

INFRASTRUCTURE & OPERATIONS

REQUEST FOR PROPOSALS

Technical Services - Lantz Lagoon Analysis
RFP50089

Release date: August 5, 2015

Proposals will be received up to
3:00:00 pm local time on Thursday, August 27, 2015

Contact: Michael Hatfield
Procurement Officer
Municipality of East Hants
Telephone: (902) 883-7098, Ext 232
Email: mhatfield@easthants.ca



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DRAWING PACKAGE A: LANTZ SEWAGE TREATMENT PLANT 27



INSTRUCTIONS TO PROPONENTS

1.1. Introduction

- 1.1.1. The Municipality of East Hants (East Hants) requires the services of a qualified firm to complete a survey and analysis of its wastewater lagoons located in Lantz, N.S. The survey must include, but is not limited to, an estimate of the location and volume and any sludge in each of the three lagoon cells, as well as an analysis of the composition of the sludge. To this end, East Hants is seeking proposals from Proponents to identify a Consultant to provide these Services.

1.2. Definitions

- 1.2.1. **Proponent:** An individual or company who submits a proposal.
- 1.2.2. **Successful Proponent:** the proponent whose proposal is selected for award.
- 1.2.3. **Independent Contractor:** a Proponent, successful or otherwise, is considered to be an Independent Contractor, not an employee of East Hants.

1.3. Proposal Deadline

- 1.3.1. Proposals will be received up to **3:00:00 pm** local time on August 27, 2015 at the address listed below:

Civic: Municipality of East Hants
Lloyd E. Matheson Centre
15 Commerce Court
Elmsdale, NS B2S 3K5

Mail: Municipality of East Hants
230-15 Commerce Court
Elmsdale, NS B2S 3K5

Attention: RFP50089

- 1.3.2. Proposals must be received at the Reception & Payments counter on the first floor of the Lloyd E. Matheson Centre and must have the time and date indicated on it by East Hants staff to confirm receipt prior to the stated Proposal Deadline. Please allow sufficient time to be served by staff.

1.4. Site Briefing

- 1.4.1. East Hants will hold a non-mandatory site briefing on **Thursday August 13, 2015**. Proponents are to meet outside of the library at the Lloyd E. Matheson Centre on or before 9:00 am. Shortly thereafter we will proceed to the Lantz Lagoon site to view the location where the Services are to be performed.

1.5. Proposal Submission

- 1.5.1. Proponents shall submit their proposal as one original copy and two physical copies (total of three paper copies) and one electronic copy in Portable Document Format (PDF), submitted on either a disk or USB key. The original shall be marked "Original" and the duplicate copies shall be marked "Copy".
- 1.5.2. The Proponent must ensure that all copies they submit, including electronic copies, are identical in terms of content. East Hants will not accept any responsibility for omissions or errors in a Proponent's proposal or copy thereof and may reject any proposal where East Hants determines, in their sole opinion, such differences are material to understanding the proposal.
- 1.5.3. The proposal shall be sealed in an envelope and shall be labeled:

"RFP50089 - Technical Services - Lantz Lagoon Analysis"

- 1.5.4. When sending by courier or other means where the label may be obscured, the Contractor must ensure the Competition Number is visible on the outer packaging.

1.6. Inquiries

- 1.6.1. All questions or requests for additional information or clarifications regarding this Request for Proposals shall be in writing, by email only, to the attention of:

Michael Hatfield
Procurement Officer
Municipality of East Hants
Email: procurement@easthants.ca

- 1.6.2. East Hants will provide clarifications and additional information, if required, by way of Addenda.
- 1.6.3. Inquires will be accepted up until **two** business days prior to the Proposal Deadline.
- 1.6.4. Proponents are solely responsible to ensure that any such inquiries are received by East Hants as described above. East Hants will not be responsible if a Proponent acts based on information received in any other way than an approved Addendum or communication, in writing, from the representative named in this section.

1.7. Proposal Acceptance (Privilege Clause)

- 1.7.1. East Hants reserves the right to accept or reject any or all proposals.
- 1.7.2. All proposals become the property of East Hants once submitted.
- 1.7.3. Late proposals will be rejected and will be returned unopened. Faxed proposals will not be accepted. Emailed proposals will not be accepted. Incomplete proposals may be rejected.
- 1.7.4. Any proposal that does not include all of the information required in this RFP will be considered incomplete and may be rejected. For greater clarity, this may include, without limitation, recommendation letters, references, insurance submissions, financial information requirements, or any information on which East Hants has stated it may evaluate the proposal.
- 1.7.5. This document and Request for Proposal process does not constitute a call for tenders.
- 1.7.6. Proponents undertake any expenditure related to the submission of a proposal at their own risk.
- 1.7.7. This Request for Proposals neither expresses nor implies any obligation on the part of East Hants to enter into a contract with any party submitting a response or responses.
- 1.7.8. East Hants may include evaluation criteria within this Request for Proposal document to be used as a guideline for Proponents (see Proposal Evaluation Criteria). East Hants reserves the right to deviate from the evaluation criteria where it is in the best interests of the Municipality. Without limiting the generality of the foregoing, decisions to deviate from the evaluation criteria may be made based on budgetary and/or service delivery considerations having regard to all of the Proposals received and the needs of East Hants.
- 1.7.9. East Hants reserves the right to accept or reject all or any Proposals, and to not accept the lowest Proposal. East Hants may accept any Proposal or any portion of any Proposal that may be considered to be in the best interests of East Hants.
- 1.7.10. East Hants reserves the right to waive formality, informality or technicality in any Proposal. This includes the right to accept a Proposal that is not strictly compliant with the instructions in the Request for Proposals document.



