

Infrastructure & Operations

REQUEST FOR PROPOSALS

Uniacke Business Park Phase 3 Engineering Design
RFP50433

Release Date: November 26, 2021

Proposals will be received up to
3:00:00 pm local time on Tuesday, December 21, 2021

Contact: Amanda Hatfield
Information Management Clerk
Municipality of East Hants
Telephone: 902-883-6201
Email: ahatfield@easthants.ca



EAST HANTS
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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 proposed Uniacke Business Park Expansion, Phase 3, as further described in Section 2, Services Description. In conjunction with the detailed design, survey plans will be required for submission as part of the Tentative and Final Submission applications for the expansion of the Business Park. To this end, East Hants is seeking competitive Proposals from the marketplace to identify a Consultant to possibly provide these Services.

1.2. DEFINITIONS

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

1.3. PROPOSAL SUBMISSION

- 1.3.1. Proposals will be received up to 3:00:00 pm local time on December 21, 2021 by upload only using the East Hants online procurement application.
- 1.3.2. The Proponent is responsible for uploading and submitting all documents by closing time. The Proponent must account for the time to upload documents which depends on the size of the document. East Hants shall not be liable for, and Proponent releases East Hants from, any damage or loss of any kind whatsoever related to Proponent's failure to submit documents by closing time for any reason.
- 1.3.3. Remember to sign the Proposal form. Electronic signatures are acceptable.
- 1.3.4. Prior to submitting their Bid, Bidders are to review the Electronic Submission Protocol at: <https://www.easthants.ca/government/procurement/> for the latest information with respect to submissions.

1.4. INQUIRIES

- 1.4.1. 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:

Amanda Hatfield
Information Management Clerk
Municipality of East Hants
Email: ahatfield@easthants.ca
- 1.4.2. East Hants will provide clarifications and additional information, if required, by way of Addenda.
- 1.4.3. Inquiries and questions will be accepted up to **3:00 pm** local time on **Thursday, December 16, 2021**.
- 1.4.4. 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.

1.5. WITHDRAWING OR MODIFYING A PROPOSAL

- 1.5.1. Proposals can only be withdrawn by contacting Amanda Hatfield by phone at 1-902-883-6201 or by email at ahatfield@easthants.ca. The Proponent must provide the unique identifying number they received when submitting the Proposal in order to withdraw the Proposal.
- 1.5.2. Once a Proposal has been submitted, it cannot be modified. The Proponent must submit a new Proposal and then contact East Hants as above to withdraw the Proposal which is no longer valid.
- 1.5.3. The request to withdraw a Proposal may occur at any time, but certain competitions may contain bid security or other requirements which may impact a Proponent's legal responsibilities once the competition has closed, so withdrawal of a Proposal, where possible, should occur prior to closing.
- 1.5.4. New or replacement Proposals must be submitted before the Competition Deadline.

1.6. PROPOSAL ACCEPTANCE (PRIVILEGE CLAUSE)

- 1.6.1. This document and Request for Proposal process does not constitute a call for Tenders. This RFP process will not give rise to any Contract A-based tendering law duties or legal obligations.
- 1.6.2. 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.
- 1.6.3. All Proposals become the property of East Hants once submitted.
- 1.6.4. Late Proposals will be rejected and will be returned unopened. Incomplete Proposals may be rejected.
- 1.6.5. Any Proposal that does not include all of the information required in this RFP may be considered incomplete and may be rejected. East Hants will, in their sole discretion, determine if the missing information is material to their ability to evaluate a response; if East Hants believes they have sufficient information to evaluate, it may proceed to do so.
- 1.6.6. Proponents undertake any expenditure related to the submission of a Proposal at their own risk. 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.
- 1.6.7. 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.
- 1.6.8. 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;
 - choose not to accept the lowest bid price;
 - alter the schedule, RFP process, or any other aspect of the RFP, as it may determine in its sole and absolute discretion.

