

# Infrastructure & Operations

## REQUEST FOR PROPOSALS

Barneys Brook Forcemain Replacement - Engineering  
RFP50196

Release date: April 3, 2018

Proposals will be received up to  
3:00:00 pm local time on Tuesday, April 24, 2018

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



**EAST HANTS**  
We live it!

# 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 .....	4
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 .....	7
1.11. Proposal Evaluation .....	9
2. SERVICES DESCRIPTION .....	11
2.1. General.....	11
2.2. Surveying.....	11
2.3. Detailed Design .....	11
2.4. Tender Documents .....	11
2.5. Construction Support and Review .....	11
2.6. Project Schedule .....	12
2.7. East Hants Representative .....	12
Appendix A - Pricing Form .....	13
Appendix B - Summary of Proposal.....	14
Appendix C - Sample Agreement .....	17
BACKGROUND .....	17
DEFINED TERMS .....	17
CONTRACT DOCUMENTS .....	17



<b>INTENT</b>	17
<b>TERM</b>	18
<b>REMUNERATION</b>	18
<b>INDEPENDENT STATUS</b>	20
<b>SCHEDULE AND DELAY</b>	20
<b>PERSONNEL</b>	21
<b>SUBCONTRACTOR</b>	21
<b>CONFIDENTIALITY</b>	22
<b>INFORMATION COLLECTED</b>	22
<b>INDEMNIFICATION</b>	22
<b>CHANGES TO REQUIREMENTS</b>	23
<b>INSURANCE</b>	23
<b>REGULATIONS</b>	24
<b>TAXES</b>	24
<b>WORKERS' COMPENSATION</b>	25
<b>CONFLICT OF INTEREST</b>	25
<b>PERFORMANCE</b>	25
<b>TERMINATION</b>	25
<b>RECEIVERSHIP</b>	26
<b>ASSIGNMENT</b>	26
<b>ENTIRE AGREEMENT</b>	26
<b>INTERPRETATION</b>	26
<b>NOTIFICATION</b>	26
<b>GOVERNING LAW</b>	27
<b>ENUREMENT</b>	27
<b>SEVERABILITY</b>	27
<b>DISPUTE RESOLUTION</b>	27
<b>WAIVER</b>	28



SIGNED .....	28
Appendix D - Safety Questionnaire .....	29

## 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 undertake the detailed design and construction review of the replacement of the sanitary forcemain indicated on the attached sketch. To this end, East Hants is seeking competitive proposals from the marketplace 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 Nova Scotia time on April 24, 2018 at the address listed below:

Municipality of East Hants  
Box 230, Suite 170  
15 Commerce Court  
Elmsdale, NS B2S 3K5

Attention: RFP50196

- 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 four physical copies and one electronic copy in Portable Document Format (PDF), submitted on either a disk or USB key.
- 1.4.2. All copies submitted by the Proponent, including electronic copies, must be identical in terms of content. East Hants will not accept any responsibility for differences, omissions or errors in a Proponent's proposal 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:  
  
"RFP50196 - Barneys Brook Forcemain Replacement - Engineering"
- 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](mailto:mhatfield@easthants.ca)

- 1.5.2. East Hants will provide clarifications and additional information, if required, by way of Addenda.
- 1.5.3. Inquiries and questions will be accepted up to three working days before 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. All Proposals become the property of East Hants once submitted.
- 1.6.1. 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.
- 1.6.2. Any Proposal that does not include all of the information required in this RFP may 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.
- 1.6.3. This document and Request for Proposal process does not constitute a call for Tenders.
- 1.6.4. Proponents undertake any expenditure related to the submission of a Proposal at their own risk.
- 1.6.5. 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.
- 1.6.6. East Hants may include evaluation criteria within this Request for Proposal document to be used as a guideline for Proponents. 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.
- 1.6.7. East Hants reserves the right to 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. East Hants reserves the right to reject any and all Proposals that, in its sole discretion, are not in the best interests of East Hants.
- 1.6.8. 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.
- 1.6.9. 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.
- 1.6.10. East Hants reserves the right to negotiate, after the Request for Proposal's Proposal Deadline, with any Proponent and to finalize service arrangements in the best interests of East Hants.

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

1.6.22. 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.