- 1.7.11. East Hants reserves the right to amend this Request for Proposal document at any time before the Request for Proposal's closing date and will issue an addendum in the event of a change.
- 1.7.12. East Hants reserves the right to negotiate, after the Request for Proposal's Proposal Deadline, with any Proponent for services and to finalize service arrangements in the best interests of East Hants.
- 1.7.13. In applying this privilege clause, East Hants shall not be bound by trade or custom in dealing with and/or evaluating the responses to the Request for Proposals.
- 1.7.14. East Hants reserves the right to interpret any and all aspects of this Request for Proposals as may be most favourable to East Hants.
- 1.7.15. In submitting a Proposal, the Proponent has accepted the reservation of rights (privilege clause) as set out herein and agrees to be bound by same.
- 1.7.16. Should a Proponent find any discrepancies, errors, or omissions in this RFP, or if a Proponent is unsure as to the meaning of anything in this RFP, they are to advise East Hants in writing; East Hants may, in its sole discretion, respond to such written inquiry, to all Proponents, in an addendum.
- 1.7.17. The Proponent is responsible for all costs associated with preparing and submitting this Proposal. This includes, without limitation, any and all costs, fees, expenses (travel, accommodations or meals) or other incidentals related to preparing, printing, binding, transporting, presenting, defending, or clarifying the Proposal.
- 1.7.18. It is the responsibility of the Proponent to be sure they understand the requirements prior to submitting a Proposal and before the deadline for questions has passed.
- 1.7.19. East Hants may cancel the RFP process at any time, for any reason, in its sole discretion. In the event that an RFP process is cancelled, East Hants will not be obligated to pay any costs, damages, or claims of any type to any Proponent or potential Vendor or Proponent.
- 1.7.20. In providing a Proposal, the Proponent warrants that their Proposal is in all respects fair and is provided without collusion or fraud. No representative of the company from which a Proposal is to be provided may extend entertainment, gifts, gratuities, discounts, or special services, regardless of value, to any employee of East Hants. Proponents must also advise East Hants, in writing, of any potential conflict of interest that may affect, or appear to affect, the RFP process, including the influence of award.
- 1.7.21. Proponents shall indemnify and save harmless East Hants, its officers and its employees from and against all claims, demands, losses, damages and costs of any kind based upon injury or death of a person or damage to or loss of property arising from any willful or negligent act, omission or delay on the part of the Proponent or their servants in the preparation of their Proposal and/or in the course of delivering Services.
- 1.7.22. Proponents are advised no commitment to purchase Goods or Services shall exist until the successful Proponent is advised by East Hants, in writing, of an award. If an award is made, the method of procurement may be, at East Hants's discretion, Procurement Card, Purchase Order, or other method of contract East Hants may identify.
- 1.7.23. This process and the procurement of Goods and Services, if any, resulting from this RFP process will be subject to the [Atlantic Provinces Terms and Conditions, Goods and Services](#) and the terms and conditions noted herein. Where there is a conflict between the *Atlantic Provinces Terms and Conditions, Goods and Services* and this document, this document shall prevail.
- 1.7.24. East Hants does not bind itself to accept any Proposal, but may accept any Proposal, in whole or in part, or discuss with any Proponent different or additional terms to those described in this RFP or in such Proponent's Proposal. East Hants may:
 - reject any or all of the Proposals;

- accept any Proposal;
- if only one Proposal is received, choose to accept or reject it;
- not to accept the lowest bid price; or
- alter the schedule, RFP process, or any other aspect of the RFP, as it may determine in its sole and absolute discretion.

1.7.25. Submitting a Proposal shall be deemed proof that the Proponent was aware of and understood the requirements, the terms and conditions, and all other provisions of the RFP. East Hants will not be liable for claims made by a Proponent that they were uninformed or unaware of the requirements, terms or conditions of this RFP.

1.8. Proposal Openings

1.8.1 East Hants will proceed with private openings for this RFP. Proponents will be advised of the results of the RFP once a determination of award has been made.

1.9. Proposal Validity

1.9.1. Proposals shall remain valid for acceptance for a period of sixty (60) days from the Proposal Deadline or such additional time as may be mutually agreed upon in writing.

1.10. Fees, Expenses and Disbursements

1.10.1. The Proponent is responsible to ensure that their proposal clearly describes total estimated cost to provide the Services. The Proponent must supply a detailed estimate of the total cost including all fees, expenses, and disbursements for which the Proponent expects to be paid.

1.10.2. This work is being conducted with public funds and therefore may be subject to access to information requests. In order to operate in a fair and transparent manner, the name of the Successful Proponent and the lump sum costs provided by the Successful Proponent may be made public after award. However, East Hants believes the disclosure of individual unit costs or rates may be harmful to the competitiveness of Bidders and therefore will not publish or provide unit rates related to this competition, nor will they release any Proposal, or part thereof, without consulting the Proponent first, unless required to in law.

1.11. Proposal Requirements

1.11.1. The background, nature of the required Services, and other details which the Proposal must address are described in Schedule A, Service Description. East Hants has tried to clearly describe what it wants to achieve in requesting these Services, its service expectations, and the level of support we may expect from the Successful Proponent during the term of the Service delivery.

1.11.2. The Proponent must clearly and concisely describe in their proposal how they proposes to deliver the Services, including, but not limited to, a brief description of the steps they would undertake and the methodology they would apply.

1.11.2.1. The description of the steps and methodology is limited to 25 single sided pages in 10-12 point font of the Proponent's choosing, not including appendices or exhibits.

1.11.3. Proponents must provide realistic cost and level of effort figures as part of their proposal. The Proponent must include a schedule of fees and expenses detailing the hourly rates for project team members.

1.11.4. Proponents are must complete and submit with their proposal Appendix A, the Proposal Form and Appendix B, The Proposal Summary.

1.11.5. In addition, the Proponent must complete any table, Schedule or Appendix identified in the RFP. The Proponent may include any tables or attachments it feels will help clarify their proposals above the minimums identified in the RFP document.



- 1.11.6. Proponents must indicate whether they are the sole undertakers of the work or whether Sub-consultants will be used. Proposed Sub-consultants shall be subject to approval by East Hants.
- 1.11.7. The Proponent must supply the résumés of the Primary Team Members listed in Appendix B of their Proposal.
- 1.11.8. The Proponent must supply a list of all staff they anticipate to assign to the complete the Services, and must include an organizational chart showing the lines of responsibility and reporting structure of these staff.
- 1.11.9. If a Sub-consultant is to be used, the Proponent must include a list of the Sub-consultant's staff, their organizational chart and the resumes of Primary Team Members listed in Appendix B. The role of any Sub-consultant must be clearly defined and outlined in the Proposal.
- 1.11.10. The proposal shall include a schedule indicating any stages proposed for the Services, together with the time required to complete each stage. The schedule shall indicate milestone dates and dates that items are to be delivered to East Hants.
- 1.11.11. East Hants may, without creating an obligation to any Proponent, request clarifications, additional information, supporting documentation not otherwise supplied, up to including a request for a meeting or presentation, for any proposal or from any Proponent, prior to award.
- 1.11.12. The Proponent is responsible for all costs associated with preparing and submitting this proposal. This includes, without limitation, any and all costs, fees, expenses (travel, accommodations or meals) or other incidentals related to preparing, printing, binding, transporting, presenting, defending, or clarifying the proposal.
- 1.11.13. It is the responsibility of the Proponent to be sure they understand the requirements prior to submitting a Proposal and before the deadline for questions has passed.
- 1.11.14. To qualify for award, a Proponent be registered with the Workers' Compensation Board of Nova Scotia (WCBNS), regardless of the size of the company or its usual status with WCBNS. The Proponent is required to provide a Clearance Letter with their Proposal, except where:
 - 1.11.14.1. a Proponent is not currently registered, but intends to register as a condition to providing the Services; and
 - 1.11.14.2. where the Proponent confirms in Appendix B that they have inquired with WCBNS and have determined they will be able to obtain such coverage.
- 1.11.15. In addition to the clauses herein, the successful Bidder will also have to comply with the terms and conditions specified in Schedule A and the Independent Contractor Agreement. Failure to comply with these conditions may result in the rejection of the Proponent's proposal or the cancellation of award.



