



REQUEST FOR PROPOSAL

For

MUNICIPAL ENGINEERING SERVICES

Issued: March 21, 2024
Closing: April 22, 2024, at 14:00:00 MT
RFP Contact: Terri Sperle
Telephone: 403-507-4805
Email: tsperle@olds.ca

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1.0 General

1.1 Invitation to Submit a Proposal

Proponents are invited to submit proposals for the Municipal Engineering Services.

RFP Issued:	March 21, 2024
Site Visit/Pre-Bid Meeting	None Scheduled
Deadline for Questions:	April 2, 2024, at 16:00 MT
Deadline for Issuing Addenda	April 8, 2024
Submission Deadline (Closing Date):	April 22, 2024, at 14:00:00 MT
Rectification Period	(3 business days)
Anticipated Ranking of Proponents:	April 30, 2024
Contract Negotiation Period:	(7 calendar days)
Anticipated Execution of Agreement	May 9, 2024

This RFP will be conducted with the objective of maximizing benefits for the Town of Olds while offering proponents a fair and equitable opportunity to participate. The RFP timetable is tentative only and may be changed by the Town at any time. For greater clarity, business days mean all days that the Town Administration building is open for business.

Proponents are advised to pay careful attention to the specifications laid out in this RFP. Failure to satisfy any term or condition in this RFP may result in the proposal being deemed unacceptable. The Town of Olds reserves the right to accept or reject any and all proposals and to waive irregularities and informalities at its discretion. The Town of Olds reserves the right to accept a proposal other than the lowest price proposal without stating reasons.

This RFP does not commit the Town of Olds to award a contract or pay any costs incurred in the preparation of a proposal, or attendance at meetings with Town staff.

There will not be a bidders' meeting associated with this procurement.

1.2 Inquiries, Errors, or Omissions

All inquiries must be directed to the RFP Contact in writing by **April 2, 2024, at 16:00 MT**. Inquiries and responses will be recorded and may, in the Town's discretion, be distributed to all proponents.

Proponents should notify the RFP contact in writing of any ambiguity, divergence, error, omission, oversight, or contradiction in this RFP.

Verbal responses to inquiries are not binding on any party.

1.3 RFP Amendments

The Town of Olds reserves the right to amend the RFP documents and addenda up to 48 hours prior to the RFP Closing Date and Time. Any changes to this document will be communicated to all involved proponents, in writing, as an addendum.

1.4 Submitting of Proposals

Proponents are requested to submit their submission in the form prescribed herein by the submission deadline to the Town of Olds contact identified below.

Proponents should submit one electronic copy (in PDF or Word format) by email to:

Terri Sperle, Grant and Procurement Administrator
Email: TSperle@Olds.ca

Proposals are to be prominently marked with the RFP title (see RFP Cover) in the email subject line, with the full legal name and return address of the proponent, and with the submission deadline in the email.

Proponents are cautioned that the RFP closing time is based on when the proposal is RECEIVED by the Town, and NOT when a proposal is submitted by the proponent. It is the sole responsibility of the proponent to be mindful of the length of time for the proposal to be transmitted due to file transfer size, transmission speed, etc., and the Town shall not be responsible for any delivery issues whether or not caused by the Town server. As such, proponents are responsible for verifying that their submissions have been received at the correct location.

Any proposals received after the closing date and time will be considered disqualified.

1.5 Freedom of Information and Protection of Privacy (FOIP)

All proposals submitted become the property of the Town, and as such are subject to the provisions of Alberta's Freedom of Information and Protection of Privacy Act. Respondents who wish to ensure particular parts of their proposal are protected from disclosure under the Act should specifically identify any information or records provided with their proposal that constitute trade secrets, and that are supplied in confidence, and the release of which could significantly harm their competitive position. Information that does not meet all three of the foregoing categories may be subject to disclosure to third parties. Please refer to the Freedom of Information and Protection of Privacy Act for further information.

1.6 Cost to Submit

The Town of Olds will not be liable for any costs incurred by any proponent in the preparation and submission of a proposal, in the facilitation of a presentation to support the proposal, or any other activities related to the creation of their proposal.

1.7 Negotiations and Contract

Proponents are advised that the Town intends to enter into negotiations with the selected proponent on the basis of the Town's standard form contract enclosed as Schedule B to this RFP. Should a proponent wish to make changes to such form of agreement, it should specify any such proposed changes as part of its proposal. Proponents are cautioned that the Town shall not be required to accept any such changes to the contract, and requested changes which are deemed unacceptable to the Town in its sole discretion may result in the rejection of the proposal.

Notwithstanding the foregoing, the Town of Olds may, prior to and after contract award, negotiate changes to the form of contract in Schedule B, to the scope of work, the specifications or any conditions with or one or more of the proponents without having any duty or obligation to advise any other proponent or to allow them to vary their proposal compensation as a result of such changes and the Town shall have no liability to any other proponent as a result of such negotiations or modifications.

