

PARKS, RECREATION & CULTURE

REQUEST FOR PROPOSALS

Project Manager, New Aquatic Centre
RFP50136

Release date: August 4, 2016

Proposals will be received up to
3:00:00 pm local time on Thursday, August 18, 2016

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



EAST HANTS
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Contents

1.	INSTRUCTIONS TO PROPONENTS	4
1.1.	Introduction	4
1.2.	Definitions	4
1.3.	Proposal Deadline	4
1.4.	Proposal Submission.....	4
1.5.	Inquiries	5
1.6.	Proposal Acceptance (Privilege Clause)	5
1.7.	Proposal Openings	7
1.8.	Proposal Validity.....	7
1.9.	Fees, Expenses and Disbursements.....	7
1.10.	Proposal Requirements	8
1.11.	Proposal Evaluation	9
	Appendix A – Proposal Form	11
	Appendix B – Summary of Proposal.....	12
	Appendix C – Independent Contractor Agreement.....	14
	BACKGROUND	14
	DEFINED TERMS	14
	CONTRACT DOCUMENTS	14
	INTENT	14
	TERM	15
	REMUNERATION	15
	INDEPENDENT STATUS	16
	PERSONNEL	16
	CONFIDENTIALITY	17
	INFORMATION COLLECTED.....	17



INDEMNIFICATION	17
INSURANCE	18
REGULATIONS	19
TAXES	19
WORKERS' COMPENSATION	19
CONFLICT OF INTEREST	19
PERFORMANCE	19
TERMINATION	20
RECEIVERSHIP	20
ASSIGNMENT	20
ENTIRE AGREEMENT	20
INTERPRETATION	21
NOTIFICATION	21
GOVERNING LAW	21
ENUREMENT	21
SEVERABILITY	22
WAIVER	22
SIGNED	22
SCHEDULE A: SERVICES DESCRIPTION	23
REQUIREMENTS	23
PHASE 1: PRELIMINARY WORK AND DESIGN	24
PHASE 2: TENDERING, CONSTRUCTION AND COMMISSIONING	25



1. INSTRUCTIONS TO PROPONENTS

1.1. Introduction

- 1.1.1. The Municipality of East Hants (East Hants) requires the services of a qualified firm to provide support Services and to act as Project Manager for the new Aquatic Centre design and construction project that we are undertaking. To this end, East Hants is seeking competitive proposals from the marketplace to identify a vendor 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 18, 2016 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: Mike Hatfield, RFP50136

- 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. Proposal Submission

- 1.4.1. Proponents shall submit their proposal as three physical copies and one electronic copy in Portable Document Format (PDF), submitted on either a disk or USB key.
- 1.4.2. 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.
- 1.4.3. The proposal shall be sealed in an envelope and shall be labeled:

"RFP50136 - Project Manager, New Aquatic Centre"
- 1.4.4. 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.

1.5. Inquiries

- 1.5.1. 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: mhatfield@easthants.ca

- 1.5.2. East Hants will provide clarifications and additional information, if required, by way of Addenda.
- 1.5.3. Inquires will be accepted up until **four** business days prior to the Proposal Deadline.
- 1.5.4. 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.

1.6. Proposal Acceptance (Privilege Clause)

- 1.6.1. East Hants reserves the right to accept or reject any or all proposals.
- 1.6.2. All proposals become the property of East Hants once submitted.
- 1.6.3. 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.
- 1.6.4. 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.
- 1.6.5. This document and Request for Proposal process does not constitute a call for tenders.
- 1.6.6. Proponents undertake any expenditure related to the submission of a proposal at their own risk.
- 1.6.7. 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.
- 1.6.8. 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.
- 1.6.9. 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.



- 1.6.10. 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.
- 1.6.11. 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.
- 1.6.12. 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.
- 1.6.13. 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.
- 1.6.14. East Hants reserves the right to interpret any and all aspects of this Request for Proposals as may be most favourable to East Hants.
- 1.6.15. 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.
- 1.6.16. 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.
- 1.6.17. 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.
- 1.6.18. 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.
- 1.6.19. 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.
- 1.6.20. 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.
- 1.6.21. 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.
- 1.6.22. 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.