1.12. Proposal Evaluation

1.12.1. East Hants will evaluate each proposal using the criteria specified below. Proponents must achieve a minimum of 30 points in Section 1 to be considered for award.

Criteria	Available Points
Section 1: Proposal Document	
Comprehension (<i>demonstrated understanding of the requirements and objectives in performing the Services</i>)	/15
Work Plan/Schedule (<i>detailed and reasonable approach to the requirements and objectives, number of hours</i>)	/15
Completeness and Value (<i>degree to which proposal addresses submission requirements</i>)	/5
Presentation (<i>appearance of proposal as indicative of firm's work</i>)	/5
Firm Rating (<i>relevant experience on similar projects, adequate number and type of resources, references</i>)	/10
Staff Rating (<i>relevant training and experience</i>)	/10
Section 1 Sub-Total	/60
Section 2: Cost Rating	/40
Total	/100

1.12.2. When evaluating the proposals, East Hants will assign points for Cost based on the following formula:

(Lowest proposal cost divided by Proponent's proposal cost) multiplied by the Available Points

- 1.12.3. The Proponent who, having achieved the minimum number of points required herein for Section 1, has the highest number of Total Points once all scores are calculated will be considered for award.
- 1.12.4. In the case of a tie, East Hants may chose the Proponent's proposal which achieved the highest Sub-Total in Section 1. In the unlikely event this does not resolve the tie, East Hants may use chance to determine award.

Appendix A - Proposal Form

Proposal submitted by: _____

The Proponent must complete the following table to be submitted with their proposal.

Work Element	Number of Hours Planned for Work Element	Maximum Fee
Complete a survey and analysis of its wastewater lagoons as described		

All fees shown will be exclusive of Harmonized Sales Tax (HST).

The Proponent hereby agrees that the work proposed in the table will be completed by the dates stated in the Schedule for the Maximum Fee indicated in the table above, inclusive of, without limitation, all fees, expenses or costs for which the Proponent may wish to be reimbursed, except HST.

Name of Firm submitting Proposal: _____

Signature of Witness

Authorized Signature

Name (Printed)

Title (Printed)

Date



Appendix B – Summary of Proposal

1. Contact information for Proponent:

Name of Primary Proponent Firm	
Address	
Phone Number (office)	
Fax Number	
Primary Project Contact Name	
Email Address for Primary Contact	

2. Sub-consultant List (if any):

Name of Sub-consultant Firm	
Address	
Phone Number (office)	
Fax Number	
Project Contact Name	
Name of Sub-consultant Firm	
Address	
Phone Number (office)	
Fax Number	
Project Contact Name	
Name of Sub-consultant Firm	
Address	
Phone Number (office)	
Fax Number	
Project Contact Name	



3. Primary Proponent Team Members:

- a. Proponents must attach resumes of primary team members to Appendix B when submitting their proposal.

Primary Proponent Team Member Name	Function/Job Description

4. Sub-consultant Key Team Members (if any)

Sub-consultant Firm Name	Sub-consultant Team Member Name	Function/Job Description

5. Experience/ References:

- a. Provide three references for similar work completed by your firm in the format illustrated below.

Title of Project	Location Work Performed	Client Name	Year Project Completed	Service Provided	Project Value (\$)	Fee Value (\$)	Contact Name	Contact Phone Number

6. Insurance (attach Certificate or declare intention to obtain coverage):



7. Workers’ Compensation (attach Clearance Letter or declare intention to obtain coverage):

8. Receipt of the following addenda is hereby acknowledged:

Addendum:	_____	dated:	_____
	_____		_____
	_____		_____
	_____		_____
	_____		_____

Please review this RFP document to confirm you have met all of the requirements for the submission, including, without limitation, the correct number of copies and the labeling requirements. Please verify that all of the schedules, sections and signatures have been completed before submitting the proposal.



Appendix C – Independent Contractor Agreement

THIS AGREEMENT is effective <<date>>, 2015 (“Effective Date”)

Between

THE MUNICIPALITY OF THE DISTRICT OF EAST HANTS, a body corporate pursuant to the *Municipal Government Act (SNS 1998, c. 18)*, having its chief place of business at Elmsdale, in the District of East Hants, Nova Scotia, hereinafter called “East Hants”

~and~

<<LEGAL NAME>>, a body corporate under the laws of <<jurisdiction>> (the “Contractor”)

BACKGROUND

East Hants wishes to retain the Contractor to complete a survey and analysis of its wastewater lagoons, more fully explained in Schedule A, Statement of Requirements.

IN CONSIDERATION of mutual obligations and agreements specified herein, the parties agree as follows:

DEFINED TERMS

- 1 Services means the services supplied by the Contractor as specified within this agreement.
- 2 East Hants Representative means the employee of the Municipality of East Hants, or their designate, assigned by East Hants to be responsible for managing this agreement.
- 3 Schedule means the timeline, including deadlines, review dates and any other milestones or dates established by East Hants for the delivery of the Services. The Schedule may only be modified with written permission from East Hants.
- 4 Contractor and Contractor mean the same under this Agreement.

CONTRACT DOCUMENTS

- 5 This Agreement consists of the following documents:
 - a. This Independent Contractor Agreement;
 - b. Schedule A, Statement of Requirements;
 - c. <<insert proposals, confidentiality agreements, etc. as applicable>>; and
 - d. <<insert additional documents as applicable>>.



INTENT

- 6 East Hants hereby engages the Contractor to supply the Services described herein and the Contractor agrees to provide these Services.
- 7 The Contractor warrants that it has the necessary resources to complete the Services in a competent and professional manner. Such resources shall include, without limitation, qualified, skilled, and sufficient personnel, adequate financial resources, and any other unique or general resources necessary to complete the Services.

TERM

- 8 This agreement shall commence on the Effective Date and shall end on the earlier of the following:
- a. Full completion of the Services to the satisfaction of East Hants; or
 - b. Termination in accordance with the terms of this agreement (see TERMINATION).
- 9 Unless amended by the parties in writing, the Contractor agrees to complete Services to the satisfaction of East Hants on or before **December 31, 2015**.