1.8 Termination of Negotiations and/or RFP Process

The Town of Olds reserves the right to terminate contract negotiations with any proponent and to enter into contract negotiations with any other proponent if, in the opinion of the Town of Olds, at any time, the contract negotiations with the initially selected proponent will not be satisfactorily concluded in the best interests of the Town of Olds.

1.9 Period of Commitment

Proposals shall be final and binding for 90 days from this RFP's closing date and time and may not be altered by subsequent offerings, discussions, or commitments unless the proponent is requested to do so by the evaluation team.

1.10 Cost

All costs must be quoted in Canadian dollars and exclusive of GST.

1.11 Irrevocability of Proposals

Proponents may amend or withdraw their proposal prior to this RFP's closing date and time by submitting a clear and detailed written notice to the RFP Contact. All proposals become irrevocable after this RFP's closing date and time.

1.12 Proposal Rejection

The evaluation team may reject any or all proposals.

2.0 INFORMATION

2.1 Background

The Town of Olds has a population of 9,209 and provides municipal services including administration, finance, public works, recreation, water, wastewater, and waste management services. Centrally located along the busy QEII corridor, Olds is a major service centre and regional market for over 40,000 people in Mountain View County and surrounding area. The proximity to Red Deer and Calgary contributes to our continued growth and economic stability. The quality lifestyle in Olds reflects the values and interests of our residents, which translates into a strong sense of community pride. Olds has safe and friendly neighbourhoods, beautiful parks, an extensive path and trail system, and all the amenities associated with a big city.

2.2 Scope of Services

Please refer to Schedule A.

2.3 Term of Agreement

It is the intention of the Town of Olds to enter into a three (3) year agreement with the successful firm to provide Municipal Engineering Services. If the contract is satisfactorily carried out for the three-year term, the successful proponent's contract may be extended for two (2) one (1) year terms at the sole discretion of the Town.

3.0 EVALUATION CRITERIA

The Town of Olds reserves the right to accept or reject any and all proposals. The Town reserves the right to accept a submission other than the lowest price submission without stating reasons. By the act of submitting a response to this RFP, the proponent waives any rights to contest in any legal proceeding or against the right of the Town of Olds to award the work to any proponent in its sole discretion.

The first stage will consist of a review of all submissions to ensure that each submission was received on time, that the certification is properly completed and signed, and the submission is sufficiently responsive to the RFP.

Following the initial evaluation of the proposals, the second stage will consist of a comprehensive evaluation of the RFP based on the criteria listed below. The proponent may be contacted at that time to provide further information or address any questions or issues that may have arisen while evaluating the proponent's proposal.

Evaluation Category	Weighting
Corporate Profile, Experience and References <ul style="list-style-type: none"> ○ Managerial ability ○ Corporate stability ○ Professional integrity ○ Quality control procedures ○ Unique/innovative corporate features 	20
Technical Ability <ul style="list-style-type: none"> ○ Recent experience (firm & personnel) ○ Proven ability ○ Technical resources ○ Human resources and qualifications of key personnel, including back up personnel 	50
Communicating/Reporting <ul style="list-style-type: none"> ○ Proponents will be evaluated based on communication and reporting procedures, as well as availability of key staff. ○ Interview (if required) 	10
Quality of Proposal <ul style="list-style-type: none"> ○ Level of effort, presentation, thoroughness, etc. 	5
Price <ul style="list-style-type: none"> ○ Comparison of fee scales 	15
TOTAL	100

Proposals will be evaluated and ranked according to the outline below. Evaluations will be based on a scale of 0 to 10. The score of each criterion will be determined by multiplying the criteria weight by the rating. The sum of all scores will be the total score. The Town reserves the right to reject any proposal that receives a rating of four (4) or less on any criterion.

Rating	Description
10	Exceeds expectations; Proponent clearly understands the requirement, excellent probability of success.
8	Somewhat exceeds expectations; Proponent has a very good understanding of the requirement, very good probability of success.
6	Meets expectations; Proponent has a good understanding of the requirements, good probability of success.
4	Somewhat meets expectations; minor weakness or deficiencies, Proponent understands the requirement, fair probability of success.
2	Does not meet expectations or demonstrate understanding of the requirements, low probability of success.
0	Lack of response or complete misunderstanding of the requirements, no probability of success.

3.1 EVALUATION OF PRICING

Each proponent will receive a percentage of the total possible points allocated to price it has bid on by dividing that proponent's price into the lowest bid price. For example, if a proponent bids \$120.00 and that is the lowest bid price, that proponent receives 100% of the possible points ($120/120 \times 100 = 100\%$). A proponent who bids \$150.00 receives 80% of the possible points ($120/150 \times 100 = 80\%$), and a proponent who bids \$240.00 receives 50% of the possible points ($120/240 \times 100 = 50\%$).

$$\frac{\text{Lowest rate}}{\text{Second-lowest rate}} \times \text{Total available points} = \text{Score for proposal with second-lowest rate}$$

$$\frac{\text{Lowest rate}}{\text{Third-lowest rate}} \times \text{Total available points} = \text{Score for proposal with third-lowest rate}$$

And so on, for each proposal.