1.6.23. 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.

1.6.24. 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.

1.6.25. Proponents are advised that East Hants is governed by Nova Scotia's *Freedom of Information and Protection of Privacy Act (FOIPOP)* and any information submitted to East Hants in response to this RFP may be subject to disclosure under *FOIPOP*. Proponents may identify any confidential information in their proposals or any accompanying documentation and are advised to consult with their own legal advisors regarding the appropriate way to identify such information. East Hants will make reasonable efforts to safeguard confidential information, subject to its disclosure requirements under *FOIPOP* or any disclosure requirements imposed by law or by order of a court or tribunal. Proponents are advised that their proposals will, as necessary, be disclosed, on a confidential basis, to advisers retained by East Hants to advise or assist with the RFP process, including the evaluation of proposals. Proponents are further advised that East Hants may make public the names of any or all proponents and intends to publish the name of the successful proponent and the total value of any contract entered into with the successful proponent. If a proponent has any questions about the collection and use of information pursuant to this RFP, questions are to be submitted to the RFP Contact.

1.6.26. 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.

1.7. Proposal Openings

1.7.1 East Hants will proceed with private openings for this RFP. Proponents will be advised of their status in the RFP once a determination of award has been made.

1.8. Proposal Validity

1.8.1. 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.

1.9. Fees, Expenses and Disbursements

1.9.1. 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. Proposal Requirements

- 1.10.1. 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.
- 1.10.2. The Response may not exceed 10 single sided pages in 10-12 point font of the Proponent's choosing, not including résumés, appendices or exhibits.
- 1.10.3. Our expectation is that the Proponents will provide a single point of contact to East Hants to act as Project Manager (PM). The PM may be supported in their office by other resources, but we are primarily interested in the capabilities of the Project Manager that will be assigned to our project. Therefore:
 - 1.10.3.1. The Proposal must concentrate on the PM that will be assigned, their experience (in particular experience with Aquatic Centre or similar projects) and the Services they will provide;
 - 1.10.3.2. The Proponent must provide three references as described in Appendix B;
 - 1.10.3.3. We have provided an estimate of the maximum number of hours we believe will be required to complete the Services in each phase. The Proposal fees must clearly indicate the cost per hour of the PM, inclusive of all costs and overhead for which the Proponent will wish to be reimbursed, except as specified herein;
 - 1.10.3.4. The Proponent must list the expenses they anticipate they will incur in performing the Services that they have not included in their per hour rate. Such expenses may include, without limitation, travel, mileage, accommodations, meals or other expense for which they will wish to be reimbursed; and
 - 1.10.3.5. It is expected that any administrative costs such as, without limitation, phone, offices, computer, utilities, are included in the overhead provided for in the hourly rate.
- 1.10.4. The three top-rated Proponents based on the evaluation of the Proposal Document will be required to attend a meeting with East Hants as part of the evaluation process. East Hants intends to contact the top-rated proponents the week of August 22, 2016. The scoring for the Presentation will be based on the consensus achieved by the evaluation committee.
- 1.10.5. Proponents must complete and submit with their proposal Appendix A, the Proposal Form and Appendix B, The Proposal Summary.
- 1.10.6. 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.
- 1.10.7. The Proponent must supply the résumé of the PM being proposed to complete the Services.
- 1.10.8. The Proponent must supply a list of any staff, in addition to the PM, they anticipate to assign to complete the Services.
- 1.10.9. 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.

1.10.10. 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.

1.10.11. 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:

1.10.11.1. A Proponent is not currently registered, but intends to register as a condition to providing the Services; and

1.10.11.2. Where the Proponent confirms in Appendix B that they have inquired with WCBNS and have determined they will be able to obtain such coverage.

1.10.12. 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.