- 1.6.9. Without limiting the preceding in any way, 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.
- 1.6.10. 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 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 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. 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.
- 1.6.16. 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. Insurance requirements, if any, should be reviewed by the Proponent's insurer.
- 1.6.17. 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.
- 1.6.18. Suppliers who have been disqualified from bidding on contracts with East Hants may not respond to this RFP and any RFP which features a subcontractor who is disqualified from bidding may also be rejected.
- 1.6.19. 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 discuss the subject matter of a competition with any East Hants' staff member, Councilor, consultant, or any person involved in the procurement process, evaluation, or award, other than the designated contact or their designate. Under no circumstances may a Proponent extend entertainment, gifts, gratuities, discounts, or special services, regardless of value, to any employee of East Hants in connection with this or any other procurement of goods, services, or construction.
- 1.6.20. Proponents must advise East Hants of any potential conflict of interest that may affect, or appear to affect, the RFP process, including the influence of award. East Hants may disqualify a Proponent, rescind an invitation to negotiate, or terminate a contract subsequently entered into if East Hants determines that the Proponent has engaged in any conduct prohibited by this RFP.
- 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 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.
- 1.6.23. The procurement of goods and services, if any, resulting from this RFP will require a written agreement between the parties. Unless otherwise agreed to in writing by East Hants, the terms and conditions of the attached sample agreement shall be the basis for such agreement. Any objections to such terms and conditions must be clearly set out in Proponents' Proposals. In the absence of such objections, East Hants will assume that the Proponent accepts such terms. The extent to which a Proponent accepts, rejects, or proposes modifications to such terms will be taken into account in evaluating Proposals. Any Proposal may, in the sole discretion of East Hants, be rejected at any time on the basis of proposed contract terms and conditions that are unacceptable to East Hants.
- 1.6.24. 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.
- 1.6.25. 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. In addition, the Proponent confirms that it has, and will, comply with all policies of East Hants, including the *Procurement Policy* and *Supplier Disqualification Policy*. 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.
- 1.6.26. 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. All responses to this RFP should be held firm 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 Cost which will be charged to provide the Services. The Proponent must supply a detailed breakdown 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 Section 2, 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 Proponent must clearly and concisely describe in their Proposal how they propose to deliver the Services.
 - 1.10.2.1. East Hants wishes to understand how the Proponent will approach this project if successful. It is up to the Proponent to create compelling argument as to why their firm should be selected, in accordance with the scoring parameters East Hants provides.
 - 1.10.2.2. While there is no maximum page limit, Proponents should only include information which they believe is relevant to the Services being requested and which demonstrates the Proponent's capability and capacity to complete the Services, in accordance with these instructions and being mindful of the Evaluation Criteria.
 - 1.10.2.3. Proponents should demonstrate how the team they are proposing are qualified to complete the Services. As construction inspection is an important part of this project, this will include details of the proposed construction inspector. If no inspector has been identified at the time of drafting the RFP document, the proponent must include a list of the minimum qualifications and experience that their chosen inspector will possess. If not identified prior to award, East Hants reserves the right to reject any inspectors it deems do not comply with the submitted list.
 - 1.10.2.4. Proponents should demonstrate how their team will provide support to the construction inspector. For example, will personnel be readily available if the construction inspector has any design related questions, how quickly can they expect a response to questions 'from the field', What support will be provided to the construction inspector if there are disputes around technical understanding or applications 'in the field', etc.?
 - 1.10.2.5. Proponents should avoid relying on assumptions. If a Proponent is unsure of something which is material to their Proposal, they are encouraged to ask questions within the specified period in which to do so.
 - 1.10.2.6. Proponents should not rely on assistance from East Hants as part of their Work Plan unless such assistance can only be obtained from East Hants. East Hants will meet their reasonable obligations to supply information, access, and, where solely within their responsibility to do so, such assistance as is required to facilitate the Services, but the Proponent must plan to supply all other information and labour as part of the Services and included in their Total Cost.
- 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 planned hours and associated hourly rates for project team members which make up their lump sum Total Cost. If awarded, the lump sum Total Cost may not be exceeded.
- 1.10.4. The Proposal must include a schedule indicating any stages proposed for the Services, together with the time required to complete each stage. The schedule shall indicate milestone dates and dates that items are to be delivered to East Hants.
- 1.10.5. Proponents must provide descriptions and references for three similar projects that they have completed, ideally where the same team members were involved and their roles similar to that proposed. Include the name, phone number, and email address for a representative of the client in case East Hants wishes to contact them.
- 1.10.6. Proponents must complete and submit with their Proposal Appendix A, the Proposal Form, and Appendix B, the Safety Questionnaire.