REMUNERATION

- 10 East Hants shall remunerate the Contractor as follows:
- a. The maximum amount payable under this agreement, including fees, expenses and disbursements, shall not exceed the aggregate sum specified below, exclusive of Harmonized Sales Tax (HST).

Maximum Lump Sum Fee: _____
 - c. Such fees, or part thereof, are only payable when the Contractor, as determined by East Hants, has satisfactorily delivered the Services or part thereof. Payment for any part of the Services shall not be deemed a waiver of East Hants' rights of set-off at law or under contract for costs or expenses arising from default or negligence of the Contractor.
 - d. Invoices must be submitted monthly by the Contractor and must be supported in such detail as East Hants may request. Invoices shall indicate individual personnel hours, their rate(s) and the total hourly expense for the individual; individual mileage, the rate(s) and the total mileage expense for the individual; and any expenses, listed by category. Mark-ups (if any) for recovery of administrative or incidental expenses are to be clearly identified on the invoice.
 - e. East Hants will review each invoice for completeness in a timely manner and, if acceptable, will approve such invoice for payment. Where there is a discrepancy, error, or other anomaly, East Hants may reject an invoice, request clarification or additional information, or otherwise require the invoice to be made acceptable prior to approval.
 - f. Payment will be made on a net thirty (30) days basis from receipt of an acceptable invoice.
 - g. No payment made by East Hants under this Contract shall constitute acceptance of work or products that are not in accordance with the requirements of the agreement.
 - h. East Hants may reject an invoice on the basis that the Services are, in its sole opinion, incomplete or unsatisfactory. In the case where the Services are deemed unsatisfactory, the Contractor will

be required to make changes to the Services that are acceptable to East Hants at no additional cost. If the Services cannot be made satisfactory, in the East Hants's sole opinion, East Hants may terminate the agreement.

- i. The Contractor shall not be entitled to payment in respect of costs incurred by the Contractor in remedying errors and omissions in the Services that are attributable to the Contractor, the Contractor's employees, or persons for whom the Contractor had assumed responsibility in performing the Services.
- j. If, and to the extent that, the time for completion of the Services is exceeded or extended through no fault of the Contractor, payment for the Services required for such extended period of this agreement shall be subject to review and equitable adjustment.
- k. In the event the agreement is terminated before the satisfactory completion of the Services, East Hants shall only be liable to pay, and the Contractor shall accept in full settlement, an amount for Services satisfactorily performed up to the date of termination.
- l. Disbursements and expenses incurred by the Contractor in performing the Services, and not included as part thereof, shall be reimbursed to the Contractor at actual cost with no markup. All expenses and disbursements are considered to be included in the Maximum Lump Sum Fee unless authorized, in writing, by East Hants to be reimbursed separately.
- o. The Contractor shall be solely responsible to pay all costs and expenses arising out of this agreement, whether or not East Hants intends to reimburse the client for them.
- p. The Contractor is responsible to maintain a thorough cumulative record of all fees, expenses and disbursements over the term of the Contract. The Contractor must provide East Hants with an electronic copy of such record upon request.

INDEPENDENT STATUS

- 11 The Contractor will provide the Services to East Hants as an Independent Contractor and not as an employee.

Accordingly:

- a. The parties acknowledge that the Contractor and any subcontractor they may engage, and their respective employees, are not, nor are they deemed to be, employees of East Hants within the meaning set out in any employment legislation that may be applicable, or otherwise.
- b. The Contractor agrees that East Hants shall have no liability or responsibility for the withholding, collection, or payment of any payroll taxes, employment insurance premiums, or Canada Pension Plan contributions, or any other relevant payroll deductions on any amounts paid by East Hants to the Contractor or amounts paid by the Contractor to its employees or contractors.
- c. The Contractor also agrees to indemnify East Hants from any and all claims in respect to East Hants's failure to withhold and/or remit any payroll taxes, employment insurance premiums, Canada Pension Plan contributions, or similar payroll deductions.
- d. Further, the Contractor shall be solely and entirely responsible for all payments under the applicable Workers' Compensation legislation as it relates to their ability to provide service and receive payment.
- e. The Contractor agrees that as an Independent Contractor, the Contractor, and any person for whom it is legally responsible, will not be qualified to participate in or to receive any employee benefits that East Hants may extend to its employees.



- f. The Contractor shall not have any power to accept an obligation, incur any liability, promise any performance, and/or request or obtain any credit on behalf of East Hants.
- g. The Contractor is free to provide services to other clients, so long so long as there is no interference with the Contractor’s contractual obligations to East Hants.

SCHEDULE AND DELAY

- 12 The Contractor shall contact the East Hants Representative weekly, or on such other frequency acceptable to East Hants, to provide an update on the progress of the Services. An updated Schedule indicating progress of the Services shall be provided to East Hants monthly, or more frequently if so requested.
- 13 Any circumstances that will result in changes to the agreed Schedule or delay in performance of the Services must be brought to attention of the East Hants Representative by the Contractor within 24 hours of the change or delay being identified. Changes to the Schedule must be approved by East Hants in writing.
- 14 In identifying a period of delay, the Contractor must make reasonable effort to quantify the expected period of delay and to minimize such delay.
- 15 Where the Contractor fails to perform the Services, in whole or in part, in a timely manner or on a continuous basis, in accordance with the established Schedule, East Hants may:
 - a. Terminate this Agreement; and
 - b. Engage another Contractor to perform the Services immediately; and
 - c. Recover, from the Contractor, and Contractor shall be liable to East Hants for, any and all costs and damages that East Hants incurs as a result of such delay.
- 16 Provided that the Contractor complies with subsections 12 and 13 of the SCHEDULE AND DELAY section above, the Contractor shall be excused of any delay (“excusable delay”) that:
 - a. Is beyond the reasonable control of the Contractor;
 - b. Is not avoidable by the exercise of reasonable foresight; and
 - c. Occurred without the fault or neglect of the Contractor.
- 17 For greater clarity, any delay caused by the lack of financial resources, labour disputes/strikes, insolvency, any event that is a ground for termination provided for in this Agreement, or any delay in the Contractor fulfilling an obligation to deliver a bond, guarantee, letter of credit, insurance, WCB certificate or other security relating to the performance or the payment of money, shall not qualify as an excusable delay.
- 18 In the event of an excusable delay, any delivery date, schedule, or other date that is directly affected by the delay shall be postponed for a reasonable time not to exceed the duration of the excusable delay.
- 19 Where an excusable delay continues for 30 days or more, East Hants may, in East Hants’s absolute discretion, choose to terminate this Agreement. In such a case, the parties agree that neither party will make any claim against the other for damages, costs, expected profits or any other loss arising as a result of the termination or the event that gave rise to the excusable delay.
- 20 Except to the extent that East Hants is responsible for the delay for reasons of failure to meet an obligation under the Agreement, East Hants shall not be liable for any costs or charges of any nature incurred by the Contractor or any of its sub-contractors as a result of an excusable delay.