1.11. Proposal Evaluation

1.11.1. East Hants will evaluate each proposal using the criteria specified below.

Criteria	Available Points
Proposal Document	
Experience the proposed Project Manager has providing Project management Services, in particular experience with Aquatic Centres and similar recreation projects	/25
Overview of how the Project Manager will approach this project and what value they will provide	/25
Fees and disbursements (Total Fee)	/40
Subtotal	/90
Presentation (Consensus)	/10
Total	/100

1.11.2. East Hants will require presentations from the three Proponents whose proposals scored highest after evaluation of the Proposal Document. East Hants may, in their sole discretion, request presentations from other Proponents.

1.11.3. 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

1.11.4. Award is subject to approval by Council or the CAO.



Appendix A - Proposal Form

Proposal submitted by: _____

The Proponent must complete the following table to be submitted with their proposal. While the intent is to complete all Work Elements, if the project does not proceed to the construction phase, none of the Services described in Phase 2 will be required. East Hants will make no payment for Services that are not performed or expenses and disbursements that are not incurred. By providing a price for a Work Element, the Proponent acknowledges that East Hants may, at its sole discretion, award or not award any Work Element.

Work Element	Hours on Task (Maximum)	Average Cost Per Hour	Expected Disbursements (if any)	Maximum Fee
Phase 1: Project management during Design	600			
Phase 2: Project Management during Construction and Commissioning	300			
Column Totals	900			
Total Fee (less HST)				

*Average cost per hour may be the sum of all worker resources (estimated number of hours per resource times the cost per hour for that resource) allocated in the proposal for each Work Element divided by the total number of hours allocated to that Work Element.

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 for the Fees 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	
Cell Phone Number for Primary Contact	

2. Proposed Project Manager:

- a. Specify the name and contact information (email address, cell phone and direct line) for the proposed Project Manager.
- b. Proponents must attach the Project Manager résumé to Appendix B when submitting their proposal.

3. Experience/ References:

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

Location Work Performed	Client Name	Year project Completed	Service Provided	Contact name	Contact Phone Number

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



5. Workers' Compensation (attach Clearance Letter or declare intention to obtain coverage):

6. Receipt of the following addenda is hereby acknowledged:

Addendum:	<hr/>	dated:	<hr/>
	<hr/>		<hr/>
	<hr/>		<hr/>
	<hr/>		<hr/>
	<hr/>		<hr/>

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 sealing the envelope.



Appendix C – Independent Contractor Agreement

Independent Contractor Agreement

THIS AGREEMENT is effective <<date>>, 2016 (“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 provide <<insert>> Services in East Hants, NS, 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 Consultant mean the same under this Agreement.

CONTRACT DOCUMENTS

- 5 This Agreement consists of the following documents: (NTD: These are the documents that define the agreement. If accepting a proposal, be sure the proposal is included. If the requirements were modified by addenda, these will be included or the modifications made to the documents will be incorporated.)
 - 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:
- a. <<Date>> unless extended for an additional period, by mutual agreement of the parties, in writing; or
 - b. In the event of Termination in accordance with the terms of this Agreement

REMUNERATION

- 9 East Hants shall remunerate the Contractor at the rates specified in the following table. In addition:
<<Insert Table of Rates>>
- a. Remuneration, or part thereof, is 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.
 - b. Invoices must be submitted monthly by the Contractor and must be supported in such detail as East Hants may request.
 - c. 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.
 - d. Payment will be made on a net thirty (30) days basis from receipt of an acceptable invoice.
 - e. No payment made by East Hants under this Agreement shall constitute acceptance of work or products that are not in accordance with the requirements of the Agreement.
 - f. East Hants may reject an invoice on the basis that the Services it refers to 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.
 - g. 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.
 - h. 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.



- 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

- 10 The Contractor will provide the Services to the 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.

PERSONNEL

- 11 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.
- 12 East Hants reserves the right to require the Contractor to remove an employee from the Services if that employee acts contrary to the terms of this Agreement. Certain behaviors, including, without limitation, swearing, smoking in areas other than those approved for smoking, inappropriate language, comments or gestures, unsafe work practices, or demonstrated incompetence may be cause to have an employee removed.