Upon completion of stage two, a short list of proponents will be invited to participate in the third stage if the Town of Olds decides to proceed beyond the RFP stage, if required.

The third stage of the evaluation will consist of oral presentations to Town of Olds staff. Proponents invited to participate in the third stage are to ensure that the individual identified as the project leader in their RFP submission will be available during the interview portion of the evaluation in addition to any other key personnel that the proponent wishes to include.

4.0 PROPOSAL CONTENT

Proposals should be organized in the following format using the section titles and sequence listed below, to facilitate evaluation and to ensure each proposal receives full consideration.

4.1 Proposal Submission Letter or covering letter

Must be dated and signed by an official authorized to negotiate, make commitments, and provide any clarifications on behalf of the proponent.

4.2 Executive Summary touching on pertinent points in the proposal you wish to highlight, including an overview of the project schedule and costs.

4.3 Proponent Profile

The proposal must include:

- A **brief** introduction of the proponent, identifying the members of the project team and project lead (if applicable).
- All CVs shall, at a minimum, contain the following information:
 - Name and credentials,
 - Training and experience,
 - Position in firm,
 - Proposed relationship with Town,
 - Individual fee scale,
 - Anticipated general field of activity with the Town,
 - Area of practice in the firm,
 - Back up personnel to support principal staff during absence or staff turnover.
- Any changes in project team members will be subject to Town of Olds approval, and the proponent shall ensure such changes do not negatively impact the quality of the deliverables and project timelines;

- A contact for any questions or clarifications arising from the proposal. Contact information should include name, title, address, email, and phone number;
- Contact information for the proponent's head offices and applicable service centres; and
- Details of any subcontracting arrangements proposed by the proponent.

4.4 Proponent Information

Proposals should be detailed enough to demonstrate how the Proponent's expertise, staff, and resources best meets the needs of the Town as described in this RFP. When detailing expertise, the Proponents shall reference their expertise as it pertains to the Scope of Services provided, tailoring it specifically to the operations of the Town. The proposal shall include the following information:

- ☐ Corporate background,
- ☐ Corporate procedures,
- ☐ Current total staffing and clients,
- ☐ Summary of related municipal experience (maximum 5 pages),
- ☐ Corporate Organizational Chart,
- ☐ Summary of relevant experience,
- ☐ Hourly rates for staff complement,
- ☐ CV of all principal staff,
- ☐ CV of staff and resources that are proposed to have direct responsibility to principal staff (maximum one page per person),
- ☐ Outline firm methodology for administering the invoices for operating works, capital works, payment certificates and general inquiry information and specific works. Costing shall be provided based on the firm's personnel categories at a fixed hourly rate submitted for each of the five contract years (2024 to 2028). The Town will use these rates for all future general engineering tasks and projects. The Town will not pay for any travel time or mileage outside of the standard disbursements provided under the costing submitted during the RFP.

4.5 Related Experience and References

Provide three (3) references for the lead Engineer, the secondary contact and your firm that can attribute to the quality, accuracy and professionalism of your employees and your firm. Include the company name, contact person, email address, phone number and years that you provided engineering work for that entity.

4.6 Alberta Worker's Compensation Board (WCB)

A current Alberta WCB Clearance Letter should be included in the proposal as evidence of such coverage and confirmation that the proponent's account is in good standing. If the proponent does not have such coverage in place, the proponent will be required to obtain it within 10 days upon receiving notice of the intent to award.

4.7 Proof of Insurability

Proponents shall provide proof of general comprehensive liability insurability, from a licensed insurer, in the amount of a minimum of \$5,000,000 with the municipality as an additional named insured.

4.8 Costs

Provide a schedule of total fees proposed per the work plan key tasks. The total should include all fees, costs, and disbursements (including travel costs), sub-consultant fees, and any other expenses as required under the Schedule A.

Itemize separately any additional services being recommended to the Town of Olds in addition to the project scope.

5.0 Awarding of Contract

This RFP should not be construed as a contract to purchase goods and services. Only written notice, to the proponent of acceptance of the proposal by the Town of Olds, and the subsequent full execution of a written agreement, shall constitute a contract for the provision of Municipal Engineering Services.

The Town of Olds reserves the right to accept or reject, in whole or in part, all proposals received. The lowest or any proposal will not necessarily be accepted, as various criteria are used in the evaluation process.

No act of the Town of Olds, other than a notice in writing signed by the Chief Administrative Officer, or his designate, shall constitute an acceptance of a proposal.

The Town of Olds reserves the right to reject any or all proposals. Without limiting the generality of the foregoing, The Town of Olds may reject any proposal which:

- Is incomplete, obscure, irregular, or unrealistic.
- Omits or fails to include any or more items in the proposal offer for which a price is required by the RFP.
- Fails to complete the information required by the RFP to be furnished with the proposal or fails to complete the information required whether the same purports to be completed or not.
- Fails to be submitted before the deadline.