1.6.23. One or more of the following trade agreements may apply to this solicitation:

- Atlantic Canada Procurement Agreement
- Canada Agreement on Free Trade

1.6.24. 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. Except as expressly and specifically permitted in these Instructions to Proponents, no Proponent shall have any claim for compensation of any kind whatsoever as a result of participating in this RFP and by submitting a Proposal each Proponent shall be deemed to have agreed that it has no claim.

1.6.25. 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.

## **1.7. 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.

1.9.2. 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 Proponents and therefore will not publish or provide unit rates related to this or any competition, nor will they release any Proposal, or part thereof, without consulting the Proponent first, unless required to in law.

## **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 Section 2, Services 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 Proponent must clearly and concisely describe in their proposal how they propose to deliver the Services, including, but not limited to, a brief description of the steps they would undertake and the methodology they would apply.
  - 1.10.2.1. 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.
- 1.10.3. 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 and person hours for project team members.
- 1.10.4. Proponents must complete and submit with their proposal Appendix A, the Proposal Form, Appendix B, The Proposal Summary and Appendix D, the Safety Questionnaire.
- 1.10.5. 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.
- 1.10.6. 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.
- 1.10.7. The Proponent must supply the résumés of the Primary Team Members listed in Appendix B of their Proposal.
- 1.10.8. 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.
- 1.10.9. 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.
- 1.10.10. A preliminary schedule has been included in Section 2, Services Description. This schedule is preliminary and somewhat flexible, except for the hard deadline for total project completion of December 14, 2018. Proposals are to include any required or anticipated revisions to the dates identified.
- 1.10.11. 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.
- 1.10.12. 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.
- 1.10.13. 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.
- 1.10.14. The following is a list of documents that accompany this Request for Proposals and that East Hants suggest the Proponent review prior to submitting a Proposal.
  - CBCL Drawing nos. 71197.41 - 43
  - 'Sewer Capacity Study' prepared by WSP dated November 30, 2015.



- East Hants Municipal Services Systems General Specifications (June 15, 1999).

1.10.15. 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:

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

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

1.10.16. In addition to the clauses herein, the successful Proponent will also have to comply with the terms and conditions specified in Section 2 and the sample agreement included as Appendix C. 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
<b>Proposal Document</b>	
Comprehension ( <i>demonstrated understanding of the requirements and objectives in performing the Services</i> )	/20
Work Plan/Schedule ( <i>detailed and reasonable approach to the requirements and objectives</i> )	/20
Completeness ( <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 of the firm on similar projects, adequate number and type of resources being applied, references</i> )	/10
Staff Rating ( <i>relevant training and experience of individuals in the team</i> )	/10
<b>Sub-Total</b>	<b>/70</b>
Technical Person Hours Rating	/10
Cost Rating	/20
<b>Total</b>	<b>/100</b>

1.11.2. When evaluating the proposals, East Hants will assign points for technical (non-clerical) person hours assigned to the project based on the following formula:

**(Proponent's proposal person hours divided by the highest proposal person hours) multiplied by the available points.**

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. East Hants will not be responsible for, nor will they correct or allow correction of any arithmetical errors which the Proponent may make in preparing their response. In the event that a Proponent erred when summing line item costs, the Proponent may:

1.11.4.1. Accept award for no more than the Total Cost shown in their Proposal; or

1.11.4.2. Withdraw their Proposal.

1.11.5. Award is subject to approval by Council and/or the CAO.



## 2. SERVICES DESCRIPTION

### 2.1. General

- 2.1.1. The Consultant will undertake the detailed design and construction review of the Barneys Brook Forcemain Replacement.

Discussions with regulating authorities will be the responsibility of East Hants. Support of these discussions will be a necessary component of this Contract. In particular, the Consultant will be responsible for providing sufficient information (this information would typically consist of drawings and responses to questions) to support permit applications to Nova Scotia Transportation and Infrastructure Renewal (NSTIR) and Nova Scotia Environment (NSE), if required.

### 2.2. Surveying

- 2.2.1. The Consultant will be responsible for carrying out all surveying necessary for the detailed design of the forcemain. This survey must at minimum include a topographical survey identifying the edge of the asphalt surface, valve boxes, manholes, driveways and type, culverts and details, ditches, property pins, curb stops, sanitary cleanouts and inverts, utility poles and anchors, trees and bushes, retaining walls and ornamental features. The topographical survey must extend a minimum of 3 m beyond the edge of the road right-of-way.