CONFIDENTIALITY

- 13 In the course of discharging its duties under this Agreement, the Contractor, its agents and/or employees will hear, see and/or otherwise come to know, possess or have access to confidential information about and/or belonging to East Hants, its clients and/or third parties interacting with East Hants or the Contractor, including but not limited to contact lists, personal information about identifiable individuals, security information, and information about East Hants' clients, methods and processes (the "Confidential Information").
- 14 The Contractor agrees not use, disclose, reproduce or otherwise make available, Confidential Information to any person, firm or enterprise (other than to the Contractor's employees or agents who have a need to know such information for the purposes of this Agreement) unless specifically authorized in writing to do so by East Hants. The Contractor agrees that if an employee or agent will receive Confidential Information as contemplated in this section, it will obtain a confidentiality agreement from such employee or agent which provides equal or greater protection to the Confidential Information than set out in this section.
- 15 The Contractor agrees to exercise all due care and diligence and take all reasonable precautions to prevent any unauthorized collection, use, disclosure, retention, destruction or disposal of Confidential Information.
- 16 Upon termination of the Agreement for any reason, the Contractor will return to the East Hants any and all documents in its possession, electronic or otherwise, containing Confidential Information.
- 17 The Contractor recognizes that if any of the provisions of this section are violated, East Hants is entitled to an injunction to prevent it from disclosing Confidential Information and/or using Confidential Information for any purpose. The Contractor further recognizes that East Hants would be entitled to other legal remedies, including legal fees and costs in the event of such a violation.

INFORMATION COLLECTED

- 18 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.
 - 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

- 19 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.

INSURANCE

- 20 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:
- Blanket contractual liability; Owners' and contractors' protective liability; Broad form property damage; Hostile fire; Tenant's legal liability; Non-owned automobile liability; Contingent employer's liability; and Products and completed operations liability.
- 21 The Contractor must provide a certificate of insurance from their insurer for this coverage. The Certificate, at a minimum, must:
- List the Municipality of the District of East Hants as an additional insured and contain both cross-liability and severability of interest clauses;
 - State that this insurance does not have a Total or Absolute pollution exclusion applied. The Contractor's insurance must provide for bodily injury or property damage that may result from the Contractor's performance of the Services;
 - Provide for 30 days' written notice of cancellation or material change. The Contractor must provide a new certificate each time the insurance is renewed; and may allow that
 - Excess or umbrella insurance may be used to achieve the required insurance limits noted in Clauses 19 and 21.
- 22 The Contractor must have and must maintain automobile insurance in the amount of \$2,000,000 for the duration of the Agreement and must provide a certificate of insurance confirming this coverage;
- 23 The Contractor is responsible to have and to maintain insurance on the equipment and materials used to provide the Services for the duration of the Agreement. East Hants will not be responsible in any way for lost, damaged or stolen equipment.
- 24 In addition:
- In the case where the Contractor will use subcontractors to perform some or all of the Services, the subcontractor must obtain and, when required to by East Hants, provide proof of insurance coverage equal to that required of the Contractor under this Agreement.
 - Failure to maintain the required insurance coverage may be grounds for termination of the Agreement;
 - If a Contractor no longer is in Good Standing with WCBNS, the Contractor must disclose the change in WCB status immediately. Inability to return to Good Standing before the next performance of the Services may result in the termination of the Agreement;
 - Changes to incorporation information must be disclosed within a reasonable time of the change; and
 - Changes to insurance coverage must be disclosed to East Hants prior to the next performance of Services after the change and the Contractor must provide a revised certificate. The amended coverage must be in accordance with the requirements of this Agreement or otherwise acceptable to East Hants.



REGULATIONS

- 25 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

- 26 The Contractor shall pay all Federal and Provincial Taxes as required by the appropriate enactments.
- 27 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.
- 28 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.
- 29 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

- 30 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.
- 31 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

- 32 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

- 33 If any part of the Services is found to be deficient or not in accordance with the terms of this Agreement or standards specified herein, East Hants may, at its sole discretion:
- 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
 - 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 Agreement 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 Agreement in accordance with the Termination clauses herein.

