional Policy Statement requires Council in its District Plan to manage subdivision, use and development, including in "High Risk Flood Zones" which in order to give effect to requires mapping of the 1% AEP. The Resource Management (Energy and Climate Change) Amendment Act 2004 further requires local authorities to have particular regard to the effects of climate change.

The Operative District Plan (2017) identifies flood hazard areas and has objectives, policies and rules specific to each area. These rules in the Operative District Plan apply to new subdivision, use and development and guide the development of new buildings and extensions to existing buildings. Following our flood mapping and Floodviewer work that's well underway, the next step is to consider further changes to planning rules to help create more climate resilient communities and better manage flooding hazards. The work is known as Plan Change 14 and will look to remove out-dated flood hazard maps from the District Plan and introduce improved rules to manage flood hazards based on the most up-to-date information available on Floodviewer. Formal notification of any rule changes is planned in 2024/25.

Council's Comprehensive Stormwater Discharge Resource Consent (granted by Waikato Regional Council) also requires Council to avoid or minimise adverse flooding of land and property. Mapping flood hazards helps Council fulfil these requirements.

The CDEM Act covers management of hazards, resilient communities and ensuring the safety of people, property and infrastructure in an emergency. Although risk reduction is primarily achieved through proactive planning as required by the RMA and the CDEM

Act, other relevant legislation for climate change and flood risk management includes the Building Act 2004, the Local Government Act 2002 and the Soil Conservation and Rivers Control Act 1941.

This legislation is all available at <https://www.legislation.govt.nz/>

2. **Could you please supply the name of the person signing off the flood mapping for Hamilton City Council.**

This is an operational matter, and authorisation of the release of flood data includes the Executive Leadership Team ie, our General managers and Chief Executive.

3. **Could you supply the directive given and who gave it to flood map Hamilton city.**

As referenced in Question 1, Council is responding to legislative requirements and the need for information to support Council planning. Council has over time completed flood mapping in catchments under different projects, ultimately funded and confirmed through LTP processes. As each LTP is confirmed, the authorisation to continue the work is approved by Council via confirmation by elected members and implemented by staff under the delegation of the chief executive.

4. **Could you please supply the name of the person who was responsible for procuring the services of Mr Craven and his flood mapping service.**

The delegated authority for the contracts was the General Manager of Development which has now been disestablished. We refused to provide name of the staff member as per s7(2)(f)(ii) of LGOIMA.

5. **Could you supply the contract details between Mr Craven and Hamilton City Council and the agreed contract price please.**

CON-00002320/2023: \$34,650 paid for flood mapping (Western Heights)

CON-00002195/2023: \$150,000 total: \$149,250 paid (Waitawhirihiri/Central City)
(Infrastructure Acceleration Fund)

CON-00001780/2022: \$125,000 (Chartwell/Hamilton East)

CON-00001848/2022: \$120,000 (St Andrews)

CON-00001275/2022: \$120,000 (Kirikiriroa)

6. **What was the total price paid to Mr Craven for all flood mapping.**

Please see the amounts above these are all GST excluded so the total is \$548,900 excl GST.

7. **Could you please supply what business unit was Mr Craven paid from?**

Infrastructure & Assets

8. **What other agencies consult with Hamilton city council about flood risk and flood mapping?**

Council's confirmed flood mapping is publicly available and is accessed by a variety of external users. Council provides information as requested but does not provide 'consultancy services' to other agencies.

9. **Does Hamilton city council have a contract with WSP?**

Council has no current contract with WSP in relation to flood hazard mapping. Council has previously contracted WSP for flood modelling work in relation to overland flow paths and depression areas.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Ngaa mihi

Keeley Faulkner

Official Information Advisor & Legal Support Officer

Legal services

Governance & Assurance Team | Partnerships, communication & Maaori

Email: officialinformation@hcc.govt.nz



Hamilton City Council | Private Bag 3010 | Hamilton 3240 | www.hamilton.govt.nz



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I support flexibility at work. While it suits me to send this email now, I don't expect a response outside of your own working hours.