Further, a proposal may be rejected on the basis of:

- The proponent's past performance, if applicable, with the Town of Olds,
- Financial constraints,
- Unreasonable or unacceptable completion schedules, and
- Failure to comply with federal, provincial, and municipal legislation.

The Town of Olds has the right, in the interest of the Town, to waive any informality, insufficiency or irregularity in any proposal responses received, and to accept the proposal that is deemed most favourable to the interests of the Town of Olds.

6.0 Limitation of Liability

Notwithstanding any other provision, by submitting a proposal, each proponent agrees that any claim that the proponent may have against the Town of Olds and its employees, agents, consultants and elected officials (collectively the "Town Parties") for damages, losses, or expenses or for any other legal relief, arising, directly or indirectly, under or in relation to this Request for Proposals process (whether in contract, tort, or other legal theory) is limited to an amount equal to the proponent's actual and reasonable costs in preparing its proposal to a maximum of \$2,500.00. For clarity, each proponent specifically waives as against the Town Parties any claim for loss of profit or anticipated profit, loss of opportunity, loss of reputation, consequential or indirect losses or for judicial review or injunctive relief.

SCHEDULE A

The Town of Olds is seeking proposals from professional engineering consulting firms to provide general consulting services which may include but not be limited to review of existing infrastructure, surveying, complete final design, cost estimates, construction plans and specifications, development application reviews, new capital project design and implementation, and support for utility operations. Construction administration for capital work may include, but is not limited to material removal, water, storm and sanitary improvements, utility coordination and restoration.

The Town of Olds reserves the right to ensure that the successful engineering firm is exclusive and solely working for the Town of Olds in all dealings within the Town of Olds and not representing developers as well. This will be considered as a conflict of interest.

Each firm must show experience providing consultation, design and construction management of municipal construction projects including, but not limited to water, wastewater treatment and distribution, streets, sidewalks, storm water and drainage, environmental assessments, and other civil engineering related projects.

i. Consultative, Advisory, Investigative and Predesign Services

These services may include, but are not limited to:

- ☐ Expert testimony,
- ☐ Investigations and studies,
- ☐ Rate structure reviews,
- ☐ Inspections,
- ☐ Surveys, testing, or other services concerning the collection, analysis, evaluation, and interpretation of data leading to specialized conclusions and recommendations,
- ☐ Feasibility studies on proposed projects, including studies of Town needs, analyses of conditions or methods of operation, development of alternative concepts, economic analyses, environmental studies and site location studies,
- ☐ Development of preliminary design reports, including outline specifications, preliminary cost estimates, etc.,
- ☐ Review of private developer submissions,
- ☐ Schematic design and design development for projects,
- ☐ Coordinate with the Province and/or Federal Government on municipally designated roadways and water & wastewater infrastructure approvals and funding agreements.

ii. Project Management Services

Project management involves mobilizing a design and construction team to plan, control and implement all of a project's activities from conception to completion of construction. It also involves meeting Town requirements related to the project's function, quality, schedule, and budget. Project management services include, but are not limited to:

- ☐ Selecting consultants,
- ☐ Conceptual studies and economic feasibility,
- ☐ Planning, scheduling, monitoring and controlling,
- ☐ Estimating and budgeting,
- ☐ Engineering and design,
- ☐ Procurement,
- ☐ Construction management,
- ☐ Commissioning and quality assurance,
- ☐ Providing as-builts in both AutoCAD and PDF formats.

iii. Detailed Design Services

Detailed design services are based on previously established project requirements. They comprise the preparation of engineering designs, drawings, specifications and contract documents. Examples of these services include, but are not limited to:

- ☐ Preparing drawings, resolving detailed problems, selecting equipment, and developing specifications,
- ☐ Coordinating engineers and/or other design service groups,
- ☐ Preparing detailed calculations, design drawings, specifications and contract documents,
- ☐ Preparing, or collaborating with others responsible for preparing, estimates of the cost of the work,
- ☐ Providing assistance and advice to the Town, related to tender call, evaluation, and award immediately preceding construction.

iv. Contract Administration and General Review During Construction

These services comprise administering the construction contract and providing engineering review during the construction period, following the award of the contract. They may include, but are not limited to:

- ☐ Providing advice on the interpretation of contract documents to the contractor or Town, and issuing supplementary details and instructions as required,
- ☐ Reviewing shop drawings for general compliance with design requirements and contract documents,
- ☐ Reviewing contractors' progress claims, including the validity of additions or deletions,
- ☐ Issuing progress certificates and change orders for the Town's acceptance,
- ☐ Making periodic site visits to assess progress generally and conformity of the work with the contract documents,
- ☐ Reporting to the Town on the progress of construction,
- ☐ Arranging for, and attending, regular site meetings,
- ☐ Carrying out final review at the conclusion of the construction contract,
- ☐ Issuing a substantial performance and/or completion certificate,
- ☐ Ensuring that the contractor keeps as-built records.