TERMINATION

- 34 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.
- 35 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.
- 36 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.
- 37 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.
- 38 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

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

ASSIGNMENT

- 40 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

- 41 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

- 42 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

- 43 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.

- 44 The Notifications shall be addressed as follows:

a. By mail, In-person or by Courier to East Hants:

Municipality of East Hants
<<Project Number - Project Name>>
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; email address of Project Manager

c. By mail to the Contractor:

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

Attention: <<Name>>

d. By email to Contractor:

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

GOVERNING LAW

- 45 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

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



SEVERABILITY

- 47 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.

WAIVER

- 48 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

The Municipality of East Hants ("East Hants") has determined that the existing Municipal pool, located in Milford, NS, is nearing the end of its operational life. East Hants' Council have approved a \$17,000,000 budget (\$16,300,000 once internal tax obligations are met) for the design, construction and commissioning of a new aquatic centre to be located in Elmsdale, NS, as described in the accompanying documents.

In developing the initial requirements for this pool, East Hants has set out to specify an attractive building that is of good quality construction, is efficient to operate and manage, meets current and future programming needs, will be easy to monitor for safety, and that will have a long operational life.

As construction on such a scale is not something that East Hants has much experience in, we have identified a need to obtain some specialized advice on the various steps of this project. Such advice, we believe, falls best under the category of Project Management advice, although the specialized services we are considering may involve other disciplines.

We have therefore decided to develop a list of basic requirements which we expect to have fulfilled under the mandate of a Project Manager and we are requesting proposals from industry to provide these Services.

REQUIREMENTS

BACKGROUND

We recognize that construction of a building of this complexity exceeds our typical experience. While we are confident we could achieve the project on our own, we feel that devoting the amount of internal effort we think will be required would affect other project work and, in the end, may not provide the best value for the citizens of East Hants. By engaging a PM, we hope to be able reduce the load this project will put on East Hants' staff and to provide on-going oversight and direction to this project.

East Hants has already completed much of the requirements gathering for the project, including public consultation. We are confident we have a very good sense of what the pool needs to look like, the level of quality we can afford, and the activities it can support.

We have thought extensively about what our engagement with the design team should look like and we have completed a Request for Qualifications to qualify three design teams prior to a second-stage request for proposal competition. Our intent, summed up in a few words, was to find design team that are experienced in designing pools of the type we intend to build, who have experience in our climate. The design team will act as the Consultant in the context of the construction contract (Payment Certifier, Site Supervisor, quality control, change orders, design expertise, commissioning, etc.).

We have considered several methods of managing the construction of the building, from engaging a Construction Manager (CM) at risk down to the traditional bid-build. In going forward with PM, we will rely on a traditional Tender process to determine the constructor. We may need help in defining a process to ensure that certain work, such as tiling and concrete work, is completed by trades skilled, qualified and experienced with aquatic centre environments.

We have previously reached out to the marketplace through our Human Resources department to try to identify a resource to hire under an employment contract. During that process, we were unable to identify an individual with sufficient experience and qualifications to meet our needs who was willing to enter into an employment contract.

SCOPE

The scope of work we envision for a PM is aimed primarily at two objectives: helping us with cost containment by ensuring that we recognize, properly cost and complete all of the activities necessary to deliver this project and to



complete the project efficiently with as few problems as possible. Secondary goals are to anticipate and respond to change throughout the project and to increase or improve value for the citizens of East Hants.

The PM will act as an advisor to East Hants in order to help us move the project forward. While we anticipate that the PM will bring specific work tasks and methodology with them, we have set out to describe some of the tasks we expect will be accomplished. We have listed them as phases, but are open to the tasks occurring in different order and even to a different definition of tasks if there is a better way to achieve the end goals. Part of the preliminary work will be to identify the current state of the project and to make recommendations of how to move forward.

Phase 1 will commence immediately after award. Phase 2 will only proceed if East Hants decides, in their sole discretion, to proceed with the construction of the new Aquatic Centre. East Hants recognizes that certain work which would normally be considered as part of Phase 2 may occur in Phase 1 and will be invoiced accordingly.