### 2.3. Detailed Design

- 2.3.1. In its report 'Sewer Capacity Study', dated November 30, 2015, WSP identified the Barneys Brook Forcemain (100 mm dia. single forcemain system serving SLS-18) as too small in diameter and requiring replacement. The Consultant will be responsible for reviewing this recommendation and confirming that the existing forcemain is 'undersized'. East Hants will make available the existing SewerCAD model for use by the Consultant.

The Consultant will be responsible for recommending the appropriate sizing for the Barneys Brook forcemain and for carrying out the detailed design. The design should fully comply with the East Hants Municipal Services Systems General Specifications (June 15, 1999) and current industry best practice. The Consultant will be required to create a detailed construction estimate that East Hants will use as the basis for its construction budget.

As part of the detailed design, the Consultant will include a recommendation for redundancy for consideration by East Hants. This 'redundant element' will have to be sufficiently detailed so that it can be incorporated into the final design should East Hants wish to proceed with this option. The Consultant will have to provide a separate detailed construction estimate for this option.

### 2.4. Tender Documents

- 2.4.1. The Consultant will be responsible for providing complete tender documents, including drawings and specifications, as necessary to tender the construction of the forcemain. Tender documents are to be based on the current edition of the 'Standard Specification for Municipal Services' published by the Nova Scotia Road Builders Association - Consulting Engineers of Nova Scotia Joint Committee on Contract Documents and otherwise be acceptable to East Hants.

East Hants will manage the tendering process and the Consultant will provide originals of all required documents in a format acceptable to East Hants, for use by East Hants. Design related questions that arise during the tendering process will be directed to East Hants and technical questions will be forwarded to the Consultant for review and appropriate response. Typically, the Consultant will need to provide a response to East Hants by 4:00pm, the following business day, so that East Hants can incorporate the response into an addendum, if necessary. The Consultant shall not respond directly to questions posed to them by potential tenderers during the tendering process unless directed to do so by East Hants.

### 2.5. Construction Support and Review

- 2.5.1. The Consultant will be responsible for providing 'Issued for Construction' drawings as well as typical construction support activities which include, but are not limited to, responding to design questions that may arise during the construction, visiting site to investigate same, issuing Change Orders for approval by East Hants, or approving necessary changes to the design (in consultation with East Hants). The Consultant will also be responsible for providing 'on-site' review services which include but are not limited to maintaining a presence on site to document construction, verify quantities, witness tests and verify that the work is being undertaken in accordance with the design and to a sufficient standard of quality.

The Consultant will notify East Hants of any construction issues as soon as they arise and what their likely impact will be. The Consultant will also ensure that no instructions are issued without East Hants' knowledge. It is anticipated that the review services will generally be 'full time' on site. The actual hours spent on Construction Review may vary from the number indicated in Appendix A of the original Request for Proposals; East Hants will pay the Consultant for the actual hours spent. The hours allocated for Construction Review are intended to accommodate on-site personnel only, personnel normally located in the Consultant's business office are to be allocated under Construction Support. It is intended that the constructor will be responsible for field surveying and materials testing.

The Consultant, in conjunction with the constructor, will be responsible for recording any changes to the design during construction and for producing 'as built' record drawings. Record drawings will be provided to East Hants in electronic format (both PDF and AutoCAD).

## 2.6. Project Schedule

- 2.6.1. The following schedule is preliminary and somewhat flexible, except for the hard deadline for total project completion of December 14, 2018.

Description of Task	Responsibility	Date
Award of RFP	East Hants	May 18, 2018
Submit preliminary drawings for review	Consultant	June 29, 2018
Complete regulatory submissions	Consultant	July 13, 2018
Submit tender documents for review	Consultant	July 13, 2018
Complete tender drawings	Consultant	July 20, 2018
Construction tender issue	East Hants	July 30, 2018
Construction tender close	East Hants	August 16, 2018
Construction tender award	East Hants	August 31, 2018
Anticipated start date for construction	TBD	September 10, 2018
Anticipated end date for construction	TBD	November 2, 2018

## 2.7 East Hants Representative

- 2.7.1. The East Hants Representative for these Services is Derek Normanton. East Hants may, through the Representative or their designate, supply either verbal or written instructions to a Consultant with respect to the Services to be completed.

## Appendix A - Pricing Form

Proposal submitted by: \_\_\_\_\_

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

Work Element	Technical Person Hours	Fees	Expenses	Estimated Cost per Element
Surveying				
Design				
Tender Documents				
Construction Support (Office)				
Construction Review (Site)	300*			
Record Drawings				
<b>Column Totals</b>				
<b>Total Cost (excluding HST)</b>				

\*The Proposal Form indicates a number of hours for Construction Review. This is to ensure that all proponents are pricing for the same number of hours.