PERSONNEL

- 21 The Contractor is advised that East Hants expects the personnel listed in the Contractor’s duly signed proposal to perform the Services indicated. The Contractor must obtain written permission from East Hants



before changing any member of the work team. In the case of personnel being changed, the new personnel being assigned must have a similar length and breadth of experience relevant to this project as the personnel being replaced and they must otherwise be acceptable to East Hants.

SUBCONTRACTOR

- 22 The Contractor is advised that the sub-contractor listed in the Contractor's proposal and their work scope cannot be changed without the written permission of East Hants. Failure to comply with this provision will be considered a breach of contract and may result in termination of the agreement.
- 23 If the Contractor finds that a subcontractor named in this agreement cannot perform some or all of the Services for which they were named, the Contractor may request permission from East Hants to engage an alternative subcontractor for such Services. In making such a request, the Contractor must:
- a. Identify the reasons why the named subcontractor cannot complete the Services;
 - b. Provide the name, qualifications and experience of the proposed replacement subcontractor;
 - c. Make such request in writing; and
 - d. Must select a replacement who is in all respects equal to the subcontractor being replaced.
- 24 Permission to replace a subcontractor will not be unreasonable withheld. However, East Hants reserves the right to, in its sole discretion, reject any proposed replacement subcontractor the Contractor may name. The rejection of a replacement subcontractor shall not relieve the Contractor of their obligation to perform the Services under this agreement.

CONFIDENTIALITY

- 25 Information provided by East Hants is to be treated as confidential and is not to be disclosed to any third party without the written permission of East Hants except as necessary to perform the Services. The Contractor will be required to sign the Confidentiality Agreement included as Appendix B.

INFORMATION COLLECTED

- 26 All information and material produced by the Contractor in the course of the Services, including, but not limited to, calculations, design notes, criteria, graphs, figures, maps, reports, drawings, analysis, profiles, and plans, will become the property of East Hants and an electronic copy of such information must be turned over to East Hants upon completion or termination of the Services. The Contractor hereby assigns to East Hants all its rights to the same and unconditionally waives all moral rights it has or will have with respect to the same, unconditionally.
- a. The Contractor understands that East Hants intends to use such collected information to perform the business of the Municipality of East Hants; to that end, the Contractor agrees that East Hants may, without limitation, use, distribute, reproduce, and/or publish such information without penalty or exclusion; and
 - b. East Hants reserves the right to amend such collected information whenever and for whatever purposes it chooses to do so.

INDEMNIFICATION

- 27 The Contractor shall indemnify and hold harmless the Municipality of East Hants, its officers, members of municipal council, employees and volunteers from and against any liabilities, claims, expenses, demands, loss, cost, damages, actions, suits or other proceedings made, sustained, brought, prosecuted or threatened to brought or prosecuted that are based upon, occasioned by or attributed to any bodily injury to or death of a person or damage to or loss of property caused by any acts or omissions on the part of the Contractor, its officers, employees, students, agents, volunteers or those for whom you are responsible arising out of this Agreement.



CHANGES TO REQUIREMENTS

- 28 If the instructions provided by East Hants are interpreted by the Contractor as increasing or decreasing the scope of the Services, they must inform East Hants of the impact of such instructions prior to acting on them. At minimum, any change in scope that affects the Lump Sum Maximum Fee must be approved by East Hants in writing and the Contractor must provide, at minimum:
- a. A description of the change in Services as a result of the instructions;
 - b. The amount, exclusive of HST, by which the Lump Sum Maximum Fee will either be increased or decreased accordingly; and
 - c. A summary of the fees, expenses and disbursements which make up the amount of increase or decrease.

INSURANCE

- 29 The Contractor shall, without limiting its obligations or liabilities, maintain Commercial General Liability insurance on an occurrence basis with a minimum limit of \$2,000,000 for bodily injury including death, personal injury and property damage including loss of use, and shall include provisions for
- a. Blanket contractual liability;
 - b. Owners' and contractors' protective liability;
 - c. Broad form property damage;
 - d. Tenant's legal liability;
 - e. Non-owned automobile liability;
 - f. must provide for watercraft liability for owned/non-owned watercraft;
 - g. Contingent employer's liability; and
 - h. Products and completed operations liability.
- 30 This insurance shall include the Municipality of the District of East Hants as an additional insured and contain both cross-liability and severability of interest clauses. Excess or umbrella insurance may be used to achieve the required insured limits.

REGULATIONS

- 31 The Contractor shall comply with all existing Federal, Provincial and Municipal laws and regulations and the regulations of any other authorities that may have jurisdiction. The Contractor shall also comply with any policies or other requirements related to occupational health and safety or security that may be in place or implemented during the course of the agreement.

TAXES

- 32 The Contractor shall pay all Federal and Provincial Taxes as required by the appropriate enactments.
- 33 The Contractor shall indicate on each application for payment, as a separate amount, the Harmonized Sales Taxes that East Hants is legally obligated to pay. This amount will be included in payments to the Contractor.



- 34 In the event of changes in applicable tax legislation to provide additional tax relief during the course of this agreement, it is the intent of the parties that any benefits therefrom shall accrue to the Municipality who shall deduct any overpayment of taxes from moneys due to the Contractor.
- 35 In the event of additional taxes being imposed during the course of the agreement, it is the intent of the parties that the additional amounts paid by the Contractor will be reimbursed by East Hants in accordance with the requirements of the applicable tax act.

WORKERS' COMPENSATION

- 36 The Contractor must be registered and in good standing with the Workers' Compensation Board of Nova Scotia (WCBNS) regardless of their jurisdiction of incorporation, location of premises, or typical status with WCBNS.
- 37 No payments will be made by East Hants to the Contractor unless their invoice is accompanied by a valid Clearance Letter confirming they are in good standing with WCBNS.

CONFLICT OF INTEREST

- 38 The Contractor must promptly bring to the attention of East Hants, in writing, any possible conflict of interest related to delivering these Services. For greater clarity, any business relationships between East Hants staff and Contractor, either direct or through a third party, which may appear to create an unfair advantage for the Contractor or where it may appear that an employee of East Hants may personally benefit from this agreement, must be identified. East Hants is currently developing a *Code of Business Conduct* which, when implemented, will also become the responsibility of the Contractor to follow, in as much as it affects the delivery of these Services.