- 1.10.7. The Proponent may include any tables or attachments it feels will help clarify their Proposals above the minimums identified in the RFP document.
- 1.10.8. 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.
- 1.10.9. The Proponent must supply the résumés of the Primary Team Members listed in their Proposal. The proposed construction inspector is to be considered a Primary Team Member.
- 1.10.10. 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.
- 1.10.11. 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. The role of any sub-consultant must be clearly defined and outlined in the Proposal.
- 1.10.12. 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.
- 1.10.13. 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. 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:
- 1.10.14.1. A Proponent is not currently registered, but intends to register as a condition to providing the Services; and
- 1.10.14.2. The Proponent confirms in Appendix A that they have inquired with WCBNS and have determined they will be able to obtain such coverage.
- 1.10.15. The successful Proponent will be expected to deliver the Services specified in Section 2, Services Description. The Sample Agreement included as Appendix C represents the terms and conditions which East Hants expects will govern the performance of the Services; while some negotiation may be acceptable, if a Proponent has objection to a specific clause, in particular indemnification or insurance requirements, they must raise them during the competition and East Hants, in their sole discretion, may choose to alter the clause or not.

1.11. PROPOSAL EVALUATION

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

Criteria	Available Points
Proposal Document	
Comprehension (<i>demonstrated understanding of the requirements and objectives in performing the Services</i>)	/15
Work Plan/Schedule (<i>detailed and reasonable approach to the requirements and objectives</i>)	/25
Completeness and Value (<i>degree to which Proposal addresses submission requirements</i>)	/5
Presentation (<i>appearance of Proposal as indicative of firm's work</i>)	/5

Firm Rating (<i>relevant experience on similar projects, adequate number and type of resources, references</i>)	/ 10
Staff Rating (<i>relevant training and experience</i>)	/ 10
Sub-Total	/ 70
Cost Rating	/ 20
Hours	/ 10
Total	/ 100

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

(Lowest Total Proposal Cost divided by Proponent's Total Proposal Cost) multiplied by the Available Points

1.11.3. When evaluating the Proposals, East Hants will assign points for Hours based on the following formula:

(Proponent's Hours divided by the highest number of hours from all compliant Proposals) 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. Rejected proposals will not be considered when evaluating Cost or Hours.

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

2. SERVICES DESCRIPTION

2.1. GENERAL

- 2.1.1. The Municipality of East Hants (“East Hants”) requires the services of a qualified firm (the “Consultant”) to undertake the detailed design and construction review of Phase 3 of the expansion of the Uniacke Business Park. Construction of Phase 2, in progress, is projected to be substantially complete by June 30, 2022.
- 2.1.2. Discussion with regulating authorities will be the responsibility of East Hants, although 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 Environment (NSE).
- 2.1.3. As the proposed Business Park expansion is within the Pockwock Watershed, the Consultant will have to provide similar information as above to support discussions between East Hants and the Halifax Water Commission.
- 2.1.4. Design of overhead utilities is not included as part of the agreement. The Consultant will however be required to show utility pole locations on construction plans for review.

2.2. LAYOUT OF ROADS AND LOTS

- 2.2.1 The Consultant must provide a design that maximizes the development of PID 45413762 as well as allowing for connectivity to Alicia Scott Avenue and access to PIDs 45336070 and 45172228. All road infrastructure must be contained within PID 45413762. The size and layouts of the proposed lots shall comply with East Hants’ Subdivision Bylaw.

2.3 SURVEYING

- 2.3.1 The Consultant is responsible for carrying out all surveying necessary for the detailed design and legal survey plans for Tentative and Final Subdivision applications. The Consultant will also have to include a lot grading plan for Phase 3.