East Hants will only be responsible to pay for hours actually spent in performance of the Services, up to the maximum number of hours for each phase. The Contractor may only exceed the number of hours with written permission from East Hants. The Contractor is responsible to record their own hours and to provide a statement of hours used in the performance of the Services at a frequency to be determined with East Hants, but at least monthly.

PHASE 1: PRELIMINARY WORK AND DESIGN

After award, the successful PM would review the current state of the project and work with the project Sponsor, Kate Friars, Director of Parks, Recreation and Culture, to develop an intimate understanding of the work completed to date, the concept and operational goals for the pool, and the land use situation. The PM may also want to meet with other members of staff to determine their role and input to the project and such meetings would be defined and scheduled during this phase.

The PM will need to understand our environment and the decision-making processes in order to operate efficiently on our behalf. Being a public body, there are certain compliance requirements that govern our activities, including the Municipal Government Act, Public Procurement Act (and related treaties) and other internal policies which affect how we conduct business. We do not expect the PM to become intimate with these regulations, merely to recognize that if we indicate that something is not possible, that they understand and comply with our decision.

This phase of work will include helping us develop the second-stage Request for Proposals for engaging the design team. The intent is to get the design RFP to the three short-listed vendors as soon as possible.

BUDGET VERIFICATION

The greatest concern for East Hants is to prevent any escalation in cost during the detailed design and construction phases of this project. We have confidence in the estimate provided by David Hewko and the methodology that he used to obtain it (to be shared with the successful PM) but we recognize that market costing is fluid and we will want to obtain the various classes of estimates (Class D to A) throughout the design process to ensure we are containing costs to the approved budget.

The role of the PM is to provide their industry experience around the costing we receive and to help us identify cost items which may be at risk. The point is not to second-guess the design team, but to challenge them when estimates or costing they report does not make sense or where there may be opportunities to improve value.

PROJECT STEPS

We wish to understand, broadly, all of the activities that will be necessary to complete this project within the approved budget and with the level of quality that provides the best value to the citizens of East Hants. While we deliver much smaller projects on a regular basis, we recognize that a project of this size brings with it certain complexities. We will rely on the PM to identify the various activities which will need to be completed to facilitate design, approve the design, tender the project, construct the project, and commission the project.



With the activities identified, we then wish to assign responsibility to them where the principal responsible for the activity will be East Hants, the PM, the Consultant Design Team or the Constructor. The assignment of these duties will help us gauge the internal resources which we will need to have available to complete the project, will also help validate the subsequent cost assignments and scheduling, and will help us develop the scope for the procurement of the design services, construction, and any other activities which may fall outside of the scope of either of these two contracts. We may also identify items which East Hants wishes to handle for themselves rather than turnover to the constructor, such as the acquisition of furniture or pool accessories.

COST IDENTIFICATION

With the project steps identified and categorized, we will want the PM to align those steps to specific costs within the overall budget to ensure that they have been considered. While this offers another opportunity to verify the overall project budget, this will also help us determine how much money we need to reserve for each of these activities. With these costs and reserves identified, we believe we can then set a reasonable budget for the procurement of detailed design and for construction.

This scope of work will include the development of contingencies and cost allowances with respect to the project as a whole, and participation, as required, in developing or refining cost allowances for the construction tender.

PROJECT TIMELINE

While the project schedule is not the critical driver for this project, the existing pool is nearing the end of its operational life. We have identified an approximate timeline of a minimum of 30 months to complete this project and we have used some of this time already in developing the room data sheets and resolving certain design considerations. The Project Manager will work with us to map out the project steps and provide information on when they should occur in order to develop a comprehensive project schedule that:

- Estimates design cycle time;
- Estimates construction cycle time;
- Analyses the cycle times to determine the best achievable starting point for each cycle;
- Estimates commissioning cycle times; and
- Compares all cycle times to provide an estimate of when the aquatic centre would be open to the public.