PERFORMANCE

- 39 If any part of the Services is found to be deficient or not in accordance with the terms of this Contract or standards specified herein, East Hants may, at its sole discretion:
- a. Require the Contractor to re-perform the Services or make any required corrections to the work, at its own expense, to comply with the terms of the Contract; or
 - b. If the Contractor cannot or will not make such corrections or re-performance, or if the proposed delay in making such corrections or re-performance may compromise health, safety, or the ability of East Hants to perform the business of the Municipality in any way, East Hants may choose either to engage a third party to correct the work or to perform the Services or to perform such corrections or to perform such Services themselves. The cost of such action will be deducted from any monies owing to the Contractor until the entire amount is offset or, where there is not amount to offset, the Contractor must pay any remaining cost back to East Hants in the form of credits of payments already made; or
 - c. Where the deficiency is embedded in the work or Services, East Hants may deduct an amount from any monies owing, or the Contract value, that is equivalent to the difference between the value of the defective work and what was specified in the Contract. Such amount shall correspond to the costs that would reasonably be incurred to correct the deficiency; and
 - d. East Hants may terminate the Contract in accordance with the Termination clauses herein.

TERMINATION

- 40 East Hants may terminate this agreement at any time, for any reason, by providing thirty days written notice to the Contractor. This notice period may be increased by written agreement between the parties. Agreement to extend this notice period does not release the Contractor of their duty to remedy and, under no circumstances will East Hants be responsible for interest or other charges or fees related to the process of remedy.

- 41 Notwithstanding the above, East Hants may terminate this agreement without notice if the Contractor makes changes to the approved list of Contractor's personnel tasked to complete the Services or to the subcontractor engaged to complete the Services without first obtaining the written permission of East Hants.
- 42 East Hants may terminate this agreement if the performance of the Services, or portion thereof, is found to be unacceptable. Both East Hants and Contractor agree that each will attempt to remedy the situation and to find a way to make the Services, or portion thereof, acceptable. Under no circumstances may such remedy represent additional cost to East Hants. If no remedy can be found within thirty days of the initial communication to the Contractor by East Hants that the performance of the Services is unacceptable, such notice shall be considered notice to terminate the agreement.
- 43 East Hants reserves the right to terminate this agreement, without penalty of any kind, if the Contractor is judged to be bankrupt or makes general assignment for the benefits of its creditors.
- 44 Termination of the Agreement by East Hants shall not relieve that Contractor of any obligations or liability it may have to East Hants except as provided for herein.

RECEIVERSHIP

- 45 In the event that a Receiver is appointed to manage the affairs of the Contractor, East Hants reserves the right to enter into a contract with another party to perform the Services. Under no circumstances shall East Hants be responsible for any losses suffered by the Contractor.

ASSIGNMENT

- 46 The Contractor may not transfer or assign this agreement without the express prior written permission of East Hants. Assignments or transfers with are attempted to be made to this agreement without such permission will be void.

ENTIRE AGREEMENT

- 47 The Agreement, together with the Schedules, form the complete agreement between the parties and shall supersede any and all previous communications, oral or written, express or implied, between the parties. This agreement may only be amended in writing, with such amendment being signed by authorized representatives for each party and clearly indicating this specific agreement.

INTERPRETATION

- 48 The headings introducing each paragraph or section are for reference only and shall not affect the interpretation of the agreement. Any numbers or changes of gender will be interpreted in context.

NOTIFICATION

- 49 Any notifications of a general nature related to this agreement may be provided by any written means, including email. It remains the responsibility of the sender to ensure the notification has been received and acknowledged by the intended recipient. Material notifications such as relate to clauses covering termination or changes to personnel shall be delivered by registered mail, courier requiring the signature of the person specified in this clause, or in person where the person specified in this clause may confirm acceptance in writing.

- 50 The Notifications shall be addressed as follows:

a. By mail to East Hants:

Municipality of East Hants
RFP50089 – Lantz Lagoon. Attention: Dan Harroun
230-15 Commerce Court
Elmsdale, NS B2S 3K5



Attention: Procurement Officer

b. By email to East Hants:

Primary: procurement@easthants.ca
Cc: mhatfield@easthants.ca; dharroun@easthants.ca

c. By courier or in person to East Hants:

Municipality of East Hants
RFP50089 – Lantz Lagoon, Attention: Dan Harroun
15 Commerce Court
Elmsdale, NS B2S 3K5

Attention: Procurement Officer

Proceed to the Reception & Payments counter on the first floor of the Lloyd E. Matheson Centre

d. By mail to the Contractor:

<<Company Name>>
<<Project Number - Project Name>>
<<Address>>

Attention: <<Name>>

e. By email to Contractor:

Primary: <<email address>>
Cc: <<as requested by Contractor>>

GOVERNING LAW

- 51 The laws of Nova Scotia shall govern this Agreement. If any dispute should arise under the terms of this Agreement, the Courts of Nova Scotia shall have exclusive jurisdiction to such dispute.

ENUREMENT

- 52 This agreement shall ensure to the benefit of and be binding upon the parties and their lawful heirs, executors, administrators, successors and assigns.

SEVERABILITY

- 53 If a provision of this agreement is deemed void or invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

DISPUTE RESOLUTION

- 54 In the event of a disagreement regarding any aspect of the Services or any instructions given by East Hants to the Contractor under this agreement:
- a. The Contractor must promptly deliver written notice of disagreement to East Hants. Such notice must contain the particulars of the disagreement, any changes in time or amounts claimed, and reference to the applicable provisions of this agreement;
 - b. The Contractor shall continue to deliver the Services in accordance with East Hants' instructions; and



- c. The Contractor and East Hants shall attempt to resolve the disagreement by negotiation conducted in good faith. The parties shall negotiate firstly at the level of the Contractor's project representative for each party. If such negotiations are unsuccessful, the parties may escalate the negotiations to the level of a principal of the Contractor firm and a Director at East Hants;
- d. If both parties agree that East Hants gave instructions in error or contrary to this agreement, East Hants shall compensate the Contractor a reasonable fee for any extra work completed due to such instruction, together with those reasonable disbursements arising from the extra work.
- e. The parties shall calculate those fees in accordance with this agreement;
- f. If the parties cannot settle the disagreement, the Contractor may ask East Hants for a written decision regarding their dispute and, within 14 days of receiving that request, East Hants must deliver such decision to the Contractor, in which they shall set out the particulars of their response and any applicable clauses of this agreement upon which they base this decision;
- g. If the Contractor rejects the decision, the parties may refer the matter to arbitration in accordance with *The Commercial Arbitration Act of Nova Scotia*.
- i. Negotiations conducted under the dispute resolution provisions of this agreement are without prejudice to either party's other rights under this agreement or at law.