2.4 GEOTECHNICAL SURVEY

- 2.4.1 A Geotechnical Survey has been completed for the area as part of the Phase 1 and Phase 2 designs and a copy of the same is provided for the Consultant’s information.

2.5 DETAILED DESIGN

- 2.5.1. The Consultant will be responsible for carrying out the detailed design of the roadways, municipal services and associated appurtenances for the business park expansion in accordance with the East Hants Municipal Standards and industry best practice. Wastewater and water services are not required. A Wetland Delineation report was prepared for the site and is provided for the Consultant’s information. The Consultant is responsible for preparing Wetland Alteration Applications for wetlands impacted by future roads and must advise East Hants of the areas of wetland that will be removed through detailed design/construction, as soon as is practical, so that East Hants can arrange appropriate compensation prior to construction.
- 2.5.2. It is our understanding that the native bedrock may contain minerals that can generate acid rock drainage (“ARD”). Plans to deal with ARD during construction shall be determined by the Consultant and any resulting requirements are to be included in the tender documents. Recommendations for dealing with ARD by future lot owners for when they complete their lot grading plans are required as part of the lot grading plan submission.
- 2.5.3 All new roads are to be designed as industrial streets with an open-ditch storm water drainage system and are not to include sidewalks. The Consultant must provide minimum culvert sizes for the future driveways in Phase 3. Lot driveways are not part of the detailed design.

- 2.5.4. The detailed design is to include a comprehensive stormwater management plan that complies with East Hants' Municipal Standards. All proposed drainage infrastructure will be located within the boundaries of the Pockwock Watershed and the Consultant should be cognizant of this when considering the stormwater design.
- 2.5.5. The Consultant shall provide a detailed construction cost estimate for Phase 3 at their earliest opportunity for review by East Hants. This estimate must be accurate enough to form the basis of East Hants' construction budget.

2.6 SUBDIVISION PLAN

- 2.6.1. The Consultant will be responsible to create a Tentative Subdivision plan for Phase 3 of the expansion of the Business Park. The Tentative Subdivision Plan will be based upon the detailed design, will include all lots with frontage onto the proposed road network and will have to be approved by East Hants prior to submission for subdivision approval. Upon completion of the construction, the Consultant will create a Final Subdivision plan for approval by East Hants.

2.7 TENDER DOCUMENTS

- 2.7.1. The Consultant will be responsible for providing complete tender documents, including drawings and specifications, as necessary to tender the construction of Phase 3 of the Business Park expansion. Tender documents are to be based upon the current edition of the 'Standard Specifications 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 compile the tender documents into their standard tender template and the Consultant will provide originals of all required documents in a format acceptable to East Hants, for use by East Hants.
- 2.7.2. East Hants will manage the tendering process and design related questions that arise during the tendering process will be forwarded to the Consultant for review and appropriate response. Typically, the Consultant will need to provide a response to East Hants by 4:00 pm 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.

2.8. CONSTRUCTION SUPPORT & REVIEW

- 2.8.1. 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 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). It is anticipated that the construction of this phase of the business park expansion will take approximately 12 weeks.
- 2.8.2. 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, witness tests, and verify that the work is being undertaken in accordance with the design and to a sufficient standard of quality.
- 2.8.3. The Consultant will notify East Hants of any construction or safety issues as soon as they arise and what their likely impact will be and will ensure that no site instructions are issued without East Hants' knowledge. The Contract includes an estimate for the number of hours for Construction Review; the actual hours spent on Construction Review may vary from the number indicated.
- 2.8.4. The hours allocated for Construction Review are intended to accommodate on-site personnel only, excluding survey personnel; 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.

- 2.8.5. The Consultant, in conjunction with the constructor, will be responsible for identifying and 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).

2.9. REFERENCE DOCUMENTS

- 2.9.1. The following is a list of documents and other materials that East Hants suggests the Consultant review prior to submitting a Proposal; Mount Uniacke Business Park: Wetland and Watercourse Delineation, Geotechnical Investigation, Uniacke Business Park Expansion - Phase 2 - Site Plan, and Uniacke Business Park Expansion Phase 2 - Lady Mary Way Sta. 0+850 to Sta. 0+900.