The schedule would provide an overall sense of how long some of the major milestones may take, what activities may be concurrent and the precedence and priority of activities. We will also want to identify efficiencies in the project that a more aggressive project time-line might preclude.

PHASE 2: TENDERING, CONSTRUCTION AND COMMISSIONING

With the plan complete, we will need to begin to implement the plan. We are unsure what the extent of the involvement will be for the PM during this period, but the following tasks are likely to form part of the work:

- Facilitation of any Activities the PM identifies as being prerequisite to engaging a design team, including, without limitation:
 - Scoping of the Activity, including support developing the requirements
 - Review of any competition documents prior to release
 - Assistance in evaluating responses
 - Managing the Activity on our behalf. Management of Activities will include, without limitation, the following:
 - Acting as East Hants' representative
 - Setting meetings (if required), including the scheduling of the venue and sending the invitations
 - Activity kick-off including safety, compliance issues, and overview of the work to be completed
 - Gathering information, providing analysis and reporting to East Hants during the Activity (frequent updates)

- Cost and budget monitoring and updating
 - Evaluating and preparing analysis of issues and change orders to allow East Hants to make prompt and informed decisions
 - Providing additional clarification, if necessary, of technical issues that arise during the Activity
 - Activity close out
 - Verifying the invoice (if any)
- Development of the final competition(s) for design services
 - Assistance in refining the requirements of the request for information (RFI) and developing the requirements for the request for proposals (RFP)
 - Review of the documents before release
 - Assistance in evaluating responses
- Managing the design process on behalf of East Hants and working closely with the design team to, without limitation:
 - Engage internal stakeholders as necessary to facilitate the design process
 - Maintain cost control
 - Verify that the requirements for the facility are understood and implemented
 - Ensure the level of quality is achieved in the design
 - Assist the design team to identify long-lead items or items which may affect budget or schedule for special handling or review
 - Participate in on-going constructability reviews
 - Identify value engineering opportunities
- Participate in Tender development
 - Review drawings and specifications for clarity, context and that references are appropriate for our region
 - Verify all necessary engineering sign-offs are complete
 - Verify that the scope of work adequately describes what the constructor will need to do to complete their project
 - Participate in the selection of a form of contract to be used for the construction portion of the work and provide review and input on the method of Tender East Hants may choose for the procurement
 - Verify the commissioning section of the Tender requirement is adequately scoped so that it allows for sufficient testing, adjusting and balancing
 - Verify that the Tender adequately scopes the responsibilities of the constructor to provide operations training and documentation at the end of construction, including, without limitation, operation manuals, schematics, keys and warranty information
- During the Tender process, the design consultant will be required to answer any technical questions and East Hants will be responsible for the distribution of electronic documents and communication of the responses to questions through addenda. The PM may be required to:
 - Provide insight to East Hants on how a response or alteration of the document set may affect the overall project
 - Revise costing models based on the impact of a question or the response to a question
 - Brief or report to East Hants personnel or Senior Management in the case of a change resulting from an addendum has noticeable impact to schedule or budget
 - Participate in the review of Tender responses, including, without limitation, verification of the any calculations done by the designer or East Hants with respect to evaluation
 - Participate in any pre-award meetings, including any research or preparation required
 - In the event the Tender results exceed the Class A estimate, prepare an analysis of why the cost estimate was incorrect
 - Depending on the magnitude of the difference, additional analysis of where cost can be reduced may be required
 - Advice on the next steps if market cost is not acceptable



- After award of the construction services, the PM will:
 - Oversee and resolve disputes relative to the location of construction offices
 - Facilitate any installations provided by East Hants (power, computers or phones)
 - Provide any records or information with respect to other work that they have completed which the constructor may find useful in completing their work
- Provide on-going support during the construction phase as necessary
 - Participate in project meetings
 - Monitor issue management, change management and budget update reports (every two weeks - email)
 - Check in (weekly or less frequently)
 - Change order or issue review (when requested by East Hants)
- Project close out and commissioning services
 - Verify Commissioning tasks are completed
 - Verify training of personnel has been completed
 - Verify cleaning is complete