v. Resident Services During Construction

Services during construction are considered to be "resident" when a project requires part-time or full-time oversight. Resident services may include, but are not limited to:

- ☐ Providing reference surveys to the contractor and, where necessary, checking the contractor's surveys,
- ☐ Determining that the contractor's work satisfies the intent of the design and conforms with the plans and specifications,
- ☐ Arranging for, and/or carrying out, all prescribed field testing and inspection of materials and equipment,
- ☐ Investigating, reporting, and advising on unusual circumstances that may arise during construction,
- ☐ Carrying out final inspection at the conclusion of the construction contract, as part of the Town's acceptance program,
- ☐ Maintaining sufficient data to outline current progress of the work,
- ☐ Certifying the contractor's request for payments regarding progress, quantities of work completed, materials delivered to the site, change orders, etc.

The Town of Olds desires to enter into a professional contract for a Town Engineer to provide general engineering services on an as needed basis. The Town holds the right to either tender all engineering tasks/projects or to enter into a contract with another firm for engineering services for a particular task/project. All tendering and purchasing processes are at the Town's discretion.

SCHEDULE B

THIS AGREEMENT is made in duplicate this ____ day of _____, 2024.

BETWEEN:

TOWN OF OLDS

(hereinafter called "the Town")

OF THE FIRST PART

And

[INSERT NAME HERE]

(hereinafter called "the Consultant")

OF THE SECOND PART

WHEREAS the Consultant is in the business of providing services of the following kind:

General Engineering Services

AND WHEREAS the Town wishes to retain the services of the Consultant as more particularly specified in the Town's Request for Proposal for Municipal Engineering Services (the "RFP") to carry out work generally described as:

Required in the attached documents listed as RFP for Municipal Engineering Services.

(hereinafter referred to as the "Project");

NOW THEREFORE the Town and the Consultant mutually covenant and agree, each with the other, as follows:

1. **SERVICES**

- 1.1. The Consultant shall provide the Services described in the Consultant's Proposal dated [insert here] (the "Proposal") and submitted in reply to the RFP (hereinafter referred to as the "Services"). The Consultant warrants that the Services shall only be performed by the individuals identified by the Consultant in the Proposal unless prior written consent is provided by the Town. Notwithstanding the foregoing, the Town may in its sole and unfettered discretion require that an individual

performing the Services be removed and replaced by a competent professional replacement to the satisfaction of the Town.

- 1.2. The Consultant shall commence the Services no later than [insert date here]. The Consultant acknowledges and accepts that time is of the essence of this Agreement. If the contract is satisfactorily carried out for the three (3)-year term, the Consultant's contract may be extended for two (2) one (1) year terms at the sole discretion of the Town.
- 1.3. The Consultant shall comply with all reasonable requirements established by the Town's Chief Administrative Officer or his/her designate (hereinafter called "the Project Manager") for the performance of the Services, including but not limited to security, safety, environmental protection, emergency procedures and access.
- 1.4. The Consultant shall exercise the degree of care, skill, diligence, safety and efficiency normally provided by a qualified professional Consultant in accordance with all applicable law in the performance of services of a similar nature to the Services required under this Agreement.
- 1.5. The Town and the Consultant, by agreement in writing, may from time to time alter, add to, or deduct from the scope of the Services, and in such case the time for completion shall be adjusted accordingly.
- 1.6. No payment shall be made to the Consultant as compensation for damages for any delays or hindrances from any cause whatsoever in the progress of the Project, unless due to the Town's wilful act or negligence.
- 1.7. The Consultant and the Consultant's employees:
 - a) Shall conduct their duties related to the Agreement with impartiality and shall, if they exercise inspection or other discretionary authority over others in the course of those duties, disqualify themselves from dealing within anyone with whom a relationship between them could bring their impartiality into question.
 - b) Shall not influence, seek to influence, or otherwise take part in a decision of the Town, knowing that the decision might further their private interests.
 - c) Shall not accept any commission, discount, allowance, payment, gift, or other benefit that is connected, directly or indirectly, with the performance of their duties related to the Agreement, that causes, or would appear to cause, a conflict of interest.

- d) Shall have no financial interest in the business of a third party that causes, or would appear to cause, a conflict of interest in connection with the performance of their duties related to the Agreement, and if such financial interest is acquired during the term of the Agreement, the Consultant shall promptly declare it to the Town.

2. AGREEMENT DOCUMENTS

2.1. The following documents are incorporated into, and are deemed to be part of, this Agreement:

- a) RFP – Municipal Engineering Services
- b) Proposal

2.2. In the event of any inconsistency or conflict between the provisions of any of these documents, priority and precedence will be given by the following order or means:

- a) Order of precedence as follows:
 - i. The body of this Agreement
 - ii. RFP – Municipal Engineering Services
 - iii. Proposal

Or if the above order is not sufficient to resolve the inconsistency or conflict, then the following means may be used in the order listed:

- a) The most recent provision; or
- b) The most specific provision.