WAIVER

- 55 The waiver or breach of any provision of this agreement shall not form precedence for future breaches of that provision or any other provision of this agreement.

SIGNED hereunder by representatives of the parties with authority and capacity to do so:

MUNICIPALITY OF THE DISTRICT OF EAST HANTS	<<CONTRACTOR LEGAL NAME>>
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____



SCHEDULE A: SERVICES DESCRIPTION

1.0. General

1.1. The Municipality of East Hants requires the services of a qualified firm to undertake the following work:

1.1.1. Lagoon Sludge Mapping Overview

- 1.1.1.1. The three (3) lagoons will be laid out in a grid
- 1.1.1.2. The lagoon will be mapped to ascertain sludge levels
- 1.1.1.3. The map will be provided to East Hants
- 1.1.1.4. There will be a minimum of ten (10) samples from lagoon cell 1
- 1.1.1.5. There will be a minimum of twelve (12) samples from lagoon cell 2
- 1.1.1.6. There will be a minimum of eighteen (18) samples from lagoon cell 3

1.1.2. All samples taken will be analyzed for total percent solids to determine total “bone dry” tons of material

1.1.3. Analysis of the samples shall include and is not limited to:

- 1.1.3.1. Percent solids
- 1.1.3.2. Sludge composite of samples to ascertain a cost to dewater
- 1.1.3.3. Estimate of the level or profile of sludge in the lagoons
- 1.1.3.4. Report an accurate sludge volume contained the lagoons

1.2. Services must be performed between award and December 31, 2015, unless otherwise directed by East Hants in writing, and will be performed at the Municipal location identified below:

Lantz Wastewater Treatment Plant
35 Palley Road
Lantz, N.S.

2.0. Available Information

2.1. The following is a list of documents and other materials that East Hants suggests the Consultant review prior to submitting a Proposal.

- 2.1.1. CBCL Drawing Number Package 86549B (See Drawing Package A)

3.0. Project Schedule

3.1. East Hants anticipates award in September of 2015. Based on that anticipated award schedule, the Services must be completed by: December 31, 2015

4.0. Form of Agreement

4.1. East Hants intends to use the attached Independent Contractor Agreement as the form of agreement for this RFP.

5.0. East Hants Representative

- 5.1. The East Hants Representative for these Services is Dan Harroun, Manager of Public Works. East Hants may, through the Representative or their designate, supply either verbal or written instructions to a Contractor with respect to the Services to be completed.

6.0. Equipment and Materials

- 6.1. The Proponent is responsible to provide all labor, equipment and materials necessary to complete the Services.

7.0. Safety

- 7.1. The performance of these Services will required the Contractor to work in and over water. In addition to other personal protective equipment (PPE) the Contractor may identify for their employees, East Hants requires that the Contractor ensure that a personal floatation device (PFD) is used by their employee whenever on or near the lagoon cells.
- 7.2. Failure by the Contractor to enforce the use of appropriate PPE in the performance of these Services may result in Termination of the Agreement for these Services.
- 7.3. Prior to the commencement of any Services, the Proponent, with the cooperation of East Hants where necessary, must:
- Perform a hazard assessment;
 - Post any required warning signs or install any necessary guards or barriers;
 - Locate and mark any municipal or other services such as water, sewer, electrical, communications, etc., that may be affected by the work as identified in the hazard assessment. East Hants is responsible for any fees associated with location of services;
 - Locate and confirm clearances from nearby structures and overhead obstructions such as power lines;
 - Design and provide traffic control, if required; and
 - Identify and remove of any other potential hazards which might result in damage or harm to public property or individuals.