From: [REDACTED] >

Sent: Monday, September 23, 2024 8:58 AM

To: Official Information <officialinformation@hcc.govt.nz>

Subject: Official Information request - Flood risk mapping Hamilton City

Dear Hamilton City Council,

1. Could you please supply the legislation that was used to support the flood mapping of Hamilton City.
2. Could you please supply the name of the person signing off the flood mapping for Hamilton City Council.
3. Could you supply the directive given and who gave it to flood map Hamilton city.
4. Could you please supply the name of the person who was responsible for procuring the

services of Mr Craven and his flood mapping service.

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6. What was the total price paid to Mr Craven for all flood mapping.
7. Could you please supply what business unit was Mr Craven paid from?
8. What other agencies consult with Hamilton city council about flood risk and flood mapping?
9. Does Hamilton city council have a contract with WSP?

Thank you for your assistance

Yours faithfully,

[REDACTED]

This is an Official Information request made via the FYI website.

Please use this email address for all replies to this request:

fyi-request-28478-45797f85@requests.fyi.org.nz

Is officialinformation@hcc.govt.nz the wrong address for Official Information requests to Hamilton City Council? If so, please contact us using this form:

https://fyi.org.nz/change_request/new?body=hamilton_city_council

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SHORT FORM AGREEMENT FOR CONSULTANT ENGAGEMENT

CONTRACT CON00001780/2022 - Stormwater Modelling – Chartwell/Hamilton East

Between: Hamilton City Council

(Client)

And: Catchment Engineering Solutions

(Consultant)

Collectively referred to herein as the "Parties" and individually as a "Party"

Project:

Stormwater Modelling – Chartwell/Hamilton East

Location:

Hamilton City Council

Scope & Nature of the Services:

The scope of works for this engagement is to develop flood modelling for the Hamilton East/Chartwell catchment and produce flood modelling outputs (hazard and extent data) suitable for publishing on HCC's public Floodviewer portal.

The attached technical scope document describes the specific services required.

Programme for the Services:

The term of this Agreement (the "Agreement") commences on 1 November 2022 and will expire on 30 June 2023 (the "Term").

Fees & Timing of Payments:

The fee payable shall be \$7(2)(b)(ii) per hour, exclusive of GST but inclusive of all disbursements and travel costs, to a capped amount of \$7(2)(b)(ii). Travel time shall not be paid. The Consultant is to be responsible for all taxation liabilities and all other costs and expenses arising in relation to the Services and the payment made.

The Consultant shall invoice the Client on a monthly basis before the 3rd working day of the month for all hours worked in the previous month. In relation to GST the Consultant agrees and understand that if a tax invoice acceptable to the Inland Revenue Department is not provided the Consultant will not be paid GST on the contract price.

The Consultant must gain written approval from the Client prior to undertaking work exceeding the capped amount of \$125,000.

Information or Services to be Provided by the Client:

Supporting GIS datasets as listed in the attached technical scope document.

The Client engages the Consultant to provide the Services described above and the Consultant agrees to perform the Services for the remuneration provided above. Both Parties agree to be bound by the provision of the Short Form Model Conditions of Engagement (overleaf), including clauses 2, 3, 9 and 10 and any variations noted below. Once signed, this agreement, together with the conditions overleaf and any attachments, will replace all or any oral agreement previously reached between the Parties.

Variations to the Short Form Model Conditions of Engagement (Overleaf):

Clause 8 Late payment penalties shall not apply.

Clause 11 Shall be deleted and replaced with:

The maximum aggregate amount payable, whether in contract, tort or otherwise, in relation to claims, damages, liabilities, losses or expenses, shall be five times the fee (exclusive of GST and disbursements) with a minimum liability of \$2,000,000.

Clause 12 Shall be deleted and replaced with:

Without limiting any defences a Party may have under the Limitation Act 2010, the Consultant shall be considered liable to the Client for the direct loss or damage suffered by the Client as a result of the breach by the Consultant of his or her obligations under this agreement and shall not be liable for any loss of profit.