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 Total Cost 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)

(Printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
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. Subconsultant List (if any):

Name of Subconsultant Firm	
Address	
Phone Number (office)	
Fax Number	
Project Contact Name	
Name of Subconsultant Firm	
Address	
Phone Number (office)	
Fax Number	
Project Contact Name	
Name of Subconsultant 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. Subconsultant Key Team Members (if any)

Subconsultant Firm Name	Subconsultant 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 as specified in Appendix C (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 sealing the envelope.





## Appendix C - Sample Agreement

### Sample Agreement

THIS AGREEMENT is effective <<date>>, 2018 (“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 “Consultant”)

#### BACKGROUND

East Hants wishes to retain the Consultant to undertake the detailed design and construction review of the Barneys Brook forcemain replacement, more fully explained in Section 2, Services Description.

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

#### DEFINED TERMS

- 1 **Services** means the services supplied by the Consultant 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.

#### CONTRACT DOCUMENTS

- 4 This agreement consists of the following documents:
  - a. This agreement;
  - b. Section 2, Services Description;
  - c. <<insert proposals, confidentiality agreements, etc. as applicable>>; and
  - d. <<insert additional documents as applicable>>.

#### INTENT

- 5 East Hants hereby engages the Consultant to supply the Services described herein and the Consultant agrees to provide these Services.
- 6 The Consultant 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**

- 7 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).
- 8 Unless amended by the parties in writing, the Consultant agrees to complete Services to the satisfaction of East Hants on or before **December 14, 2018**.

**REMUNERATION**

- 9 East Hants shall remunerate the Consultant 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:** \_\_\_\_\_
  - b. The following fees, expenses and disbursements are included in the Maximum Lump Sum Fee and are deemed to be included in the Services. The Consultant is responsible to complete the Services for the stated Maximum Lump Sum Fee.  
  
 [Insert table from proposal where fees, expenses, and disbursements are itemised, if applicable]
  - c. The following rates will apply should East Hants wish the Consultant to provide any additional Services using such personnel as described in the table:  
  
 [Insert table from proposal showing personnel and associated rates per hours, if applicable]
  - d. Such fees, or part thereof, are only payable when the Consultant, 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 Consultant.
  - e. Invoices must be submitted monthly by the Consultant 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.
  - f. No payments will be made by East Hants to the Consultant unless their invoice is accompanied by a valid Clearance Letter confirming that they are in
  - g. good standing with Workers' Compensation Board of Nova Scotia.
  - h. 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.
  - i. Payment will be made on a net thirty (30) days basis from receipt of an acceptable invoice.
  - j. 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.

- k. 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 Consultant 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.
- l. The Consultant shall not be entitled to payment in respect of costs incurred by the Consultant in remedying errors and omissions in the Services that are attributable to the Consultant, the Consultant's employees, or persons for whom the Consultant had assumed responsibility in performing the Services.
- m. If, and to the extent that, the time for completion of the Services is exceeded or extended through no fault of the Consultant, payment for the Services required for such extended period of this agreement shall be subject to review and equitable adjustment.
- n. In the event the agreement is terminated before the satisfactory completion of the Services, East Hants shall only be liable to pay, and the Consultant shall accept in full settlement, an amount for Services satisfactorily performed up to the date of termination.
- o. Disbursements and expenses incurred by the Consultant in performing the Services, but specifically not included as part thereof, shall be reimbursed to the Consultant at actual cost plus a nominal markup to cover the administrative cost associated with the disbursement or expense. Such markup will be negotiated by the parties to obtain a reasonable markup that is appropriate to the expense. 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 Consultant shall be solely responsible to pay all costs and expenses arising out of this agreement, whether or not East Hants intends to reimburse the Consultant for them.
- p. The Consultant is responsible to maintain a thorough cumulative record of all fees, expenses and disbursements over the term of the Contract. The Consultant must provide East Hants with an electronic copy of such record upon request.



**INDEPENDENT STATUS**

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

Accordingly:

- a. The parties acknowledge that the Consultant 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 Consultant 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 Consultant or amounts paid by the Consultant to its employees or contractors.
- c. The Consultant 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 Consultant 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 Consultant agrees that as an Independent Contractor, the Consultant, 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 Consultant 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 Consultant is free to provide services to other clients, so long so long as there is no interference with the Consultant's contractual obligations to East Hants.