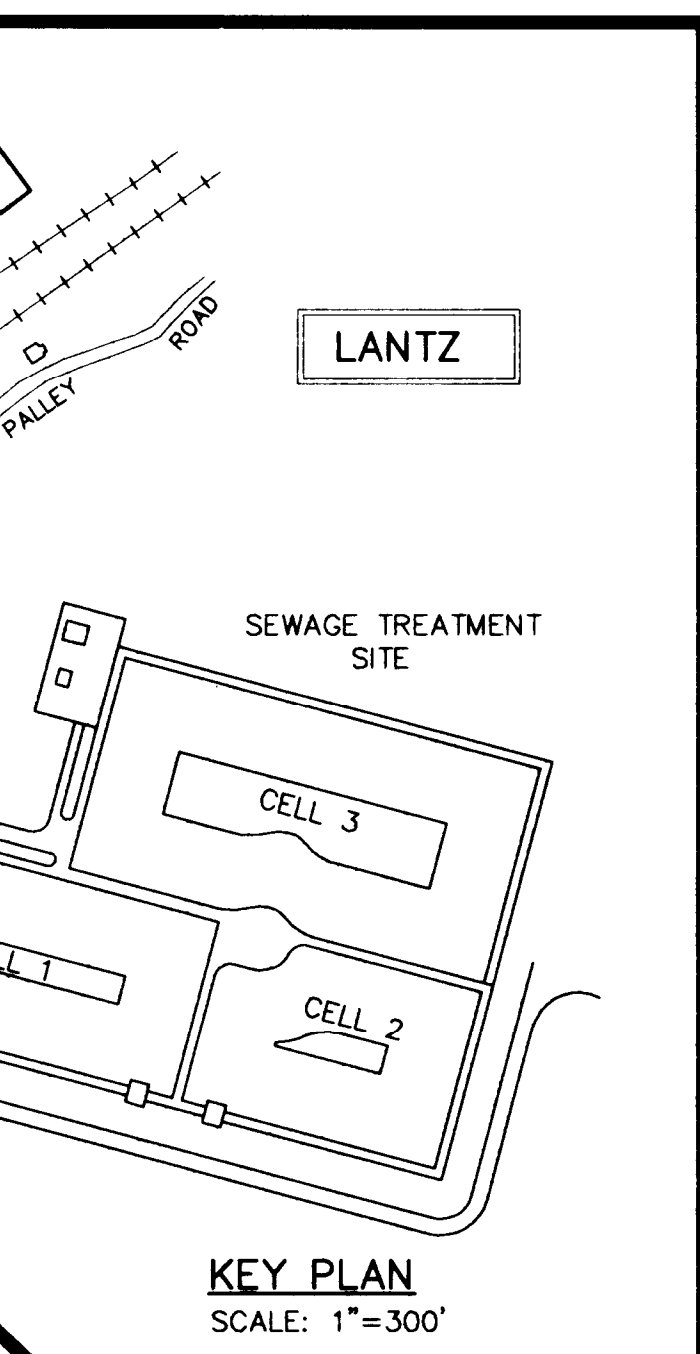
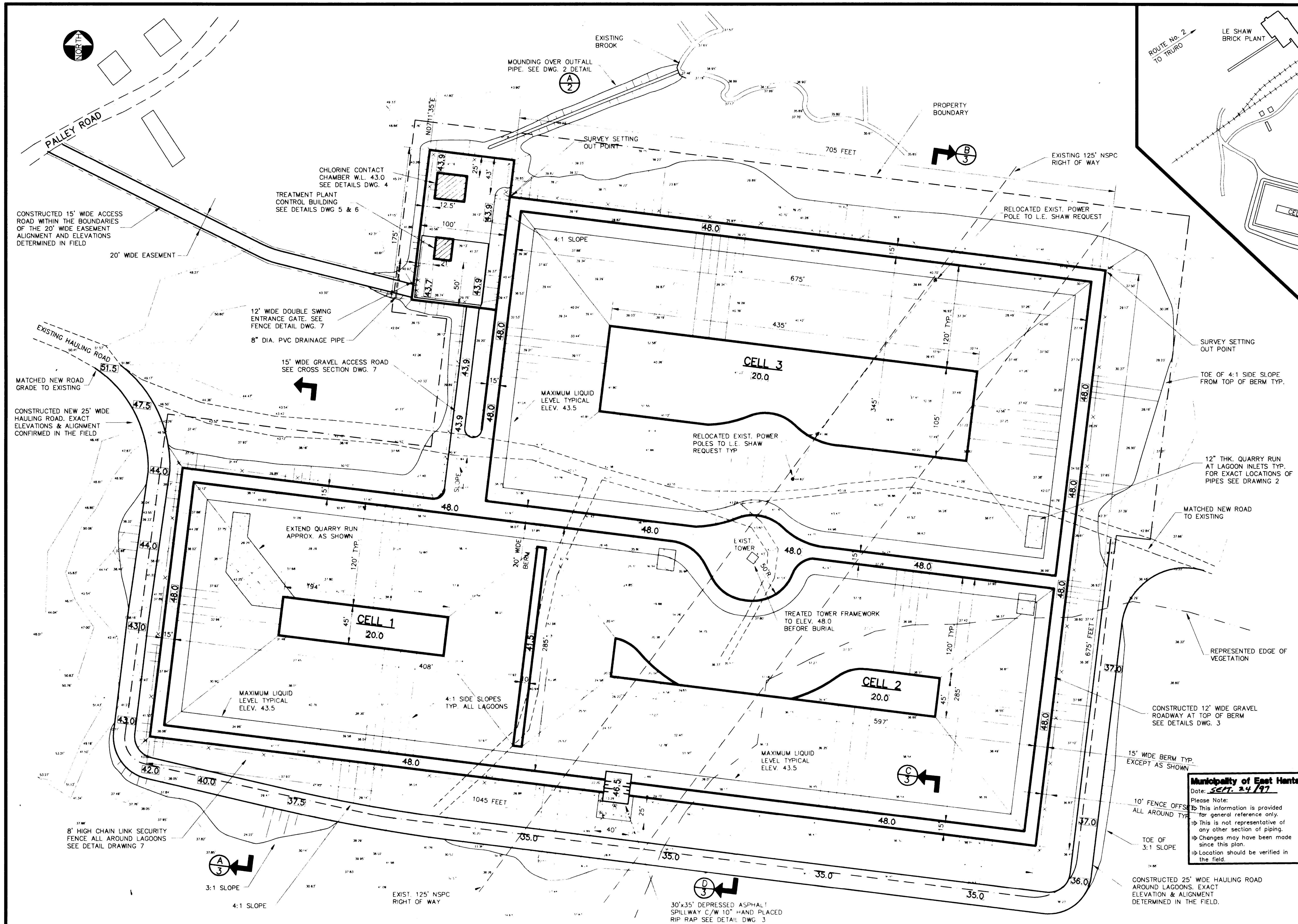
DRAWING PACKAGE A: LANTZ SEWAGE TREATMENT PLANT

SOURCE: CBCL CONSTRUCTION DRAWINGS

DATE: APRIL 1991

NOTICE: EAST HANTS DOES NOT WARRANTY THE ACCURACY OF THE ATTACHED DRAWINGS





- NOTES:**
1. FOR SURVEY DRAWING REFER TO WALLACE, McDONALD & LIVELY LTD.
 2. FOR AERATION EQUIPMENT LAYOUT REFER TO DRAWING 8
 3. FOR TREATMENT PLANT PIPING REFER TO DRAWING 2
 4. FOR CONTACT CHAMBER & CONTROL BUILDING LAYOUT & DETAILS REFER TO DRAWINGS 4, 5 & 6.

- LEGEND**
- EDGE OF EXISTING PONDS
 - EDGE OF EXISTING CLAY SLOPES
 - EDGE OF EXISTING VEGETATION
 - PLACEMENT OF QUARRY RUN MATERIAL
 - EXISTING GRADE ELEVATION
 - FINISHED GRADE ELEVATION
 - CHAIN LINK FENCE

No.	Description	Date	By
04	RECORD DRAWING	APR. 8/91	SG
03	REVISED ACCESS RD ALIGNMENT	AUG. 3/90	JCH
02	REVISED INTERIOR WALL ELEV.	FEB. 24/90	JCH
01	REVISED LAGOON LAYOUT AND DEPTH; ACCESS RD. & SLOPES AND FENCING	FEB. 16/90	JCH
03	ISSUED FOR CONSTRUCTION	NOV. 27/88	JCH
02	ISSUED FOR TENDER	OCT. 20/88	JCH
01	ISSUED FOR APPROVAL	OCT. 20/88	JCH

Revision or Issue

Record drawing

Date: Sept. 24, 1991

Approved: [Signature] P.Eng

MUNICIPALITY OF EAST HANTS
REGIONAL POLLUTION CONTROL SCHEME

SITE PLAN AND LAGOON LAYOUT

CBCL CBCL Limited
Consulting Engineers

Date: <u>SEPT. 24/91</u>	Drawn: <u>D.C.</u>
Designed: <u>J.C.N.</u>	Checked: <u>J. dec.</u>
Contract No: <u>86549B</u>	Sheet of: <u>1 / 9</u>
Drawing No: <u>1</u>	Revision: <u>3</u>