Client Authorised Signatory (ies):

s7(2)(f)(ii)

Print Name:

Date:

12/12/22

Consultants Authorised Signatory (ies):

s7(2)(f)(ii)

Date: 1/11/2022

1. The Consultant shall perform the Services as described in the attached documents.
2. Nothing in this Agreement shall restrict, negate, modify or limit any of the Client's rights under the Consumer Guarantees Act 1993 where the Services acquired are of a kind ordinarily acquired for personal, domestic or household use or consumption and the Client is not acquiring the Services for the purpose of a business.
3. The Client and the Consultant agree that where all, or any of, the Services are acquired for the purposes of a business the provisions of the Consumer Guarantees Act 1993 are excluded in relation to those Services.
4. In providing the Services the Consultant shall exercise the degree of skill, care and diligence normally expected of a competent professional.
5. The Client shall provide to the Consultant, free of cost, as soon as practicable following any request for information, all information in his or her power to obtain which may relate to the Services. The Consultant shall not, without the Client's prior consent, use information provided by the Client for purposes unrelated to the Services. In providing the information to the Consultant, the Client shall ensure compliance with the Copyright Act 1994 and shall identify any proprietary rights that any other person may have in any information provided.
6. The Client may order variations to the Services in writing or may request the Consultant to submit proposals for variation to the Services. Where the Consultant considers a direction from the Client or any other circumstance is a Variation the Consultant shall notify the Client as soon as practicable.
7. The Client shall pay the Consultant for the Services the fees and expenses at the times and in the manner set out in the attached documents. Where this Agreement has been entered by an agent (or a person purporting to act as agent) on behalf of the Client, the agent and Client shall be jointly and severally liable for payment of all fees and expenses due to the Consultant under this Agreement.
8. All amounts payable by the Client shall be paid within twenty (20) working days of the relevant invoice being mailed to the Client. Late payment shall constitute a default, and the Client shall pay default interest on overdue amounts from the date payment falls due to the date of payment at the rate of the Consultant's overdraft rate plus 2% and in addition the costs of any actions taken by the Consultant to recover the debt.
9. Where Services are carried out on a time charge basis, the Consultant may purchase such incidental goods and/or Services as are reasonably required for the Consultant to perform the Services. The cost of obtaining such incidental goods and/or Services shall be payable by the Client. The Consultant shall maintain records which clearly identify time and expenses incurred.
10. Where the Consultant breaches this Agreement, the Consultant is liable to the Client for reasonably foreseeable claims, damages, liabilities, losses or expenses caused directly by the breach. The Consultant shall not be liable to the Client under this Agreement for the Client's indirect, consequential or special loss, or loss of profit, however arising, whether under contract, in tort or otherwise.
11. The maximum aggregate amount payable, whether in contract, tort or otherwise, in relation to claims, damages, liabilities, losses or expenses, shall be five times the fee (exclusive of GST and disbursements) with a maximum limit of \$NZ500,000.
12. Without limiting any defences a Party may have under the Limitation Act 2010, neither Party shall be considered liable for any loss or damage resulting from any occurrence unless a claim is formally made on a Party within 6 years from completion of the Services.
13. The Consultant shall take out and maintain for the duration of the Services a policy of Professional Indemnity insurance for the amount of liability under clause 11. The Consultant undertakes to use all reasonable endeavours to maintain a similar policy of insurance for six years after the completion of the Services.
14. If either Party is found liable to the other (whether in contract, tort or otherwise), and the claiming Party and/or a Third Party has contributed to the loss or damage, the liable Party shall only be liable to the proportional extent of its own contribution.
15. Intellectual property prepared or created by the Consultant in carrying out the Services ("New Intellectual Property") shall be jointly owned by the Client and the Consultant. The Client and Consultant hereby grant to the other an unrestricted royalty-free license in perpetuity to copy or use New intellectual Property. Intellectual property owned by a Party prior to the commencement of this Agreement and intellectual property created by a Party independently of this Agreement remains the property of that Party. The ownership of data and factual information collected by the Consultant and paid for by the Client shall, after payment by the Client, lie with the Client. The Consultant does not warrant the suitability of New Intellectual Property for any purpose other than the Services or any other use stated in the Agreement.
16. The Consultant and the Client will be aware of, and comply with, any relevant obligations imposed on them under the Health and Safety at Work Act 2015 (the "Act"). The Consultant has not and will not assume any duty imposed on the Client from time to time pursuant to the Act arising out of this engagement.
17. The Client may suspend all or part of the Services by notice to the Consultant who shall immediately make arrangements to stop the Services and minimise further expenditure. The Client and the Consultant may (in the event the other Party is in material default) terminate the Agreement by notice to the other Party. Suspension or termination shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.
18. The Parties shall attempt in good faith to settle any dispute by mediation.
19. This Agreement is governed by the New Zealand law, the New Zealand courts have jurisdiction in respect of this Agreement, and all amounts are payable in New Zealand dollars.