In addition, and in any event the parties will endeavour to interpret the above documents, both individually and collectively, so as to give effect to the intentions of the parties and carrying out the Services in a timely, effective, and cost-effective manner.

3. PAYMENT

3.1. The Town will pay the Consultant the rates provided for in the Proposal upon the prompt and faithful performance of the Services to the satisfaction of the Town. Payment shall be subject to all applicable legislation.

3.2. The Town shall not under any circumstances be obligated to pay to the Consultant any amount exceeding the sum set out in Section 3.1 unless prior written authorization has been obtained by the Consultant from the Town. Without limiting the generality of the foregoing, the Town shall not be required to make payment for any cost or disbursement incurred by or on behalf of the Consultant for the purpose of rectifying errors or omissions for which, in the reasonable opinion of

the Town, the Consultant is responsible. These remedial services are not additional services.

4. **INFORMATION AND PROPERTY RIGHTS**

4.1. The Consultant agrees that all base materials, research results, computer programs, drawings, documents and notes or materials of any type whatsoever developed or prepared by the Consultant (hereinafter called the "Documents") in performance of the Services shall vest and become the absolute property of the Town, including copyright of such and upon completion of the Services or termination of this Agreement, all copies of the Documents shall be delivered by the Consultant to the Town upon demand by the Town. Once the Town has possession of the Documents, the Town is solely responsible for the use the Town makes of them.

5. **REPORTING**

5.1. The Consultant shall submit to the Project Manager regular progress reports with respect to the Services. If the Project Manager, acting reasonably, deems additional progress reports necessary the Consultant shall submit all additional progress reports requested by the Project Manager.

5.2. The Consultant shall meet with the Project Manager from time to time as requested by the Project Manager to review the performance of the Services. The designated representatives of the Consultant for the purpose of such meetings are the following persons:

[insert name, title, and contact information here]

5.3. The Consultant shall maintain records related to hours spent and costs incurred in performing the Services, for at least three years following the completion or termination of the Agreement. The Town reserves the right to audit or cause to be audited the Consultant's financial statements and accounts regarding the Town's account at any time during the term of this Agreement and such further three-year period.

6. **SUSPENSION OF AGREEMENT**

- 6.1. The Town may, at any time by notice in writing, at its sole and unfettered discretion suspend the performance of the Services.
- 6.2. The Town shall pay all fees accrued due to the Consultant to the time of suspension, but payment of all other fees may be suspended by the Town.
- 6.3. The Town shall not be responsible for any fees incurred by the Consultant during the period of any suspension unless the Consultant satisfies the Project Manager, before incurring any such fees, of the necessity for the same and provides the Project Manager with such documentation as may be required by the Project Manager in support of the claim for fees.
- 6.4. The Consultant shall resume and complete the Services in accordance with the terms of this Agreement upon written notice from the Town. The Town shall make an equitable adjustment for terms of this Agreement which are affected by the suspension including time requirements and payment. Any dispute as to what constitutes an equitable adjustment may be decided by arbitration in the manner herein provided.
- 6.5. If the Town suspends the Services and does not authorize resumption of the Services within 90 days after the effective date of the suspension, and the parties have not agreed to extend the suspension period on agreed terms, the Agreement is considered terminated on the 91st day after the effective date of the suspension.
- 6.6. When the suspension period expires, the Consultant may submit an invoice for any costs or expenses directly attributable to the suspension, and unavoidably incurred during the suspension period, regardless of whether the Services are resumed, or the Agreement is considered terminated.

7. TERMINATION OF AGREEMENT

- 7.1. The Town may terminate this Agreement by giving notice in writing which is hand delivered to the address in Section 14.1 (or as changed pursuant to Section 14.3) for the Consultant, if:
 - a) the Consultant has breached any of its obligations contained herein, fails to complete the Services or any portion thereof within the time limited by the Agreement for such completion and has failed to remedy such breach within ten (10) days of written notice thereof, or where the breach is incapable of being remedied within ten (10) days, has failed to commence

to rectify such breach within the said ten (10) days and to diligently pursue such rectification until complete; or

- b) there is a material error, incorrectness or breach of any representation or warranty of the Consultant contained herein; or
- c) the Consultant becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, assignment, or arrangement with any of its creditors; or
- d) a trustee, receiver, receiver-manager or like person is appointed with respect to the business or assets of the Consultant.
- e) has any conflict of interest which may, in the opinion of the Town, have an adverse effect on the Project.

7.2. Notwithstanding the foregoing, the Town may terminate this Agreement at its sole and unfettered discretion for its convenience upon seven (7) days written notice, hand delivered to the address given in Section 14.1 (or as changed pursuant to Section 14.3).

7.3. The Consultant, upon termination of this Agreement for any of the reasons set out in Section 7.1, shall be liable for, and upon demand shall pay to the Town an amount equal to, all loss or damage suffered, both directly and indirectly by the Town as a result of the non-completion of the Services. If the Consultant fails to pay the Town for any such loss or damage on demand, the Town shall be entitled to deduct the same from any payments due and payable to the Consultant, without prejudice to the Town's right to exercise any other remedies available to the Town at common law or at equity or under any statute.