2.10. PROJECT SCHEDULE

- 2.10.1. The following schedule is preliminary and somewhat flexible, except for the hard deadline for Substantial Completion of December 2, 2022. Proposals are to include any required or anticipated revisions to the following:

Description of Task	Responsibility	Date
Award of RFP	East Hants	January 14, 2022
Submission of Wetland Alteration Applications	Consultant	March 31, 2022
Complete Regulatory Submissions	Consultant	April 30, 2022
Submit Tender Documents for Review	Consultant	May 13, 2022
Complete Tender Drawings	Consultant	May 27, 2022
Complete Tentative Subdivision Plan	Consultant	June 7, 2022
Construction Tender Issue	East Hants	June 7, 2022
Construction Tender Close	East Hants	June 28, 2022
Construction Tender Award	East Hants	July 15, 2022
Anticipated Start Date of Construction	TBD	August 1, 2022
Anticipated End Date of Construction	TBD	October 28, 2022
Complete Final Subdivision Plan and Lot Grading Plan	Consultant	November 21, 2022
Completion of All Services	Consultant	December 12, 2022

2.11. EAST HANTS REPRESENTATIVE

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

APPENDIX A - COST FORM

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. Sub-consultant List (if any):

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



3. COST

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

Work Element	Hours on Task (Total)	Total Fee	Total Expenses	Total Cost per Element
Topographical Survey				
Legal Survey				
Geotechnical Survey				
Design				
Tender Documents				
Construction Support (Office)				
Construction Review (Site)	500			
Record Drawings				
Column Totals				

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

4. BY SIGNING BELOW THE BIDDER AGREES THAT:

- a. The Proponent has read and understands the requirement of this RFP and agrees to abide by the terms and conditions.
- b. The Proponent has read and understands the following addenda: Addendum _____ to _____ (if any). Failure to acknowledge an addendum containing information pertinent to the Services may be cause to reject a Proponent's Proposal.
- c. The Proponent has read, understands and will, if awarded the work, comply with insurance requirements specified in the Sample Agreement.
- d. The Proponent will, if awarded the work, obtain and will maintain for the duration of the contract Workers' Compensation Board of Nova Scotia workplace insurance coverage (attach Letter of Good Standing if available).

- e. 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.

Signature of Witness

Authorized Signature

Name (Printed)

Title (Printed)

Date



APPENDIX B - SAFETY QUESTIONNAIRE

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

SAFETY CERTIFICATION

1. Are you currently [Safety Certified](#)? If yes, complete this form and provide certificate of recognition with your submission. Remember, this is not the Workplace Injury Insurance program.

☐ 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 or any other provincial jurisdiction, 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. Describe your company process for communicating your safety policies, procedures and known hazards?
Please check all applicable methods

YES	PROCESS
<input type="checkbox"/>	Tool box meetings
<input type="checkbox"/>	Handbooks
<input type="checkbox"/>	Website
<input type="checkbox"/>	E-mail communications

Other: _____

9. Do you provide safety training to your employees, as it relates to the work being performed for the Municipality, that is documented? YES ☐ NO ☐

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

☐ YES

☐ NO (refer to Municipality's Incident Reporting Program)

11. How do you correct unsafe behaviour? (e.g. disciplinary policy or process)

12. Does your company have a preventative maintenance program for tools and machinery where applicable?

☐ YES

☐ NO

☐ NA

If no, please explain why below:

13. Please be advised that during the competition, 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

I, _____ (printed company 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.

Upon award, I agree to provide 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.



Signature

Date

Printed Name



APPENDIX C - SAMPLE AGREEMENT

THIS AGREEMENT is effective <<date>>, 2021 (“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 provide the following Services <<Describe>>, 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: (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, remember to include these.)
 - 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 East Hants expects that any Consultant capable to perform the Services will perform the Services in a manner consistent with the degree of care, skill, and diligence normally provided by members of the same profession performing the same or comparable services in respect of projects of a similar nature in similar circumstances. East Hants expects the Consultant to act with good faith and in the interests of East Hants.
- 7 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

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

PAYMENT

- 10 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).