SHORT FORM AGREEMENT FOR CONSULTANT ENGAGEMENT

CONTRACT CON00001848/2022 - Stormwater Modelling – St Andrews

Between: Hamilton City Council

(Client)

And: Catchment Engineering Solutions

(Consultant)

Collectively referred to herein as the “Parties” and individually as a “Party”

Project:

Stormwater Modelling – St Andrews

Location:

Hamilton City Council

Scope & Nature of the Services:

The scope of works for this engagement is to develop flood modelling for the St Andrews catchment and produce flood modelling outputs (hazard and extent data) suitable for publishing on HCC’s public Floodviewer portal.

The attached technical scope document describes the specific services required.

Programme for the Services:

The term of this Agreement (the “Agreement”) commences on **1 January 2023** and will expire on **30 September 2023** (the “Term”).

Fees & Timing of Payments:

The fee payable shall be **s7(2)(b)(ii)** per hour, exclusive of GST but inclusive of all disbursements and travel costs, to a capped amount of **s7(2)(b)(ii)**. Travel time shall not be paid. The Consultant is to be responsible for all taxation liabilities and all other costs and expenses arising in relation to the Services and the payment made.

The Consultant shall invoice the Client on a monthly basis before the 3rd working day of the month for all hours worked in the previous month. In relation to GST the Consultant agrees and understand that if a tax invoice acceptable to the Inland Revenue Department is not provided the Consultant will not be paid GST on the contract price.

The Consultant must gain written approval from the Client prior to undertaking work exceeding the capped amount of **\$120,000**.

Information or Services to be Provided by the Client:

Supporting GIS datasets as listed in the attached technical scope document.

The Client engages the Consultant to provide the Services described above and the Consultant agrees to perform the Services for the remuneration provided above. Both Parties agree to be bound by the provision of the Short Form Model Conditions of Engagement (overleaf), including clauses 2, 3, 9 and 10 and any variations noted below. Once signed, this agreement, together with the conditions overleaf and any attachments, will replace all or any oral agreement previously reached between the Parties.

Variations to the Short Form Model Conditions of Engagement (Overleaf):

Clause 8 Late payment penalties shall not apply.

Clause 11 Shall be deleted and replaced with:

The maximum aggregate amount payable, whether in contract, tort or otherwise, in relation to claims, damages, liabilities, losses or expenses, shall be five times the fee (exclusive of GST and disbursements) with a minimum liability of \$2,000,000.

Clause 12 Shall be deleted and replaced with:

Without limiting any defences a Party may have under the Limitation Act 2010, the Consultant shall be considered liable to the Client for the direct loss or damage suffered by the Client as a result of the breach by the Consultant of his or her obligations under this agreement and shall not be liable for any loss of profit.

Client Authorised Signatory (ies):

s7(2)(f)(ii)

Print Name:

Date:
26/1/23

Consultants Authorised Signatory (ies):

s7(2)(f)(ii)