**SCHEDULE AND DELAY**

- 11 The Consultant 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.
- 12 Any circumstances that will result in changes to the agreed Schedule or delay in performance of the Services must be brought to the attention of the East Hants Representative by the Consultant within 24 hours of the change or delay being identified. Changes to the Schedule must be approved by East Hants in writing.
- 13 In identifying a period of delay, the Consultant must make reasonable effort to quantify the expected period of delay and to minimize such delay.
- 14 Where the Consultant 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 Consultant to perform the Services immediately; and
  - c. Recover, from the Consultant, and Consultant shall be liable to East Hants for, any and all costs and damages that East Hants incurs as a result of such delay.

- 15 Provided that the Consultant identifies the delay as specified herein and makes reasonable effort to quantify and minimize the delay, the Consultant shall be excused of any delay (“excusable delay”) that:
- a. Is beyond the reasonable control of the Consultant;
  - b. Is not avoidable by the exercise of reasonable foresight; and
  - c. Occurred without the fault or neglect of the Consultant.
- 16 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 Consultant 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.
- 17 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.
- 18 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.
- 19 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 Consultant or any of its sub-contractors as a result of an excusable delay.

#### PERSONNEL

- 20 The Consultant is advised that East Hants expects the personnel listed in the Consultant’s duly signed proposal to perform the Services indicated. The Consultant 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

- 21 The Consultant is advised that the subcontractor listed in the Consultant’s proposal (**NTD: include all relevant tables in a schedule and refer to it specifically**) 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.
- 22 If the Consultant finds that a subcontractor named in this agreement cannot perform some or all of the Services for which they were named, the Consultant may request permission from East Hants to engage an alternative subcontractor for such Services. In making such a request, the Consultant 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.
- 23 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 Consultant may name. The rejection of a replacement subcontractor shall not relieve the Consultant of their obligation to perform the Services under this agreement.

**CONFIDENTIALITY**

- 24 In the course of discharging its duties under this agreement, the Consultant, 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 Consultant, 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").
- 25 The Consultant agrees not use, disclose, reproduce or otherwise make available, Confidential Information to any person, firm or enterprise (other than to the Consultant'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 Consultant 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.
- 26 The Consultant 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.
- 27 Upon termination of the Agreement for any reason, the Consultant will return to East Hants any and all documents in its possession, electronic or otherwise, containing Confidential Information.
- 28 The Consultant 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 Consultant further recognizes that East Hants would be entitled to other legal remedies, including legal fees and costs in the event of such a violation.
- 29 The use and disclosure of the confidential information shall not apply to information which
- a. Was known to the Consultant before receipt of same from East Hants; or
  - b. Becomes publicly known other than through the Consultant; or
  - c. Is disclosed pursuant to the requirements of a governmental authority or judicial order.

**INFORMATION COLLECTED**

- 30 All information and material produced by the Consultant 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 Consultant understands that East Hants intends to use such collected information to perform the business of the Municipality of East Hants; to that end, the Consultant 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**

- 31 The Consultant shall defend, indemnify and save harmless the Municipality of the District of East Hants, its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service, arising out of or allegedly attributable to the negligence, acts,

errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of the Consultant, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the delivery or performance of this agreement. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Consultant in accordance with this agreement, and shall survive this agreement.

#### CHANGES TO REQUIREMENTS

- 32 If the instructions provided by East Hants are interpreted by the Consultant 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 Consultant 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

- 33 The Consultant shall, without limiting its obligations or liabilities, maintain Commercial General Liability insurance on an occurrence basis with a minimum limit of \$3,000,000.00 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.
- 34 The Consultant must provide a certificate of insurance from their insurer for this coverage. The Certificate, at a minimum, must:
  - a. List the Municipality of the District of East Hants as an additional insured and contain both cross-liability and severability of interest clauses;
  - b. The Consultant's insurance must provide for bodily injury or property damage that may result from the Consultant's performance of the Services; and
  - c. Excess or umbrella insurance may be used to achieve the required insurance limits noted in this section.
- 35 The Consultant must have and must maintain automobile insurance in the amount of \$2,000,000.00 for the duration of the agreement and must provide a certificate of insurance confirming this coverage. This insurance shall not contain any endorsement that excludes the operation of attached machinery;
- 36 The COI for Commercial General Liability insurance must provide for 30 days' and the automobile insurance must provide for 15 days' written notice of cancellation or material change. The Consultant must provide a new certificate of insurance each time the insurance is renewed, for the duration of this contract.
- 37 The Consultant shall take out and keep in force errors and omissions insurance in the amount of \$2,000,000.00 providing coverage for acts, errors and omissions arising from their services performed under this agreement. The policy SIR/deductible shall not exceed \$10,000 per claim and if the policy has an aggregate limit, the amount of the aggregate shall be double the required per claim limit. The policy shall be underwritten by an insurer licensed to conduct business in the Province of Nova Scotia and acceptable to East Hants. The policy shall be renewed for 3 years after contract termination. A certificate of insurance evidencing renewal is to be provided each and every year. If the policy is to be cancelled or non-renewed for any reason, 90 day notice of said cancellation or non-renewal must