7.4. The Consultant agrees that termination or suspension of this Agreement or a change to the Services in accordance with Section 1.5 does not operate so as to relieve or discharge the Consultant from any obligation under the Agreement or imposed upon him by law in respect to the Services or any portion of the Services.

7.5. Subject to Section 7.3 the Town shall, in the event of any termination of this Agreement, pay to the Consultant all amounts for completed work due to the Consultant in accordance with this Agreement as well as all reasonable fees incurred up to the date of termination. The Town shall have no further liability of any nature whatsoever to the Consultant for any loss of profit or for loss of business opportunity or for any other losses suffered whatsoever, either directly or indirectly, by the Consultant as a result of the termination of this Agreement.

- 7.6. The Consultant shall, upon termination, forthwith deliver to the Town a reproducible copy of all materials used by the Consultant or prepared by the Consultant in relation to this Project.

8. **INDEMNITY AND INSURANCE**

- 8.1. The Consultant shall indemnify and save harmless the Town, its servants, agents, employees and elected officials, from and against any and all losses, claims, demands, payments, suits, judgments, charges, expenses, actions, causes of actions and costs (including legal costs on a solicitor and his own client basis) suffered by any or all of them resulting from or occurring by reason of any error, omission or wilful or negligent act or breach of this Agreement arising out of the performance of the Services by the Consultant or its servants, agents, employees or subConsultants.
- 8.2. The Consultant shall maintain, in full force and effect with insurers licensed in the Province of Alberta, the following insurance:
- a) Comprehensive General Liability Insurance in respect to the Services and operations of the Consultant for bodily injury and/or property damage with policy limits of not less than [Five Million Dollars (\$5,000,000.00)] per occurrence. Such insurance shall include the Town as an additional insured, contain a cross liability clause and protect the Town from any claims by or through the Consultant.
 - b) Comprehensive Automobile liability insurance on all vehicles owned, operated or licensed in the Consultant's name, with limits of not less than \$2,000,000 per occurrence. The policy shall cover the Consultant for all sums which the Consultant shall become legally obligated to pay as damages because of bodily injury including passenger hazard and property damage caused by an occurrence.
- 8.3. The aforementioned insurance shall be in a form and with insurers acceptable to the Town's Insurance Broker. Any insurance called for under this Agreement shall be endorsed to provide the Town third (30) days advance written notice of cancellation or material change (material identified as any change restricting or reducing required coverage). Certified copies of the policies shall be provided to the Town by the Consultant or the Consultant's broker upon request by the Town,

and evidence of renewal shall be provided to the Town not less than thirty (30) days prior to the expiry dates of the policies.

- 8.4. The Consultant shall be responsible for the payment of all premium and deductible amounts relating to the said insurance policies and the Consultant shall maintain the aforementioned insurance from the date of this Agreement until the Services are fully completed.

9. **SUBCONSULTANTS**

- 9.1. The Consultant may, upon first obtaining the written approval of the Town, retain the services of one or more SubConsultants as may be required to perform the Services. The Consultant shall obtain the approval of the Town before changing any SubConsultant.
- 9.2. The Consultant shall remain fully responsible for the performance of the Services even if the SubConsultants retained are approved pursuant to Section 9.1 by the Town.
- 9.3. The Consultant shall take all necessary measures to bind all SubConsultants to the terms of this Agreement.

10. **ORGANIZATION – EMPLOYMENT DISCLAIMER**

- 10.1. The Agreement is for the services of the Consultant, as a separate business unit and neither the Consultant nor its employees, directors, officers, and agents shall be entitled to any benefits of any nature whatsoever available to employees of the Town other than to payments which are expressly provided for herein and those prescribed by law.
- 10.2. The Consultant, in providing the Services under the Agreement, does so under a contract for services and not of service, and is acting as a separate business unit and no agency, partnership, employer-employee or master-servant relationship is intended to be created between the Consultant and the Town.

11. **FORCE MAJEURE**

- 11.1. Neither the Town nor the Consultant shall be held responsible for any delay or failure to perform its obligations under this Agreement where such delay or failure is due to fire, flood, explosion, war, riots or acts of civil disobedience, embargo, government action, Act of Public Authority, Act of God, or any other causes beyond

their control, except labor disruption. Should the Force Majeure last longer than thirty (30) calendar days, the Town may terminate the Agreement.