Date: 11/01/2023

1. The Consultant shall perform the Services as described in the attached documents.
2. Nothing in this Agreement shall restrict, negate, modify or limit any of the Client's rights under the Consumer Guarantees Act 1993 where the Services acquired are of a kind ordinarily acquired for personal, domestic or household use or consumption and the Client is not acquiring the Services for the purpose of a business.
3. The Client and the Consultant agree that where all, or any of, the Services are acquired for the purposes of a business the provisions of the Consumer Guarantees Act 1993 are excluded in relation to those Services.
4. In providing the Services the Consultant shall exercise the degree of skill, care and diligence normally expected of a competent professional.
5. The Client shall provide to the Consultant, free of cost, as soon as practicable following any request for information, all information in his or her power to obtain which may relate to the Services. The Consultant shall not, without the Client's prior consent, use information provided by the Client for purposes unrelated to the Services. In providing the information to the Consultant, the Client shall ensure compliance with the Copyright Act 1994 and shall identify any proprietary rights that any other person may have in any information provided.
6. The Client may order variations to the Services in writing or may request the Consultant to submit proposals for variation to the Services. Where the Consultant considers a direction from the Client or any other circumstance is a Variation the Consultant shall notify the Client as soon as practicable.
7. The Client shall pay the Consultant for the Services the fees and expenses at the times and in the manner set out in the attached documents. Where this Agreement has been entered by an agent (or a person purporting to act as agent) on behalf of the Client, the agent and Client shall be jointly and severally liable for payment of all fees and expenses due to the Consultant under this Agreement.
8. All amounts payable by the Client shall be paid within twenty (20) working days of the relevant invoice being mailed to the Client. Late payment shall constitute a default, and the Client shall pay default interest on overdue amounts from the date payment falls due to the date of payment at the rate of the Consultant's overdraft rate plus 2% and in addition the costs of any actions taken by the Consultant to recover the debt.
9. Where Services are carried out on a time charge basis, the Consultant may purchase such incidental goods and/or Services as are reasonably required for the Consultant to perform the Services. The cost of obtaining such incidental goods and/or Services shall be payable by the Client. The Consultant shall maintain records which clearly identify time and expenses incurred.
10. Where the Consultant breaches this Agreement, the Consultant is liable to the Client for reasonably foreseeable claims, damages, liabilities, losses or expenses caused directly by the breach. The Consultant shall not be liable to the Client under this Agreement for the Client's indirect, consequential or special loss, or loss of profit, however arising, whether under contract, in tort or otherwise.
11. The maximum aggregate amount payable, whether in contract, tort or otherwise, in relation to claims, damages, liabilities, losses or expenses, shall be five times the fee (exclusive of GST and disbursements) with a maximum limit of \$NZ500,000.
12. Without limiting any defences a Party may have under the Limitation Act 2010, neither Party shall be considered liable for any loss or damage resulting from any occurrence unless a claim is formally made on a Party within 6 years from completion of the Services.
13. The Consultant shall take out and maintain for the duration of the Services a policy of Professional Indemnity insurance for the amount of liability under clause 11. The Consultant undertakes to use all reasonable endeavours to maintain a similar policy of insurance for six years after the completion of the Services.
14. If either Party is found liable to the other (whether in contract, tort or otherwise), and the claiming Party and/or a Third Party has contributed to the loss or damage, the liable Party shall only be liable to the proportional extent of its own contribution.
15. Intellectual property prepared or created by the Consultant in carrying out the Services ("New Intellectual Property") shall be jointly owned by the Client and the Consultant. The Client and Consultant hereby grant to the other an unrestricted royalty-free license in perpetuity to copy or use New intellectual Property. Intellectual property owned by a Party prior to the commencement of this Agreement and intellectual property created by a Party independently of this Agreement remains the property of that Party. The ownership of data and factual information collected by the Consultant and paid for by the Client shall, after payment by the Client, lie with the Client. The Consultant does not warrant the suitability of New Intellectual Property for any purpose other than the Services or any other use stated in the Agreement.
16. The Consultant and the Client will be aware of, and comply with, any relevant obligations imposed on them under the Health and Safety at Work Act 2015 (the "Act"). The Consultant has not and will not assume any duty imposed on the Client from time to time pursuant to the Act arising out of this engagement.
17. The Client may suspend all or part of the Services by notice to the Consultant who shall immediately make arrangements to stop the Services and minimise further expenditure. The Client and the Consultant may (in the event the other Party is in material default) terminate the Agreement by notice to the other Party. Suspension or termination shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.
18. The Parties shall attempt in good faith to settle any dispute by mediation.
19. This Agreement is governed by the New Zealand law, the New Zealand courts have jurisdiction in respect of this Agreement, and all amounts are payable in New Zealand dollars

SHORT FORM AGREEMENT FOR CONSULTANT ENGAGEMENT

CONTRACT 2195-2023 - Stormwater Modelling – Central City IAF Project

Between: Hamilton City Council

(Client)

And: Catchment Engineering Solutions Ltd

(Consultant)

Collectively referred to herein as the “Parties” and individually as a “Party”

Project:

Central City IAF Stormwater Project

Location:

Hamilton City Council

Scope & Nature of the Services:

The scope of works for this engagement is to develop a 1D/2D stormwater network model of the Waitawhiriwhiri and City Centre catchments for the purpose of supporting a Catchment Management Plan (CMP) and conceptual design of stormwater network upgrade options to unlock growth areas. This will generally consist of the following:

- Development of a stormwater network model of the Waitawhiriwhiri and City Centre catchments, which will require:
 - Hydrologic modelling of the Waitawhiriwhiri and City Centre catchments consistent with the draft HCC modelling methodology and Waikato Regional stormwater modelling guidelines.
 - Hydraulic modelling of the Waitawhiriwhiri and City Centre catchments consistent with the draft HCC modelling methodology.
 - Preparation of network capacity and flood hazard outputs for the 2y, 10y and 100y (including climate change) suitable for display on HCC internal and external GIS viewers.
- Identification of key issues relating to stormwater primary and secondary capacity in the central city area.
- Development of a suite of primary and secondary network upgrade options to alleviate identified capacity issues.
- In consultation with HCC, selection of preferred network capacity projects.
- Feasibility design of preferred network capacity projects using the developed stormwater network model.
- Preparation of a stormwater modelling report suitable to support the development of a CMP consistent with the requirements of HCC’s Comprehensive Stormwater Discharge Consent (CSDC).

Refer to the attached memorandum for detailed scope and deliverables.

Programme for the Services:

The term of this Agreement (the “Agreement”) commences on **31 July 2023** and will expire on **30 July 2024** (the “Term”).

Fees & Timing of Payments:

The fee payable shall be **s7(2)(b)(ii)** per hour, exclusive of GST but inclusive of all disbursements and travel costs, to a capped amount of **s7(2)(b)(ii)**. Travel time shall not be paid. The Consultant is to be responsible for all taxation liabilities and all other costs and expenses arising in relation to the Services and the payment made.

The Consultant shall invoice the Client on a monthly basis before the 3rd working day of the month for all hours worked in the previous month. In relation to GST the Consultant agrees and understand that if a tax invoice acceptable to the Inland Revenue Department is not provided the Consultant will not be paid GST on the contract price.

The Consultant must gain written approval from the Client prior to undertaking work exceeding the capped amount of **\$145,000**.

Information or Services to be Provided by the Client:

Supporting GIS datasets.

The Client engages the Consultant to provide the Services described above and the Consultant agrees to perform the Services for the remuneration provided above. Both Parties agree to be bound by the provision of the Short Form Model Conditions of Engagement (overleaf), including clauses 2, 3, 9 and 10 and any variations noted below. Once signed, this agreement, together with the conditions overleaf and any attachments, will replace all or any oral agreement previously reached between the Parties.

Variations to the Short Form Model Conditions of Engagement (Overleaf):

Clause 8 Late payment penalties shall not apply.

Clause 11 Shall be deleted and replaced with:

The maximum aggregate amount payable, whether in contract, tort or otherwise, in relation to claims, damages, liabilities, losses or expenses, shall be five times the fee (exclusive of GST and disbursements) with a minimum liability of \$2,000,000.

Clause 12 Shall be deleted and replaced with:

Without limiting any defences a Party may have under the Limitation Act 2010, the Consultant shall be considered liable to the Client for the direct loss or damage suffered by the Client as a result of the breach by the Consultant of his or her obligations under this agreement and shall not be liable for any loss of profit.

Client Authorised Signatory (ies):

s7(2)(f)(ii)

Print Name:

Date: 09/08/2023

Consultants Authorised Signatory (ies):

s7(2)(f)(ii)

Print Name:

Date: 10/07

1. The Consultant shall perform the Services as described in the attached documents.
2. Nothing in this Agreement shall restrict, negate, modify or limit any of the Client's rights under the Consumer Guarantees Act 1993 where the Services acquired are of a kind ordinarily acquired for personal, domestic or household use or consumption and the Client is not acquiring the Services for the purpose of a business.
3. The Client and the Consultant agree that where all, or any of, the Services are acquired for the purposes of a business the provisions of the Consumer Guarantees Act 1993 are excluded in relation to those Services.
4. In providing the Services the Consultant shall exercise the degree of skill, care and diligence normally expected of a competent professional.
5. The Client shall provide to the Consultant, free of cost, as soon as practicable following any request for information, all information in his or her power to obtain which may relate to the Services. The Consultant shall not, without the Client's prior consent, use information provided by the Client for purposes unrelated to the Services. In providing the information to the Consultant, the Client shall ensure compliance with the Copyright Act 1994 and shall identify any proprietary rights that any other person may have in any information provided.
6. The Client may order variations to the Services in writing or may request the Consultant to submit proposals for variation to the Services. Where the Consultant considers a direction from the Client or any other circumstance is a Variation the Consultant shall notify the Client as soon as practicable.
7. The Client shall pay the Consultant for the Services the fees and expenses at the times and in the manner set out in the attached documents. Where this Agreement has been entered by an agent (or a person purporting to act as agent) on behalf of the Client, the agent and Client shall be jointly and severally liable for payment of all fees and expenses due to the Consultant under this Agreement.
8. All amounts payable by the Client shall be paid within twenty (20) working days of the relevant invoice being mailed to the Client. Late payment shall constitute a default, and the Client shall pay default interest on overdue amounts from the date payment falls due to the date of payment at the rate of the Consultant's overdraft rate plus 2% and in addition the costs of any actions taken by the Consultant to recover the debt.
9. Where Services are carried out on a time charge basis, the Consultant may purchase such incidental goods and/or Services as are reasonably required for the Consultant to perform the Services. The cost of obtaining such incidental goods and/or Services shall be payable by the Client. The Consultant shall maintain records which clearly identify time and expenses incurred.
10. Where the Consultant breaches this Agreement, the Consultant is liable to the Client for reasonably foreseeable claims, damages, liabilities, losses or expenses caused directly by the breach. The Consultant shall not be liable to the Client under this Agreement for the Client's indirect, consequential or special loss, or loss of profit, however arising, whether under contract, in tort or otherwise.
11. The maximum aggregate amount payable, whether in contract, tort or otherwise, in relation to claims, damages, liabilities, losses or expenses, shall be five times the fee (exclusive of GST and disbursements) with a maximum limit of \$NZ500,000.
12. Without limiting any defences a Party may have under the Limitation Act 2010, neither Party shall be considered liable for any loss or damage resulting from any occurrence unless a claim is formally made on a Party within 6 years from completion of the Services.
13. The Consultant shall take out and maintain for the duration of the Services a policy of Professional Indemnity insurance for the amount of liability under clause 11. The Consultant undertakes to use all reasonable endeavours to maintain a similar policy of insurance for six years after the completion of the Services.
14. If either Party is found liable to the other (whether in contract, tort or otherwise), and the claiming Party and/or a Third Party has contributed to the loss or damage, the liable Party shall only be liable to the proportional extent of its own contribution.
15. Intellectual property prepared or created by the Consultant in carrying out the Services ("New Intellectual Property") shall be jointly owned by the Client and the Consultant. The Client and Consultant hereby grant to the other an unrestricted royalty-free license in perpetuity to copy or use New intellectual Property. Intellectual property owned by a Party prior to the commencement of this Agreement and intellectual property created by a Party independently of this Agreement remains the property of that Party. The ownership of data and factual information collected by the Consultant and paid for by the Client shall, after payment by the Client, lie with the Client. The Consultant does not warrant the suitability of New Intellectual Property for any purpose other than the Services or any other use stated in the Agreement.
16. The Consultant and the Client will be aware of, and comply with, any relevant obligations imposed on them under the Health and Safety at Work Act 2015 (the "Act"). The Consultant has not and will not assume any duty imposed on the Client from time to time pursuant to the Act arising out of this engagement.
17. The Client may suspend all or part of the Services by notice to the Consultant who shall immediately make arrangements to stop the Services and minimise further expenditure. The Client and the Consultant may (in the event the other Party is in material default) terminate the Agreement by notice to the other Party. Suspension or termination shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.
18. The Parties shall attempt in good faith to settle any dispute by mediation.
19. This Agreement is governed by the New Zealand law, the New Zealand courts have jurisdiction in respect of this Agreement, and all amounts are payable in New Zealand dollars

VARIATION NO. VO# 01

CON00002195-2023 Stormwater Modelling – Central City IAF Project

CONSULTANT: ISSUED: 06/08/24

Variation Order Type: Cost& Completion Time

Details:

To allow for time and cost for the final piece of work in the original scope to be completed. This compromises of:

- Review of technical deliverables from other workstreams (stormwater management & Geotech)
- Preparation of presentation material.