be provided to East Hants. East Hants has the right to request that an Extended Reporting Endorsement be purchased by the Consultant at the Consultant's sole expense.

- 38 The Consultant 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.
- 39 In addition:
- a. The Consultant's insurance shall be primary coverage and not additional to and shall not seek contribution from any other insurance policies available to the East Hants.
  - b. In the case where the Consultant will use subcontractors or third party suppliers, such subcontractors and third party suppliers must obtain and provide proof of insurance coverage that is equal to that required of the Consultant under this agreement.
  - c. Failure to maintain the required insurance coverage may be grounds for termination of the agreement;
  - d. If a Consultant no longer is in Good Standing with WCBNS, the Consultant 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;
  - e. **East Hants will not accept any provisions which seek to limit the liability of the Consultant with respect to these insurance requirements.**
  - f. Changes to incorporation information must be disclosed within a reasonable time of the change; and
  - g. Changes to insurance coverage must be disclosed to East Hants within a reasonable period after the change, at least prior to the next performance of any Services under this agreement affected by the change, and the Consultant 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

- 40 The Consultant shall comply with all existing Federal, Provincial and Municipal laws and regulations and the regulations of any other authorities that may have jurisdiction. The Consultant 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

- 41 The Consultant shall pay all Federal and Provincial Taxes as required by the appropriate enactments.
- 42 The Consultant 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 Consultant.
- 43 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 Consultant.
- 44 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 Consultant will be reimbursed by East Hants in accordance with the requirements of the applicable tax act.



**WORKERS' COMPENSATION**

- 45 The Consultant 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.

**CONFLICT OF INTEREST**

- 46 The Consultant 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 Consultant, either direct or through a third party, which may appear to create an unfair advantage for the Consultant 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 Consultant to follow, in as much as it affects the delivery of these Services.

**PERFORMANCE**

- 47 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 Consultant 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 Consultant 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 Consultant until the entire amount is offset or, where there is not amount to offset, the Consultant 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**

- 48 East Hants may terminate this agreement at any time, for any reason, by providing thirty days written notice to the Consultant. This notice period may be increased by written agreement between the parties. Agreement to extend this notice period does not release the Consultant 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.
- 49 Notwithstanding the above, East Hants may terminate this agreement without notice if the Consultant makes changes to the approved list of Consultant's personnel tasked to complete the Services or to the subConsultant engaged to complete the Services without first obtaining the written permission of East Hants.
- 50 East Hants may terminate this agreement if the performance of the Services, or portion thereof, is found to be unacceptable. Both East Hants and Consultant 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 Consultant by East Hants that the performance of the Services is unacceptable, such notice shall be considered notice to terminate the agreement.

- 51 East Hants reserves the right to terminate this agreement, without penalty of any kind, if the Consultant is judged to be bankrupt or makes general assignment for the benefits of its creditors.
- 52 Termination of the agreement by East Hants shall not relieve that Consultant of any obligations or liability it may have to East Hants except as provided for herein.

#### RECEIVERSHIP

- 53 In the event that a Receiver is appointed to manage the affairs of the Consultant, 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 Consultant.

#### ASSIGNMENT

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

#### ENTIRE AGREEMENT

- 55 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

- 56 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

- 57 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.