Total Cost, less Harmonized Sales Tax (HST): \$_____
 - b. The following fees, expenses and disbursements are included in the Total Cost and are deemed to be included in the Services. The Consultant is responsible to complete the Services for the stated Total Cost.

[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. Costs, 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. All invoices submitted by email must be sent to vendors@easthants.ca. Invoices submitted by mail or hand-delivered must be to the attention of the Payables Administrator. When a Purchase Order is specified by East Hants, the invoice must reference this Purchase Order in order to be processed for payment. Include the name of the East Hants Representative on the invoice.
- f. Invoices must be submitted in accordance with the schedule established by East Hants at the beginning of the contract, typically monthly. Invoices must be supported in such detail as East Hants may request, including 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. **NTD: This section may be modified to establish the preferred schedule for invoices.**
- g. 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 or payment.
- h. No payments will be made by East Hants to the Consultant unless their invoice is accompanied by a valid Clearance Letter confirming they are in good standing with WCBNS.
- i. East Hants may reject an invoice on the basis that the Services are not in accordance with the requirements of the agreement. 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 East Hants' sole opinion, East Hants may terminate the agreement.
- j. Payment will be made on a net thirty (30) days basis from approval of an invoice in accordance with this section.
- k. 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.
- 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. Upon payment for services completed in accordance with this agreement to the date of termination, the Consultant will have no further claim against East Hants for any damages related to termination of this agreement.
- o. All expenses and disbursements are considered to be included in the Total Cost unless authorized, in writing, by East Hants to be reimbursed separately. Disbursements and expenses so authorized shall be reimbursed to the Consultant at actual cost plus a nominal mark-up to cover the administrative cost associated with the disbursement or expense.
- p. The Consultant shall be solely responsible to pay for all costs and expenses arising out of this agreement, whether or not they may qualify for reimbursement.
- q. 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

- 11 The Consultant will provide the Services to East Hants as an Independent Contractor and not as an employee. 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.
- 12 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.
- 13 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

- 14 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.
- 15 Any circumstances that will result in changes to the agreed Schedule or delay in performance of the Services must be brought to attention of the East Hants Representative by the Consultant within 24 hours of the change or delay being identified. Changes to the Schedule must be approved by East Hants in writing.
- 16 In identifying a period of delay, the Consultant must make reasonable effort to quantify the expected period of delay and to minimize such delay.
- 17 Except in the case of an excusable delay, the Consultant will be liable to pay for any expenses East Hants may incur which are a result of the delay in performance. This may, without limitation, include



additional contract management fees (if any), additional fees claimed by a contractor as a result of the delay, and any costs which can be reasonably attributed to the delay.

- 18 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.
- 19 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.
- 20 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.
- 21 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.
- 22 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

- 23 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 the matter of this contract as the personnel being replaced and they must be acceptable to East Hants.

SUBCONTRACTOR

NTD: Remove subsequent clauses if no subcontractors are proposed and replace with "Subcontractors will not be used to complete the Services. In the event that the Contractor wishes to use subcontractors for some or all of the Services, they must make such a request in accordance with the CHANGE provisions of the agreement and additional conditions may apply."

- 24 The Consultant is advised that the subcontractor listed in the Consultant's proposal and their work scope cannot be changed without the written permission of East Hants. Failure to comply with this provision will be considered a breach of contract and may result in termination of the agreement.
- 25 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.
- 26 Permission to replace a subcontractor will not be unreasonably 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

- 27 In the course of discharging its duties under this agreement, the Consultant, its subcontractors, 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").
- 28 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 subcontractors, 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 a subcontractor, employee, or agent will receive Confidential Information as contemplated in this section, it will obtain a confidentiality agreement from such subcontractor, employee, or agent which provides equal or greater protection to the Confidential Information than set out in this section and that they will provide proof of same to East Hants upon obtaining a fully executed agreement.
- 29 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.
- 30 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, except for Confidential Information the Consultant may be required to retain for its professional files and records.
- 31 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.
- 32 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

[NTD: Where explicit rights are required as a result of the contract, additional language may be required]



- 33 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

- 34 The Consultant shall defend, indemnify and save harmless the Municipality of the District of East Hants, its elected officials, officers, and employees from and against claims, actions, causes of action, losses, expenses, fines, costs (including reasonable legal defence costs), interest or damages, 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, to the extent reasonably attributable to the negligent acts, errors, or omissions, 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.