12. LEGAL REQUIREMENTS

- 12.1. The Consultant shall ensure that the Services comply with all relevant legislation including codes, bylaws and regulations as well as Town policies and procedures. Where there are two or more laws, ordinances, rules, regulations or codes applicable to the Services, the more restrictive shall apply.
- 12.2. The Consultant shall apply, pay for, and maintain in good standing all necessary permits or licences required for the performance of the Services.
- 12.3. The Consultant shall at all times observe all the provisions of the *Labour Relations Code*, *Workers' Compensation Act*, *Environmental Protection and Enhancement Act* and the *Occupational Health and Safety Act* as well as rules and regulations pursuant thereto. In the event the Consultant fails to comply with any legislation or any regulations there under and the Town is required to do any act or thing or take any steps or pay any sums to rectify such non-compliance, the Town may subtract the cost of any such rectifications from any monies owed to the Consultant. Such action shall not be deemed a waiver of any action that the Town may pursue to collect any monies paid herewith that exceed the monies owed to the Consultant.
- 12.4. Without limiting the foregoing, the Consultant represents and warrants that it holds Workers Compensation Board (WCB) Clearance Status and shall continue to hold such status at all times throughout the performance of the Services. If at any time the Consultant's WCB Clearance Status is revoked or suspended, the Town may, without limitation to any other rights or remedies hereunder, immediately suspend the Services at the Consultant's cost until the WCB Clearance Status has been restored or may terminate this Agreement in accordance with Section 7.1.
- 12.5. The Consultant shall be responsible for the safety of workers and equipment on the Project as the Prime Consultant for the work and the worksite under the *Occupational Health and Safety Act*, and for the protection of the environment in relation to the Project. The Consultant shall bring to the attention of all SubConsultants all pertinent provisions of the *Occupational Health and Safety Act*

and the *Environmental Protection and Enhancement Act* and regulations thereunder.

13. **ASSIGNMENT AND AMENDMENT**

13.1. The Consultant shall not, without the prior written consent of the Town, assign or in any way transfer its interest in or obligations under this Agreement to any other party. The Consultant acknowledges and accepts that the Town has chosen the Consultant to perform the Services because of the reputation of the Consultant and the qualifications of the persons identified in the Proposal, and the Consultant therefore agrees that the Town may in its absolute discretion refuse to accept any assignment or transfer of the Consultant's interest in or obligations hereunder, even if such refusal may be construed to be arbitrary or unreasonable.

13.2. This Agreement shall constitute the entire agreement between the parties related to the subject matter hereof, and supersedes any and all prior understandings, statements, warranties, representations, and agreements, oral and written, relating hereto.

13.3. All additions, amendments or modifications of this Agreement shall be binding only if the same is in writing and duly executed. If any terms of the documents incorporated herein, conflict with the terms of this Agreement, the terms and conditions of this Agreement shall prevail.

14. **NOTICES**

14.1. Any notices or other correspondence required to be given to an opposite party except for notice of termination shall be deemed to be adequately given if sent by prepaid registered mail addressed as follows:

a) To the Consultant at:

[INSERT NAME & ADDRESS]

b) To the Town at:

Town of Olds

4512 46 Street

Olds, AB T4H 1R5

Attention: Chief Administrative Officer

14.2. Notice given as aforesaid, if posted in Alberta, shall conclusively be deemed to have been given on the fifth (5th) business day following the date on which such notice is mailed.

14.3. Either party may, at any time, give notice in writing to the other of any change of address of the party giving such notice and after the giving of such notice, the address therein specified shall be deemed to be the address of the said party for the giving of notice there under.

14.4. The word "notice" in this section shall be deemed to include any requests, statements or other writing in this Agreement provided or permitted to be given by the Town to the Consultant or by the Consultant to the Town.

15. **SINGULAR AND MASCULINE**

15.1. Words importing the singular or masculine also include the plural or feminine or body corporate where the context requires.

16. **LAWS OF ALBERTA**

16.1. This Agreement shall be construed in accordance with the laws of the Province of Alberta, and for the purposes of all legal proceedings this Agreement shall be deemed to have been performed in the said Province. If any provision herein contained shall in any way contravene the laws of the Province of Alberta, such provision shall be severed from the Agreement and the remaining provisions shall continue in force and effect. Nothing herein shall restrict the right of the Town to bring action against the Consultant in any Court of competent jurisdiction. The parties hereby irrevocably submit and attorn to the sole and exclusive jurisdiction of the Judicial District of Edmonton in the Province of Alberta for any legal proceeding arising under this Agreement.

17. **INTERPRETATION**

17.1. The headings in this Agreement are for ease of reference only and shall not be taken into consideration in construing or interpreting this Agreement.

17.2. If any provision of this Agreement is for any reason, found to be invalid or unenforceable by a body of competent jurisdiction, that provision shall be deemed

severed from this Agreement and such invalidity, illegality or unenforceability shall not affect the validity of any other of its provision.

18. **SUCCESSORS**

18.1. This Agreement shall ensure to the benefit of and be binding upon the parties hereto and, except as hereinbefore provided, the successors and assigns thereof.

IN WITNESS WHEREOF the parties hereto have affixed their corporate seals by the hands of their proper signing officers in that behalf, effective the day and year first above written.

TOWN OF OLDS

[INSERT CONSULTANT’S NAME]

Date

Date

Town Representative (signature)

Authorized Representative (signature)

Name (print)

Name (print)

Title (print)

Title (print)