Previous Cost Value : \$145,000

Variation Amount Value: \$5,000

Amended Cost Value: \$150,000

Work to be completed by 30/08/24 as described.

Issued by: **s7(2)(f)(ii)**

s7(2)(f)(ii)

Delegated Authority Signature: ..

s7(2)(f)(ii) Technical Director Strategic Waters

click here to enter a date

19/8/24

SHORT FORM AGREEMENT FOR CONSULTANT ENGAGEMENT

CONTRACT CON00002320-2023 - Stormwater Technical Support 23/24

Between: Hamilton City Council

(Client)

And: Catchment Engineering Solutions Ltd

(Consultant)

Collectively referred to herein as the "Parties" and individually as a "Party"

Project: Location:

Stormwater Technical Support 23/24

Hamilton City Council

Scope & Nature of the Services:

The scope of works for this engagement is a package of working relating to several technical scopes of works expected to be delivered through the SDU over the next 12 – 18 months.

Scope will at the direction of Andrea Phillips (Stormwater Engineer), and is expected to consist of support on the following projects:

- Mangakootukutuku ICMP implementation.
- Te Rapa ICMP implementation.
- Stormwater technical review for new sub-divisions through the contract period. This includes subsequent stages of ongoing sub-division developments.
- Preparation of flood hazard mapping for the Western Heights area.
- Technical support for publishing of flood hazard and flood depression datasets.
- Technical support for the Kirikiriroa ICMP.

Required resourcing is expected to be 20h – 25h per week. It is expected that the consultant will attend a weekly planning meeting with Andrea Phillips (Stormwater Engineer) to report on project progress in the previous week and confirm instructions for each of the listed projects.

Programme for the Services:

The term of this Agreement (the "Agreement") commences on **20 November 2023** and will expire on **18 July 2025** (the "Term").

Fees & Timing of Payments:

The fee payable shall be **s7(2)(b)(ii)** per hour, exclusive of GST but inclusive of all disbursements and travel costs, to a capped amount of **s7(2)(b)(ii)**. Travel time shall not be paid. The Consultant is to be responsible for all taxation liabilities and all other costs and expenses arising in relation to the Services and the payment made.

The Consultant shall invoice the Client on a monthly basis before the 3rd working day of the month for all hours worked in the previous month. In relation to GST the Consultant agrees and understand that if a tax invoice acceptable to the Inland Revenue Department is not provided the Consultant will not be paid GST on the contract price.

The Consultant must gain written approval from the Client prior to undertaking work exceeding the capped amount of **\$150,000**.

Information or Services to be Provided by the Client:



Supporting GIS datasets.

The Client engages the Consultant to provide the Services described above and the Consultant agrees to perform the Services for the remuneration provided above. Both Parties agree to be bound by the provision of the Short Form Model Conditions of Engagement (overleaf), including clauses 2, 3, 9 and 10 and any variations noted below. Once signed, this agreement, together with the conditions overleaf and any attachments, will replace all or any oral agreement previously reached between the Parties.

Variations to the Short Form Model Conditions of Engagement (Overleaf):

Clause 8 Late payment penalties shall not apply.

Clause 11 Shall be deleted and replaced with:

The maximum aggregate amount payable, whether in contract, tort or otherwise, in relation to claims, damages, liabilities, losses or expenses, shall be five times the fee (exclusive of GST and disbursements) with a minimum liability of \$2,000,000.

Clause 12 Shall be deleted and replaced with:

Without limiting any defences a Party may have under the Limitation Act 2010, the Consultant shall be considered liable to the Client for the direct loss or damage suffered by the Client as a result of the breach by the Consultant of his or her obligations under this agreement and shall not be liable for any loss of profit.

Client Authorised Signatory (ies):

s7(2)(f)(ii)

Print Name:

Date: 19/10/2023

Consultants Authorised Signatory (ies):

s7(2)(f)(ii)

Print Name:

Date: 26/10/2023