INSURANCE

(NTD: Insurance requirements will depend on the nature of the work to be completed. General Liability is usually requested with respect to services where property or injury may be at risk. Errors and Omissions is usually requested when we are relying on the Consultant for technical information and engineering expertise. Consult the insurance provider for appropriate types and values for insurance). East Hants will not accept any provisions which seek to limit the liability of the Consultant with respect to the provision of the Services.

- 35 The Consultant shall, without limiting its obligations or liabilities, maintain Commercial General Liability insurance on an occurrence basis with a minimum limit of \$<<>>,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.
- 36 The Consultant must provide a certificate of insurance (COI) from their insurer for this coverage. The COI, 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.
- 37 The Consultant must have and must maintain automobile insurance in the amount of \$<<>>,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>>;
- 38 The COI for Commercial General Liability insurance must provide for 30 days' written notice of cancellation. The Consultant must provide a new certificate of insurance each time the insurance is renewed for the duration of this contract and including any warranty period. The COI must identify any exclusions which apply to the Policy with respect to the Services.
- 39 The Consultant shall take out and keep in force errors and omissions insurance in the amount of \$<<>>,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 <<\$100,000>> 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.
- 40 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.
- 41 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 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

- 42 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

- 43 The Consultant shall pay all Federal and Provincial Taxes as required by the appropriate enactments.

WORKERS' COMPENSATION

- 44 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

- 45 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.

PERFORMANCE

- 46 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.

CHANGES TO REQUIREMENTS

- 47 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 prior to acting on these instructions. At minimum, any change in scope that affects the cost of the Services or the Schedule 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 impact, if any, on the Schedule;
- c. The amount, exclusive of HST, by which the cost will either be increased or decreased; and
- d. A summary of the fees, expenses and disbursements which make up the amount of increase or decrease.

RESPONSIBILITY FOR DAMAGE

- 48 The Consultant shall, at their sole expense, repair and restore to its original condition any material or surface damaged by their operations.
- 49 The Consultant shall be solely and entirely responsible for any loss or damage to their materials, supplies, and equipment.

TERMINATION

- 50 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.
- 51 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.
- 52 East Hants may terminate this agreement if the performance of the Services, or portion thereof, is found to be unacceptable or if there is unreasonable delay, other than an excusable delay, in performing the Services. 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.
- 53 East Hants reserves the right to terminate this agreement if the Consultant fails to act in accordance with their safety protocols or where, in East Hants' sole opinion, there have been an unreasonable number of safety violations, near misses, or orders/corrective actions issued to the Consultant by government officials.
- 54 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.
- 55 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



- 56 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

- 57 The Consultant 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

- 58 This agreement, together with the Exhibits, Contract Documents, and the Schedule, 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

- 59 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

- 60 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.

- 61 The Notifications shall be addressed as follows:

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

Municipality of East Hants
<<Project Number - Project Name>>
Box 230, Suite 170
15 Commerce Court
Elmsdale, NS B2S 3K5

Attention: Procurement Officer

d. By email to East Hants:

Primary: procurement@easthants.ca
Cc: email address of Project Manager

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

62 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

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

SEVERABILITY

64 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

NTD: The following dispute resolution terms may be included in the agreement, but dispute resolution can be costly. Discuss with your Director if dispute resolution is appropriate for this contract.

Alternatives include: no specified dispute resolution (potential for litigation or flexibility to “work it out”), progressive escalation within the parties (contract manager to executive branch, for example).

65 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

- 66 Any failure by East Hants to enforce or require the strict compliance and performance of any of the terms or conditions of this agreement shall not constitute a waiver of such terms or conditions and shall not affect or impair such terms or conditions in any way or the right of East Hants to enforce same and/or to avail itself of such remedies as it may have for any breach or breaches of such terms or conditions.

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

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