- 58 The Notifications shall be addressed as follows:

**c. By mail, in person, or courier to East Hants:**

**Municipality of East Hants**  
RFP50199 - Barneys Brook Forcemain Replacement, Engineering  
Box 230, Suite 170  
15 Commerce Court  
Elmsdale, NS B2S 3K5

Attention: Derek Normanton

**d. By email to East Hants:**

Primary: [dnormanton@easthants.ca](mailto:dnormanton@easthants.ca)  
Cc: [mhatfield@easthants.ca](mailto:mhatfield@easthants.ca)

**e. By mail to the Consultant:**

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

<<Address>>

Attention: <<Name>>

f. By email to Consultant:

Primary: <<email address>>

Cc: <<as requested by Consultant>>

#### GOVERNING LAW

- 59 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

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

#### SEVERABILITY

- 61 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

- 62 In the event of a disagreement regarding any aspect of the Services or any instructions given by East Hants to the Consultant under this agreement:
- a. The Consultant 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 Consultant shall continue to deliver the Services in accordance with East Hants' instructions; and
  - c. The Consultant 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 Consultant'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 Consultant 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 Consultant 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 Consultant 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 Consultant, 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 Consultant rejects the decision, the parties may refer the matter to arbitration in accordance with *The Commercial Arbitration Act of Nova Scotia*.
  - h. 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**

63 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:

<b>MUNICIPALITY OF THE DISTRICT OF EAST HANTS</b>	<b>&lt;&lt;CONSULTANT LEGAL NAME&gt;&gt;</b>
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

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



## Appendix D - Safety Questionnaire

Company Name:	Date
Company Address:	Phone No.
	E-mail:
Description of work:	

### SAFETY CERTIFICATION

1. Are you currently WCB Safety Certified <http://www.wcb.ns.ca/Workplace-Injury-Insurance/WCB-Safety-Certified.aspx>? If yes, please provide proof with your submission instead of completing this form.

☐ YES

☐ NO

Note: Out-of-province companies may submit a current and valid Certificate of Recognition (COR) from their province of origin, or from another recognized safety association which uses an external audit element, for consideration.

### SAFETY PERFORMANCE

2. Does your company have any non-compliance or outstanding issues with the Nova Scotia Labour and Advanced Education, such as stop work orders, pending charges/prosecutions, or recent (within the last year) convictions or fines? If yes, please attach a note with details, including the current status or resolution.

☐ YES

☐ NO

### SAFETY PROGRAM

3. How many employees do you have? \_\_\_\_\_
4. Does your company have a written health and safety policy signed by management (5+ employees)?

☐ YES

☐ NO

☐ N/A

5. Does your company have a Joint Occupational Health and Safety Committee (20 + employees)?

☐ YES ☐ NO ☐ N/A

6. Does your company have written safety procedures, manuals and safe work practices applicable to the scope of the work to be performed, including clearly defined safety responsibilities for supervisors and workers?

☐ YES ☐ NO

7. Does your safety policy require sub-contractors to meet the same standard of safety that you maintain? Do you require them to maintain WCB coverage, insurance and safety programs in accordance with legislation?

☐ YES ☐ NO ☐ N/A

If "N/A" is checked, please explain (e.g. do not have sub-contractors) \_\_\_\_\_

8. Does your company have a process to communicate your safety policies, procedures and known hazards (e.g. tool box meetings, handbooks, website, e-mail, etc.)?

☐ YES ☐ NO

9. Do you provide safety training to your employees? ☐ YES ☐ NO

If yes, are training records available to be audited? ☐ YES ☐ NO

10. Does your company have a hazard assessment procedure (assessing risks on hazardous jobs)? If yes, what role or position within your company performs this task and how often? \_\_\_\_\_

☐ YES ☐ NO

11. Does your company have an incident reporting process that includes tracking, investigating and reporting incidents?

☐ YES ☐ NO



12. Does your company have a disciplinary policy or process in place for anyone committing health and safety violations to correct unsafe behaviour? If yes, please describe:

☐ YES

☐ NO

---

---

13. Does your company have a preventative maintenance program for tools and machinery?

☐ YES

☐ NO

If no, please explain why below:

---

---

14. Please be advised that during the tendering process, or at any time during the contracted work, East Hants may request copies of policies, training records, procedures, etc. as proof that the answers on this questionnaire are true. Do you agree to provide this information if requested?

☐ YES

☐ NO

15. Please attach a list of contact information of all supervisors that will be used on site, as well as any safety representative or persons responsible for job site safety.

I, \_\_\_\_\_ (printed consultant name) confirm the information provided is true and correct as of the date of this submission. I will report any changes to this information prior to accepting award of any work as well as changes that occur during the performance of the services.

\_\_\_\_\_  
Consultant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Consultant's Signature

